

Board of Directors San Simeon Community Services District



BOARD PACKET

**Wednesday, September 9, 2020
Regular Meeting 3:00 pm**

Virtual Board Meeting via Zoom
Meeting Room: 927-053-7206
Password: 114376

Prepared by:



GRACE
ENVIRONMENTAL SERVICES

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AGENDA
SAN SIMEON COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS REGULAR MEETING
Wednesday, September 9, 2020
3:00 pm

Pursuant to Governor Gavin Newsom's Executive Order N-29-20 dated March 17, 2020 and the San Luis Obispo County Local Emergency Order and Regulation regarding COVID-19 dated March 18, 2020, this meeting shall occur as a virtual teleconference using the Zoom app. Members of the public cannot physically attend this meeting.

Internet Meeting Location

Join Zoom Meeting

<https://us02web.zoom.us/j/9270537206?pwd=RDNNcTErb2E1TmswRG51WGNEZVJLQT09>

Meeting ID: 927 053 7206

Password: 114376

One tap mobile

+1 669 900 9128, 9270537206# US (San Jose)

+1 346 248 7799, 9270537206# US (Houston)

Time: September 9, 2020 03:00 PM Pacific Time

NOTE: On the day of the meeting, the virtual meeting room will be open beginning at 2:30 PM. If you are unable to access the meeting please contact the District office at (805) 927-4778 prior to the 3:00 PM meeting start time and staff can assist you in accessing the meeting. Should you have any questions related to the information on this agenda or if you wish to submit public comment in the written format you can email Cortney Murguia at admin@sansimeoncsd.org. Members of the public can also contact the District office at (805) 927-4778 with any questions or concerns related to this agenda or accessing the meeting.

1. REGULAR SESSION: 3:00 PM

A. Roll Call

2. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

Public Comment - Any member of the public may address the Board relating to any matter within the Board's jurisdiction, provided the matter is not on the Board's agenda. Presentations are limited to three (3) minutes or less with additional time at the discretion of the Chair. Your comments should be directed to the Board as a whole and not directed to individual Board members. The Brown Act restricts the Board from taking formal action on matters not published on the agenda.

3. SPECIAL PRESENTATIONS AND REPORTS:

A. STAFF REPORTS:

i. Sheriff's Report – Report for August.

- ii. **Superintendent's Report** – Summary of August activities.
- iii. **General Manager's Report** – Summary of August Activities.
- iv. **District Financial Summary** – Summary of Monthly Financials.
- v. **District Counsel's Report** – Summary of August Activities.

B. BOARD OF DIRECTORS AND COMMITTEE REPORTS:

C. SPECIAL PRESENTATION:

D. PUBLIC COMMENTS ON SPECIAL PRESENTATIONS AND REPORTS:

Public Comment - This public comment period provides an opportunity for members of the public to address the Board on matters discussed during Agenda Item #3 – Special Presentations and Reports. If a member of the public wishes to speak at this time, Public Comment is limited to three (3) minutes.

4. CONSENT AGENDA ITEMS:

Public Comment - Members of the public wishing to speak on consent agenda items may do so when recognized by the Presiding Officer. If a member of the public wishes to speak at this time, Public Comment is limited to three (3) minutes.

A. Review and approval of Minutes for the Regular Meeting on July 8, 2020.

B. Review and approval of Minutes for the Regular Meeting on August 12, 2020.

C. Review and approval of Minutes for the Special Meeting Closed Session on August 17, 2020.

D. Review and approval of Disbursements Journal.

5. BUSINESS ACTION ITEMS:

Public Comment – Public comment will be allowed for each individual business item. Members of the public wishing to speak on business items may do so when recognized by the Presiding Officer. If a member of the public wishes to speak at this time, Public Comment is limited to three (3) minutes per person for each business item.

A. Review of authorization of powers to the General Manager awarded under Resolution 20-419.

B. Discussion related to obtaining information about the District becoming part a County Services Area (CSA). – request from Julie Tacker

C. Discussion and Consideration related to the Water Service Moratorium and request from owner of APN 013-071-009 Robert Hather.

D. Discussion related to graffiti and vandalism on Pico Avenue beach access and the installation of cameras in San Simeon.

E. Authorization for Staff and or Chairperson to write a letter to Board of Supervisors recommending appointment of Daniel de la Rosa to the Board.

- 6. BOARD/STAFF GENERAL DISCUSSIONS AND PROPOSED AGENDA ITEMS** – Requests from Board members to Staff to receive feedback, prepare information, and/or place an item on a future agenda(s).
- 7. CLOSED SESSION –**
- A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION** Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (Number of cases: 1 – Manish Gupta)
- 8. ADJOURNMENT**
- All staff reports or other written documentation, including any supplemental material distributed to a majority of the Board within 72 hours of a regular meeting, relating to each item of business on the agenda are available for public inspection during regular business hours in the District office, 111 Pico Avenue, San Simeon. If requested, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. To make a request for a disability-related modification or accommodation, contact the District Administrator at 805-927-4778 as soon as possible and at least 48 hours prior to the meeting date. This agenda was prepared and posted pursuant to Government Code Section 54954.2.

3. A. ii. SUPERINTENDENT REPORT
Jerry Copeland
Facilities Update for August 2020



SUPERINTENDENT'S REPORT

Item 3.A.ii

Prepared by: Jerry Copeland

1. Wastewater Treatment Plant

- All sampling, testing and reporting at the Wastewater Treatment Plant was performed as required by the RWQCB.
- One load of sludge was hauled away.

2. Water Treatment and Distribution System

- All routine sampling and testing was performed. The monthly report was submitted to the State Water Resources Control Board (SWRCB), Division of Drinking Water (DDW).
- Routine maintenance was performed on the R.O. unit.
- Monthly water meter reading was performed.

3. District and Equipment Maintenance

- Staff continues with all of the scheduled preventive maintenance for all the equipment at the facilities. We are recording all these activities.

DATA SUMMARY SHEET

2020													
	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Total for 2020
Wastewater Influent	2,215,755	1,971,958	1,944,913	1,583,618	1,850,716	2,266,319	2,341,110	2,516,424					16,690,813
Wastewater Final Effluent (Month Cycle)	2,168,690	1,922,920	1,846,450	1,555,350	1,707,500	2,045,070	2,304,980	2,397,730					15,948,690
Adjusted Wastewater Influent (- State Flow)	1,958,507	1,780,122	1,818,999	1,500,460	1,748,006	2,201,429	2,262,301	2,440,274					15,710,098
Water Produced (month cycle)	1,843,670	1,872,693	1,514,688	1,215,724	1,962,303	2,261,129	2,673,502	2,726,684					16,070,394
Sewer Influent/Water Produced Ratio	1.20	1.05	1.28	1.31	0.94	1.00	0.88	0.92					N/A
Adjusted Sewer/Water Produced Ratio	0.94	0.95	1.20	1.24	0.89	0.91	0.85	0.90					N/A
Well 1 Water Production	1,841,426	403,172	3,665	5,685	5,535	1,653,903	2,592,867	2,724,740					9,230,993
Well 2 Water Production	2,244	1,469,521	1,511,023	1,210,040	1,956,768	607,226	80,634	1,945					6,839,401
Total Well Production	1,843,670	1,872,693	1,514,688	1,215,724	1,962,303	2,261,129	2,673,502	2,726,684					16,070,394
Water Well 1 Avg Depth to Water	10.3	10.1	10.0	10.0	10.4	10.2	9.9	10.5					N/A
Water Well 2 Avg Depth to Water	10.2	10.0	9.9	9.9	10.3	10.1	9.8	10.3					N/A
Average Depth to Water of Both Wells	10.3	10.1	10.0	10.0	10.4	10.2	9.9	10.4					N/A
Change in Average Depth to Water from 2019	+1.0	+1.1	+0.7	-0.2	+0.2	+0.1	+0.1	+0.1					N/A
Average Chloride mg/L at the Wells	32	32	32	-	-	-	-	-					N/A
State Wastewater Treated	257,248	191,836	125,914	83,158	102,710	64,890	78,809	76,150					980,715
State % of Total WW Flow	12%	10%	7%	5%	6%	3%	3%	3%					N/A
Recycled Water Sold (Gallons)	0	0	0	0	0	0	0	0					0
Biosolids Removal (Gallons)	4,500	9,000	9,000	0	4,500	4,500	9,000	0					40,500
WW Permit Limitation Exceeded	0	0	0	0	0	0	0	0					0
RW Permit Limitation Exceeded	0	0	0	0	0	0	0	0					0
Constituent Exceeded	None	None	None	None	None	None	None	None					N/A
Sample Limit	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					N/A
Sample Result	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A					N/A
2019													
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Total for 2019
Wastewater Influent	2,974,678	2,978,722	3,279,598	2,517,042	2,622,942	2,407,688	2,798,408	2,948,183	2,466,442	2,409,305	2,067,815	2,722,375	32,193,198
Wastewater Final Effluent (Month Cycle)	2,921,320	2,950,740	3,186,710	2,456,140	2,464,900	2,553,710	3,022,860	2,737,320	2,323,010	2,323,340	1,984,940	2,611,160	31,536,150
Adjusted Wastewater Influent(- State Flow) *	2,599,672	2,540,371	2,840,773	2,267,805	2,227,432	2,089,028	2,339,678	2,543,256	2,152,297	2,116,543	1,802,882	2,355,957	27,875,694
Water Produced (month cycle)	1,849,654	1,643,730	2,013,823	2,212,060	2,175,858	2,456,058	2,832,302	2,609,472	2,373,404	2,390,682	2,001,947	1,865,437	26,424,428
Sewer Influent/Water Produced Ratio	1.61	1.81	1.63	1.14	1.24	0.98	1.09	1.13	1.04	1.01	1.03	1.46	N/A
Adjusted Sewer/Water Ratio	1.41	1.55	1.41	1.03	1.06	0.85	0.91	0.98	0.91	0.86	0.90	1.26	N/A
Average Depth of Both Wells	9.3	9.0	9.3	10.2	10.2	10.3	10.0	10.3	10.7	11.7	12.2	10.4	N/A
Change in Average Depth to Water from 2018	-1.5	-1.3	-0.4	-0.1	-0.2	+0.2	-0.4	-0.8	-1.3	-0.7	-0.6	+0.5	N/A
Average Chloride mg/L at the Wells	55	44	44	46	46	38	38	38	38	32	32	32	N/A
State Wastewater Treated	375,006	438,351	438,825	294,237	395,510	318,660	458,730	404,927	314,145	292,762	264,933	366,418	4,362,504
State % of Total WW Flow	13%	15%	13%	12%	15%	13%	16%	14%	13%	12%	13%	14%	N/A
Recycled Water Sold (Gallons)	0	0	0	0	0	0	0	0	0	0	0	0	0
Biosolids Removal (Gallons)	4,500	0	9,000	9,000	4,500	9,000	9,000	4,500	4,500	4,500	0	4,500	63,000
WW Permit Limitation Exceeded	0	0	0	0	0	0	0	0	0	0	0	0	N/A
RW Permit Limitation Exceeded	0	0	0	0	0	0	0	0	0	0	0	0	N/A
Constituent Exceeded	None	None	None	None	None	None	None	None	None	None	None	None	N/A
Sample Limit	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Sample Result	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

San Simeon Community Services District

Superintendent's Report

August 2020

MONTHLY DATA REPORT

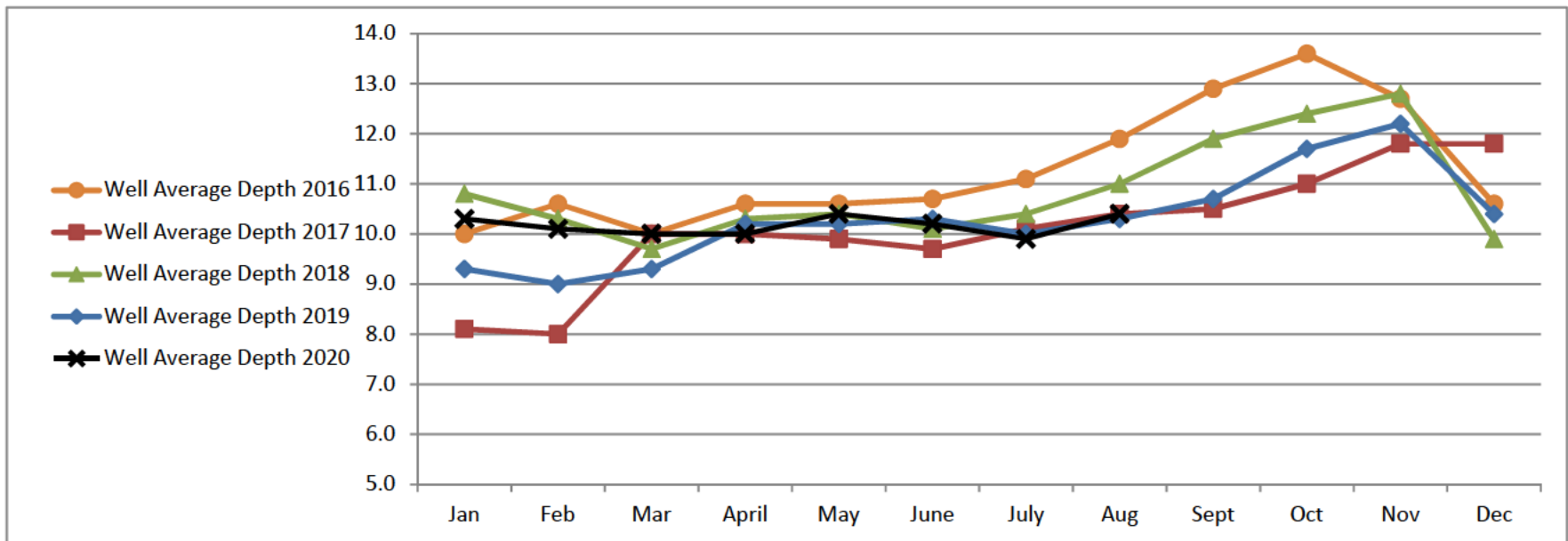
Date	Day	Wastewater Influent Daily Flow	Wastewater Effluent Daily Flow	Well 1 Total Daily Produced	Well 2 Total Daily Produced	Total Daily Water Produced	R.O. Daily Influent Flow	R.O. Daily Effluent Flow	R.O. Daily Brine Flow	Distribution Chloride	Chloride Wells 1 2	Recycled Water Distributed	Water Level Well 1	Water Level Well 2	Rainfall in Inches	State Flows
07/01/20	Wednesday	90,932	87,190	82,430	0	82,430	0	0	0	-	-	0	-	-	0.00	2,343
07/02/20	Thursday	84,141	83,160	76,969	0	76,969	0	0	0	-	-	0	10.2	10.0	0.00	3,620
07/03/20	Friday	89,839	83,370	73,902	0	73,902	0	0	0	-	-	0	10.2	10.0	0.00	2,344
07/04/20	Saturday	72,012	68,450	107,562	1,122	108,684	0	0	0	-	-	0	-	-	0.00	1,527
07/05/20	Sunday	71,543	71,150	67,769	0	67,769	0	0	0	-	-	0	-	-	0.00	2,131
07/06/20	Monday	70,830	67,130	88,937	0	88,937	0	0	0	-	-	0	10.2	10.0	0.00	2,179
07/07/20	Tuesday	95,900	91,500	136,734	0	136,734	0	0	0	-	-	0	-	-	0.00	1,430
07/08/20	Wednesday	111,237	106,210	130,526	0	130,526	0	0	0	-	-	0	10.5	10.0	0.00	4,850
07/09/20	Thursday	93,533	87,490	57,222	0	57,222	0	0	0	-	-	0	-	-	0.00	3,241
07/10/20	Friday	74,836	75,990	88,114	0	88,114	0	0	0	-	-	0	10.3	10.0	0.00	3,157
07/11/20	Saturday	85,960	79,640	94,921	0	94,921	0	0	0	-	-	0	-	-	0.00	1,845
07/12/20	Sunday	69,930	68,790	87,965	823	88,788	0	0	0	-	-	0	-	-	0.00	3,029
07/13/20	Monday	66,761	60,330	97,614	0	97,614	0	0	0	-	-	0	-	-	0.00	1,563
07/14/20	Tuesday	87,302	86,280	93,051	0	93,051	0	0	0	-	-	0	-	-	0.00	1,921
07/15/20	Wednesday	104,487	99,010	88,040	0	88,040	0	0	0	-	-	0	10.6	10.4	0.00	2,444
07/16/20	Thursday	103,916	98,170	100,830	0	100,830	0	0	0	-	-	0	10.5	10.3	0.00	3,550
07/17/20	Friday	85,257	76,520	119,231	0	119,231	0	0	0	-	-	0	10.5	10.3	0.00	2,981
07/18/20	Saturday	87,053	80,720	95,744	0	95,744	4,338	2,751	1,587	-	-	0	-	-	0.00	2,489
07/19/20	Sunday	83,620	75,700	68,442	0	68,442	0	0	0	-	-	0	10.6	10.5	0.00	1,984
07/20/20	Monday	72,609	68,770	74,576	0	74,576	0	0	0	-	-	0	10.6	10.4	0.00	1,824
07/21/20	Tuesday	75,372	70,180	97,913	0	97,913	0	0	0	-	-	0	10.5	10.3	0.00	1,538
07/22/20	Wednesday	94,014	90,430	145,336	0	145,336	0	0	0	-	-	0	-	-	0.00	1,969
07/23/20	Thursday	86,878	78,280	64,104	0	64,104	0	0	0	-	-	0	-	-	0.00	3,236
07/24/20	Friday	69,082	66,090	67,096	0	67,096	0	0	0	-	-	0	10.8	10.6	0.00	2,318
07/25/20	Saturday	60,356	60,600	67,470	0	67,470	0	0	0	-	-	0	10.7	10.5	0.00	1,263
07/26/20	Sunday	49,101	48,400	68,816	0	68,816	0	0	0	-	-	0	10.6	10.5	0.00	911
07/27/20	Monday	57,957	61,500	68,891	0	68,891	0	0	0	-	-	0	10.7	10.5	0.00	2,035
07/28/20	Tuesday	75,904	69,090	72,930	0	72,930	0	0	0	-	-	0	10.7	10.5	0.00	1,662
07/29/20	Wednesday	89,796	86,510	111,826	0	111,826	0	0	0	-	-	0	10.7	10.5	0.00	1,854
07/30/20	Thursday	93,509	92,880	56,474	0	56,474	0	0	0	-	-	0	-	-	0.00	3,470
07/31/20	Friday	62,757	58,200	73,304	0	73,304	0	0	0	-	-	0	10.8	10.6	0.00	5,442
TOTALS		2,516,424	2,397,730	2,724,740	1,945	2,726,684	4,338	2,751	1,587			0			0.00	76,150
Average		81,175	77,346	87,895	63	87,958	140	89	51	0	0	0	10.5	10.3	0.00	2,456
Minimum		49,101	48,400	56,474	0	56,474	0	0	0	0	0	0	10.2	10.0	0.00	911
Maximum		111,237	106,210	145,336	1,122	145,336	4,338	2,751	1,587	0	0	0	10.6	10.6	0.00	5,442

San Simeon Community Services District

Superintendent's Report

August 2020

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Well Average Depth 2016	10.0	10.6	10.0	10.6	10.6	10.7	11.1	11.9	12.9	13.6	12.7	10.6
Well Average Depth 2017	8.1	8.0	10.0	10.0	9.9	9.7	10.1	10.4	10.5	11.0	11.8	11.8
Well Average Depth 2018	10.8	10.3	9.7	10.3	10.4	10.1	10.4	11.0	11.9	12.4	12.8	9.9
Well Average Depth 2019	9.3	9.0	9.3	10.2	10.2	10.3	10.0	10.3	10.7	11.7	12.2	10.4
Well Average Depth 2020	10.3	10.1	10.0	10.0	10.4	10.2	9.9	10.4				



3. A. iii GENERAL MANAGER'S REPORT
Charles Grace
Update for August 2020



GENERAL MANAGER'S REPORT

Item 3.A.iii

Staff Activity – Report on Staff activities for the month of August 2020. Regular activities performed by District staff include:

Processing of utility payments, customer service duties, answering phone calls, mailing of the regular monthly utility bills. Prepared and distributed the agenda and Board packet.

Staff also attended to the following items:

- Responded to thirteen (13) public records requests.
- Prepared the meeting agenda and corresponding documents for the August 17 and August 20, 2020 Special Board meetings. (August 20 meeting was cancelled)
- Continued assisting members of the community with questions related to the MHI survey.
- Manually waived late fees on 33 customer accounts for a total credit amount of \$10,524.74.
- Sent out requests for proposal (RFP) for ocean outfall inspection as well as the valve replacement project. Should tentatively be on October agenda.
- Signed up board members for mandatory California Special District Association (CSDA) trainings as well as voluntary webinars. Assisted Director Maurer and Director de la Rosa on enrolling in classes.
- Prepared documents and gathered data for August 31st audit with Moss, Levy & Hartzheim LLP.

Update on District Grants:

Prop. 1 Grant: There are currently no updates. (Grant relates to the water storage project)

NFWF Grant: On Tuesday, August 18th staff received a public records request from NFWF's general counsel. Subsequent request and response is included. (Grant relates to the Coastal Development Permit (CDP) special condition; Coastal Hazard Response Plan.

Coastal Commission LCP Amendment Grant: There are currently no updates.

OPC Grant: There are currently no updates. (Grant relates to the Coastal Development Permit (CDP) for moving the waste water treatment plant (WWTP)).

Update on District Projects:

Disadvantaged Community Survey (MHI) – Staff has been in contact with SUSP. As of the week of August 24, 2020 SUSP is working on a fourth mailing to determine if San Simeon will qualify to be a Severe Disadvantaged Community. Staff will continue to work with SUSP and provide progress updates to the Board.

LAFCO Solid Waste Power – RRM Design has been in contact with LAFCO and anticipates being on LAFCO's October agenda. Staff will keep the Board updated as more information becomes available.

Request for Proposal (RFP) for CEQA – Staff sent out an RFP for CEQA services related to removing the water moratorium and received one response. The Board decided to reissue a CEQA RFP. The CEQA RFP reissuance was pending the solicitation of and contract for on-call engineering services. The on-call engineering service decision was tabled after receiving only two bids out of 14 RFPs sent out.

Water Tank Project Update – The tank portion of the Master Plan Phase 1 design is 90% complete.

Quotes for Road repair projects – For fiscal year 18/19 and 19/20 money was budgeted for road repairs to be made. The combined amount for the two fiscal years was \$50,000.00. Staff is currently working to obtain quote/s for road repairs. This matter will be placed on an upcoming meeting agenda once all quotes have been received.

Enc: Public record request from NFWF general counsel
Correspondence with Hearst Corporation re: RO building

Copy of the public records request
from NFWF General Counsel and
District response

Final Review - San Simeon Coastal, Estuarine, and Riparian Habitat Restoration and Enhancement Plan (CA) (Proposal #65747)

Daniel Strodel <[REDACTED]>
To: "cmurguia@graceenviro.com" <[REDACTED]>

Tue, Aug 18, 2020 at 10:42 AM

Ms. Cortney Murguia:

On July 7, 2020, NFWF received via e-mail, the signature page of the grant agreement that had been signed by Mr. Charles Grace, General Manager of SSCSD on July 6, 2020, from Jeff Oliveira, Principal Environmental Planner, Oliveira Environmental Consulting LLC, stating, “. . . Attached please find a copy of the signed grant Agreement (signature page) from the San Simeon CSD.” Subsequently, on July 29, 2020, we received the complete agreement and vendor payment form signed by you on the same date via email.

As we conduct a final review before execution of the agreement, we are seeking additional information, some of which is based on a complaint we received in the interim, to ensure the program eligibility, procurement process, contractor selection decisions, and potential conflict of interest(s) are consistent with applicable federal law and regulations (including 2 C.F.R. Part 200) and Foundation policy, as stated in our RFP and the grant agreement.

First, information has come to light that SSCSD’s proposed project may be mitigation related. As indicated in our RFP, mitigation projects are not eligible under this funding opportunity. To ensure eligibility, we request that you provide an explanation as to whether or not SSCSD is required to perform any of the activities described in your proposal to mitigate for prior regulatory violations.

Second, we received information indicating that the SSCSD Chairperson of the Board, Ms. Gwen Kellas, owns real estate adjacent to the proposed project and that Ms. Kellas may personally benefit from the proposed project as it may provide material value to her personally held real estate. Please provide information on any disclosures made by Ms. Kellas to the SSCSD board prior to pursuing this opportunity and any decisions or information by the SSCSD board that notwithstanding this clear conflict of interest, this project is in the best interest of the SSCSD.

Third, it is our understanding from your proposal that Grace Environmental Services, a for-profit entity, provides “general management of the District [a local governmental entity in the State of California]. . .” (page 12) under a long standing agreement between Grace and SSCSD. Per your proposal, under the project budget in Section V. Contractual Services, you list Grace Environmental as a contractor that will be providing direct services under the grant at a cost of \$22,400.00 and describe the services on page 12, as, “Personnel from Grace Environmental that provide general management to the District would oversee all aspects of the project, manage team coordination, and participate in stakeholder meetings. The Project Principal would commit 80 hours at a rate of \$168 per hour, and the Office Manager would provide 120 hours at a rate of \$75 per hour.” Are these services included in the underlying general management contract between Grace Environmental and SSCSD? If not, please explain how these services differ from your

indirect usage of Grace Environmental and provide documentation of this procurement and selection decision, particularly, what we view as a potentially unmitigable conflict of interest in SSCSD (which is operated by Grace Environmental) awarding a contract to Grace Environmental.

Fourth, Oliveira Consulting (Oliveira Environmental Consulting LLC) is also listed in Section V. Contractual Services, at a cost of \$16,000.00 to “assist in preparation of the Habitat Restoration and Monitoring Plan.” Please provide documentation of the procurement and selection process for this arrangement. Additionally, please explain why the signed grant agreement (signature page), as noted above, was submitted to us by Jeff Oliveira of Oliveira Consulting.

Fifth, the last contractor listed in Section V, is Wood Environment and Infrastructure Solutions, Inc. at a cost of \$86,600.00, to “provide biological resource investigations, preparation of Habitat Monitoring and Restoration Plan in coordination with Oliveira Consulting, Preliminary Project Design, preparation of Site Assessment & Feasibility Analysis, WWTP outfall assessment, and facilitate stakeholder outreach and meetings.” Additionally, while it is not disclosed in the proposal or elsewhere in material submitted, it is our understanding that Wood Environment & Infrastructure Solutions, Inc., provided grant writing services for SSCSD’s proposal under a separate contract with SSCSD. Please provide documentation of the procurement and selection processes for these arrangements.

We appreciate your time and attention to these matters. While you are welcome to provide information on a rolling basis as it becomes available, we request that all such information be provided within ten calendar days from the date of this e-mail. Should you have any questions, please feel free to contact me.

Sincerely,

Dan

Daniel J. Strodel
General Counsel
National Fish and Wildlife Foundation
1133 15th Street, NW, Suite 1000
Washington, DC 20005



This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

Final Review - San Simeon Coastal, Estuarine, and Riparian Habitat Restoration and Enhancement Plan (CA) (Proposal #65747)

Cortney Murguia <[REDACTED]>

Thu, Aug 27, 2020 at 2:16 PM

To: Daniel Strodel <[REDACTED]>

Cc: Natalie Frye Laacke <[REDACTED]>

Good afternoon Dan,

This email shall serve as a response to your public records dated August 18, 2020. In response to item one (1) the activity (Coastal Hazard Response Plan) proposed in the grant application is a permit special condition from the Coastal Development Permit (CDP) 3-19-0020 page 6, item 3. As described in the NFWF National Coastal Resiliency Fund 2019 request for proposals, grant funds may be used to support projects that enhance or improve upon existing baseline compliance efforts as described on page 10. The proposed project builds upon existing baseline work completed to date. Attached please find a copy of the executed CDP 3-19-0020.

With respect to item two (2) there are no such document/s that exist. Government Code 6253.1 related to the inspection of public records requires that staff assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request. You may find the information that you are looking for in San Simeon Community Services District (SSCSD) Board meeting packets and Board meeting minutes. These items can be found on our website. The link can be found here: <https://sansimeoncsd.org/board-meetings/>. If you determine that you need further assistance identifying additional records please let me know and I can attempt to assist you.

Item number three (3), the value was the reference point to estimate the effort to be performed. Yes, these activities would have been performed within the underlying Operations and Maintenance contract between Grace Environmental and the SSCSD.

Item number four (4), the cost was an estimate prepared as part of the grant application budget. The SSCSD intends to follow our formal request for proposal (RFP) process, per the District Procurement policy, section 19, for this activity and the effort described below. Currently, Oliveira Environmental Consulting (OEC) performs services for the SSCSD such as permitting, environmental work, and grant preparation assistance as an on call basis. Attached please find a copy of the Policy and Procedures Manual, Section 19 is the Procurement Policy which begins on page 26.

Item number five (5), the cost was an estimate prepared as part of the grant application budget. As with item four (4), the SSCSD intends to prepare a request for proposal per SSCSD procurement policy section 19.

I have attached a copy of the NFWF RFP Proposal and the executed contract with Wood, as I believe that these records may also be relevant to your request. Please note that I have cc'd District Legal Counsel on this response.

Our office considers this records request to be closed.

Cortney Upthegrove-Murguia
Office Manager

San Simeon Community Services District
111 Pico Avenue | San Simeon, CA 93452
(805) 927-4778 Office | [REDACTED]

www.graceenviro.com

[Quoted text hidden]

4 attachments

 **CDP 3-19-0020 Permit 7.22.19 Executed.pdf**
1423K

 **NFWF 2019 RFP (2) (1).pdf**
784K

 **NFWF Executed Contract 5.2.2019.pdf**
1412K

 **Policies and Procedures Updated October 2019.pdf**
3886K

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Copy of the email sent to Hearst and
the CRT regarding the reverse
osmosis (RO) building

FW: [EXTERNAL] Re: San Simeon CSD RO-Desalination Facility -- Hearst Ranch Conservation Easement Encroachment

2 messages

From: Henry Krzciuk, [REDACTED]
Sent: Monday, July 13, 2020 11:54 AM
To: Gavin Kakol [REDACTED]
Cc: [REDACTED] O'Toole, Kerry (SUNICAL) [REDACTED]
Subject: [EXTERNAL] Re: San Simeon CSD RO-Desalination Facility -- Hearst Ranch Conservation Easement Encroachment

Re: San Simeon CSD RO-Desalination Facility -- Hearst Ranch Conservation Easement Encroachment

Gavin,

As we recently discussed, I am providing detail on the Hearst Ranch conservation easement land that the San Simeon CSD RO Desalination facility is encroaching upon. The attached Google Earth diagram identifies the area.

I had listed this matter as Item 6 in my email to Kerry O'Toole, Hearst Corp. and you dated February 13, 2020.

As a San Simeon resident, I would appreciate Hearst Corporation and California Rangeland consideration of including this smaller section of conservation land into the new water tank easement. As it sits, San Simeon CSD is in violation of \$1 million of Federal and State grants.

In these grants, the District attested to the fact that this land was within District boundaries, that it was on District property, and that no easement was required.

Based on research and measurements from nearby survey markers, the relatively new San Simeon Community Services District RO-Desalination unit and about half the containment building are outside of District boundaries and encroaching on the Hearst Ranch Conservation Easement.

I was unable to find an easement from Hearst Ranch in County records. District staff will not confirm or deny that such an easement exists. There does exist an easement for an eight-inch (8") water line through part of that area. It is part of the old Hearst Corp.- SSCSD reservoir easement.

I reviewed the Federal and State funding documents for the RO-Desalination facility in which the District states in multiple places that the unit and building were being placed on District property and that no easement was required. Although, maps and drawings included in the funding applications show otherwise. Documents from the grant applications are attached with highlighting. The permit itself only mentions a District owned parcel number.

Before the desalination unit was installed and the containment building constructed, the General Manager was advised of the encroachment by two of us residents. The District proceeded with construction.

Note: The RO-Desalination facility has been constructed on a road right-of-way leading to the Hearst Ranch property and

access road. There was and remains a vacant lot adjacent to this location. This lot could have been acquired for the desalination facility, but unfortunately that alternative location was not pursued.

With the easement work occurring for the new San Simeon water tank and associated water lines, it seems a good time to review and correct the RO-Desalination plant encroachment with a proper easement.

District and Hearst Conservation property boundaries need to be formally established. There is no record of a survey being done for the desalination facility permit, funding, or construction. Conducting a survey would precisely define District and Conservation Easement boundaries. Suggest this be the next step.

If it is found that the RO-Desalination plant is encroaching on the conservation easement, then action could be taken to resolve the matter. If it is agreed for Hearst Corp. and Rangeland Trust to grant an easement, such easement details could be included in the new water tank and main water lines easement package.

Over a year ago and more recently, I expressed the continuing concern about this encroachment to San Simeon Board members. I did not receive a response from them. I do not want the District haunted and having to clean up another problem years later as has happened with the District's wastewater treatment plant.

I believe the present General Manager should correct the situation he was involved in creating and not leave it for others. He and the same environmental consulting and civil engineering companies that were involved in the RO-Desalination project are now involved with the in-progress water tank project. We live adjacent to this special coastal area conservation easement and enjoy it every day. I want to see the conservation easement respected by obtaining a proper easement for the RO-Desalination plant and importantly to resolve the grant violations.

Your review and consideration are requested.

Hank Krzciuk
San Simeon Resident


Cc: Mark Nelson CRT, Kerry O'Toole Hearst Corp.


4 attachments



RO Building Potential Encroachment.jpg
167K

 Pages from Att3_2015IRWM_WorkPlan_1of1.pdf
65K

 Pages from Att4_2015IRWM_Budget_1of1.pdf
54K

 Feasibility Study of Alternatives (pages 10-17 of Prelim Eng Rpt).pdf
126K



Potential

SSCSD Encroachment on
Hearst Corp. &

California Ranch Land Trust
Conservation Easement.

Area is also Outside of
District's Legal Boundaries

San Simeon
District Office

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3. A. iv. DISTRICT FINANCIALS
Cortney Murguia
August 31, 2020

SAN SIMEON COMMUNITY SERVICES DISTRICT



3.A.iv FINANCIAL SUMMARY

Billing August 31, 2020

July Billing Revenue	\$	93,040.11
August Billing Revenue	\$	118,636.68
Past Due (60+ days)	\$	16,801.56

ENDING BANK BALANCES

August 31, 2020

PACIFIC PREMIER BANK:

Money Market Account Closing Balance July 31, 2020	\$	1,167,389.76
Interest for August	\$	197.77
Money Market Account Closing Balance August 31, 2020	\$	1,167,587.53
Reserve Fund		(250,000.00)
Wait-list Deposits		(70,890.00)
Customer Deposits		(9,200.00)
Available Funds	\$	<u>837,497.53</u>
General Checking Account August 31, 2020	\$	65,260.17
LAIF Closing Balance August 31, 2020	\$	557.83
Interest Money Market Account 2019	\$	22,529.11
*Interest Money Market Account 2020	\$	11,435.14

SAN SIMEON COMMUNITY SERVICES DISTRICT

Balance Sheet

As of August 31, 2020

Aug 31, 20

ASSETS

Current Assets

Checking/Savings

1010 · Petty cash	150.00
1015 · Pacific Prem - General Checking	64,852.74
1017 · Pacific Premier-Money Market	1,167,587.53
1040 · Cash in county treasury	108.33
1050 · LAIF - non-restricted cash	557.83

Total Checking/Savings 1,233,256.43

Other Current Assets

1200 · Accounts receivable	180,495.78
1220 · A/R - Hearst Castle	7,016.19
1300 · Prepaid expenses	10,799.45

Total Other Current Assets 198,311.42

Total Current Assets 1,431,567.85

Fixed Assets

1400 · Fixed assets

1420 · Building and structures	395,874.73
1500 · Equipment	329,437.01
1540 · Major Water Projects	190,360.90
1560 · Pipe bridge	28,075.58
1580 · Sewer plant	1,488,555.08
1600 · Water system	550,390.00
1620 · WWTP expansion	299,565.92
1630 · Tertiary Project	262,932.67
1640 · Wellhead Rehab Project	450,827.53
1650 · Walkway access projects	26,791.00
1660 · RO Unit	931,966.97
1670 · Reservoir / Water Tanks	231,170.68
1680 · Generator	29,101.14

Total 1400 · Fixed assets 5,215,049.21

1690 · Accumulated depreciation (2,556,807.93)

Total Fixed Assets 2,658,241.28

TOTAL ASSETS 4,089,809.13

LIABILITIES & EQUITY

Liabilities

Current Liabilities

Other Current Liabilities

2500 · Customer security deposits	9,200.00
2510 · Connect hookup wait list	70,890.00
2520 · USDA Loan	443,122.00

Total Other Current Liabilities 523,212.00

Total Current Liabilities 523,212.00

Total Liabilities 523,212.00

SAN SIMEON COMMUNITY SERVICES DISTRICT

Balance Sheet

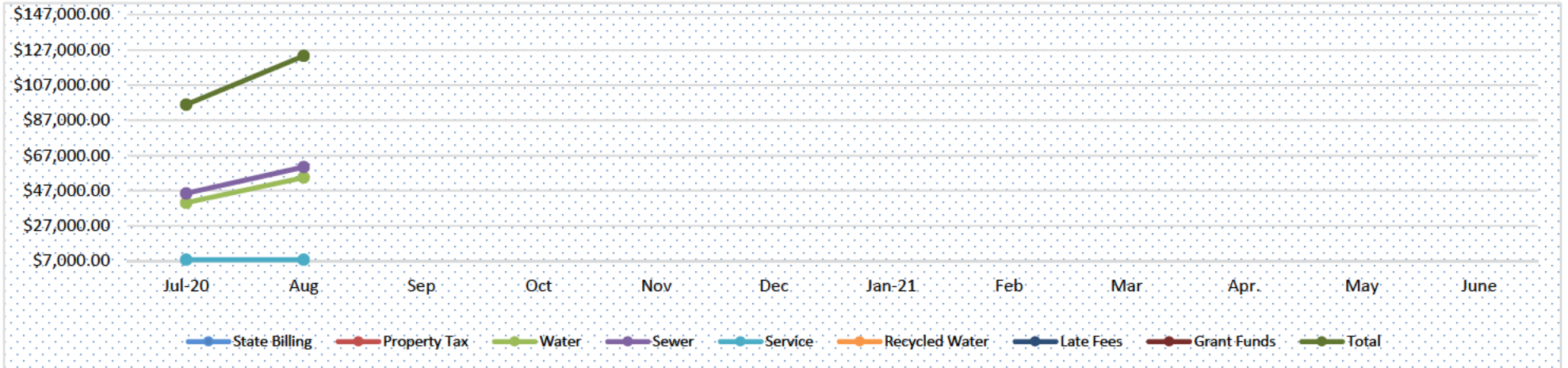
As of August 31, 2020

Aug 31, 20

Equity	
3200 · Fund balance	2,501,237.34
3201 · BOD designated - water improve	53,618.00
3202 · BOD designated-WW improvement	53,315.00
3203 · BOD designated-gen fund improve	15,065.00
3204 · BOD designated for reserves	250,000.00
3205 · BOD designated for customer dep	78,950.00
3206 · Unrestricted net equity	576,332.00
3900 · Suspense	(100.00)
Net Income	38,179.79
Total Equity	<u>3,566,597.13</u>
TOTAL LIABILITIES & EQUITY	<u><u>4,089,809.13</u></u>

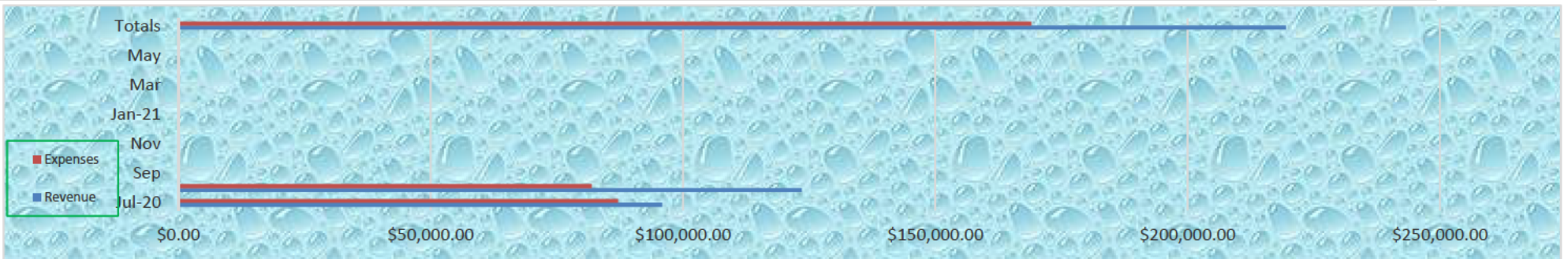
DISTRICT REVENUE FY 2020/2021

	Jul-20	Aug	Sep	Oct	Nov	Dec	Jan-21	Feb	Mar	Apr.	May	June	Totals
State Billing													\$0.00
Property Tax	\$2,336.92	\$751.11											\$3,088.03
Water	\$40,209.97	\$54,512.44											\$94,722.41
Sewer	\$45,546.00	\$60,488.59											\$106,034.59
Service	\$7,830.48	\$7,834.18											\$15,664.66
Recycled Water													\$0.00
Late Fees	\$0.00	\$0.00											\$0.00
Grant Funds	\$0.00	\$0.00											\$0.00
Total	\$95,923.37	\$123,586.32											\$219,509.69
Water Sold Cu Ft	292033	387244											679277
Water Sold Acre ft	6.70	8.89											15.59



REVENUE VS EXPENSES

	Jul-20	Aug	Sep	Oct	Nov	Dec	Jan-21	Feb	Mar	Apr.	May	June	Totals
Revenue	\$95,923.37	\$123,586.32											\$219,509.69
Expenses	\$87,144.37	\$81,902.63											\$169,047.00
Balance	\$8,779.00	\$41,683.69											\$50,462.69



**SAN SIMEON COMMUNITY SERVICES
HISTORICAL FISCAL REVIEW**

FY 2017/2018

Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal Total
State Billing			\$24,606.31			\$21,914.14			\$21,542.66			\$23,690.87	\$91,753.98
Property Tax	\$1,282.43		\$121.78	\$3,983.38	\$11,222.22	\$31,099.09	\$7,506.90	\$2,750.02	\$640.94	\$22,168.20	\$1,686.05	\$771.97	\$83,232.98
Water	\$34,880.43	\$36,192.33	\$31,137.52	\$27,999.25	\$26,930.07	\$19,762.53	\$22,551.64	\$25,457.70	\$16,741.07	\$28,408.76	\$27,795.23	\$36,075.95	\$333,932.48
Sewer	\$38,495.46	\$39,770.86	\$33,836.96	\$30,919.58	\$29,421.68	\$21,164.32	\$25,021.12	\$28,652.26	\$19,108.33	\$32,900.73	\$31,492.38	\$40,773.70	\$371,557.38
Service	\$6,820.12	\$6,950.95	\$6,821.63	\$6,659.98	\$6,886.29	\$6,886.29	\$6,789.30	\$6,853.96	\$6,724.64	\$6,724.64	\$6,724.64	\$6,724.64	\$81,567.08
Late Fees	\$628.24	\$379.06	\$292.61	\$241.85	\$221.14	\$159.01	\$113.69	\$197.92	\$487.09	\$284.43	\$202.63	\$179.47	\$3,387.14
Grant Funds	\$332,310.87						\$42,858.00						
Revenue	\$82,106.68	\$83,293.20	\$96,816.81	\$69,804.04	\$74,681.40	\$100,985.38	\$61,982.65	\$63,911.86	\$65,244.73	\$90,486.76	\$67,900.93	\$108,216.60	\$965,431.04
Expense	\$94,660.34	\$87,503.06	\$104,489.98	\$71,763.52	\$62,490.35	\$85,613.60	\$88,196.48	\$73,251.65	\$109,510.66	\$70,856.21	\$80,363.24	\$80,743.66	\$1,009,442.75
Balance	(\$12,553.66)	(\$4,209.86)	(\$7,673.17)	(\$1,959.48)	\$12,191.05	\$15,371.78	(\$26,213.83)	(\$9,339.79)	(\$44,265.93)	\$19,630.55	(\$12,462.31)	\$27,472.94	(\$44,011.71)
Water Sold Cu Ft	299369	310960	266284	241692	232942	169355	194345	217741	144425	244412	237414	308832	2,867,771
Water Sold Acre	6.87	7.14	6.11	5.55	5.35	3.89	4.46	5.00	3.32	5.61	5.45	7.09	65.84

FY 2018/2019

Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal Total
State Billing			\$26,723.91			\$20,971.00			\$19,858.71			\$19,390.52	\$86,944.14
Property Tax	\$1,288.59		\$169.19	\$7,205.82	\$8,542.19	\$33,187.58	\$1,319.32	\$4,888.55	\$2,227.01	\$22,928.34	\$3,062.24	\$1,057.02	\$85,875.85
Water	\$41,336.59	\$45,279.14	\$41,178.74	\$34,050.67	\$30,760.16	\$24,353.21	\$29,009.60	\$27,745.06	\$24,146.67	\$35,445.24	\$29,158.01	\$38,455.33	\$400,918.42
Sewer	\$47,258.33	\$53,156.35	\$47,379.43	\$39,628.31	\$35,491.84	\$28,149.21	\$34,169.78	\$32,181.86	\$27,850.19	\$41,666.62	\$33,854.74	\$44,856.07	\$465,642.73
Service	\$7,111.73	\$7,113.60	\$7,113.60	\$7,113.60	\$7,079.40	\$7,079.40	\$7,147.80	\$7,079.40	\$7,079.40	\$7,079.40	\$7,045.20	\$7,079.40	\$85,121.93
Late Fees	\$461.43	\$201.49	\$290.08	\$168.71	\$600.53	\$135.60	\$178.43	\$146.51	\$126.87	\$177.46	\$111.54	\$272.66	\$2,871.31
Grant Funds				\$11,367.00		\$18,753.05							
Revenue	\$97,456.67	\$105,750.58	\$122,854.95	\$88,167.11	\$82,474.12	\$113,876.00	\$71,824.93	\$72,041.38	\$81,288.85	\$107,297.06	\$73,231.73	\$111,111.00	\$1,127,374.38
Expense	\$81,495.91	\$74,250.58	\$102,279.81	\$104,990.12	\$111,554.79	\$92,037.25	\$94,850.91	\$94,625.06	\$71,744.58	\$105,016.25	\$89,244.32	\$98,066.81	\$1,120,156.39
Balance	\$15,960.76	\$31,500.00	\$20,575.14	(\$16,823.01)	(\$29,080.67)	\$21,838.75	(\$23,025.98)	(\$22,583.68)	\$9,544.27	\$2,280.81	(\$16,012.59)	\$13,044.19	\$7,217.99
Water Sold Cu Ft	334631	367360	332914	275609	243491	195107	236456	227602	197397	288979	236030	311046	3,246,622
Water Sold Acre	7.68	8.43	7.64	6.33	5.59	4.48	5.43	5.23	4.53	6.63	5.42	7.14	74.53

FY 2019/2020

Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal Total
State Billing			\$25,528.71			\$22,455.35			\$15,776.54			\$7,016.19	\$70,776.79
Property Tax	\$1,218.61	\$2,752.21	\$3,126.48	\$5,305.64	\$6,019.52	\$23,503.23	\$13,612.60	\$5,282.91	\$2,659.00	\$15,436.18	\$9,385.45	\$916.22	\$89,218.05
Water	\$41,718.97	\$39,623.52	\$40,324.01	\$43,808.36	\$32,208.00	\$23,432.56	\$33,732.14	\$34,067.23	\$24,268.55	\$17,909.86	\$28,582.31	\$36,460.31	\$396,135.82
Sewer	\$48,137.21	\$45,503.27	\$45,161.69	\$48,244.57	\$34,916.02	\$26,527.95	\$39,321.56	\$39,368.21	\$27,637.52	\$19,243.28	\$29,934.22	\$37,683.06	\$441,678.56
Service	\$7,113.60	\$7,045.20	\$7,079.40	\$7,451.10	\$7,489.26	\$7,344.54	\$7,525.44	\$7,453.08	\$7,489.26	\$7,489.26	\$7,489.26	\$7,453.08	\$88,422.48
Recycled Water													\$0.00
Late Fees	\$1,957.04	\$2,399.24	\$1,407.87	\$468.45	\$316.84	\$1,136.41	\$237.28	\$307.96	\$2,793.44	\$5,540.71	\$4,647.78	\$3,802.45	\$25,015.47
Grant Funds			\$8,750.00	\$167,376.61						\$1,485.90		\$8,369.50	\$185,982.01
Revenue	\$100,145.43	\$97,323.44	\$122,628.16	\$105,278.12	\$80,949.64	\$104,400.04	\$94,429.02	\$86,479.39	\$80,624.31	\$65,619.29	\$80,039.02	\$93,331.31	\$1,111,247.17
Expense	\$90,205.84	\$67,705.50	\$94,401.58	\$97,595.50	\$87,822.01	\$86,173.97	\$85,716.44	\$75,643.11	\$62,582.54	\$73,942.83	\$90,232.61	\$79,762.52	\$991,784.45
Balance	\$9,939.59	\$29,617.94	\$28,226.58	\$7,682.62	(\$6,872.37)	\$18,226.07	\$8,712.58	\$10,836.28	\$18,041.77	(\$8,323.54)	(\$10,193.59)	\$13,568.79	\$119,462.72
Water Sold Cu Ft	336845	319458	323518	329822	242893	179311	260006	261505	185972	137196	217871	274085	3,068,482
Water Sold Acre	7.73	7.33	7.43	7.57	5.58	4.12	5.97	6.00	4.27	3.15	5.00	6.29	70.44

4. CONSENT AGENDA

- A. Review and approval of Minutes for the Regular Meeting on July 8, 2020.**

MINUTES
SAN SIMEON COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS REGULAR MEETING
Wednesday, July 8, 2020
3:00 pm

Internet Meeting Location

1. REGULAR SESSION: 3:00 PM

- | | |
|---|---|
| A. Chairperson Kellas – Present
Vice-Chairperson Russell – Present
Director Carson – Present
Director Maurer – Present
Director de la Rosa – Present | General Manager, Charlie Grace
District Counsel, Natalie Frye Laacke |
|---|---|

Vice-Chairperson Russell and Director de la Rosa had technical difficulty and were delayed in joining the meeting.

2. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

Public Comment –

Bob Hather inquired whether the moratorium in San Simeon requires an Environmental Impact Review (EIR). He stated that as a property owner this requirement impacted him.

Henry Krzciuk commented that delaying additional development was related to the water storage project and unnecessary delays that were related to project mismanagement. He also discussed the conservation easement, the Ranchland Trust and the view shed impacts.

Director Carson inquired with Charlie Grace about if there is enough water to issue hookups.

Charlie Grace responded that there are approximately 70 acre feet of water but we are permitted to use 140 acre feet of water. Grace feels that there is 30 - 50 acre feet of water available for additional building.

3. SPECIAL PRESENTATIONS AND REPORTS:

A. STAFF REPORTS:

- i. **Sheriff's Report** – Commander Nelson provided the report for June.
- ii. **Superintendent's Report** – Jerry Copeland provided a summary of June activities.
- iii. **General Manager's Report** – Charlie Grace provided a summary of June Activities.

Vice-Chairperson Russell requested that the grant summaries listed as part of the GM report include a brief description of what the grant related too.

- iv. **District Financial Summary** – Cortney Murguia provided a summary of the monthly financials.
- v. **District Counsel’s Report** – Natalie Frye Laacke provided a Summary of June Activities.

B. BOARD OF DIRECTORS AND COMMITTEE REPORTS: None

C. SPECIAL PRESENTATION: None

4. CONSENT AGENDA ITEMS:

Public Comment – Henry Krzciuk commented on the meeting minutes and requested that his written comments become part of the meeting minutes. He also commented on an agreement between the District and Oliveira Consulting that he referred to as a secret agreement that needed to be brought forward so that the Board and the public could provide feedback.

A. Review and approval of Minutes for the Regular Meeting on June 10, 2020.

B. Review and approval of Disbursements Journal.

C. Approval of Resolution 20-422 updating signatures including facsimile signatures for Banking services on behalf of the SSCSD.

A motion was made to approve items 4A-4C.

Motion: Kellas

2nd: Russell

All in: 5/0

Roll Call:

Kellas: Yes

Russell: Yes

Carson: Yes

Maurer: Yes

De la Rosa: Yes

5. BUSINESS ACTION ITEMS:

A. Review of authorization of powers to the General Manager awarded under Resolution 20-419.

Chairperson Kellas introduced this item.

Henry Krzciuk commented that the Resolution could be annulled or voided. He requested that legal counsel please provide a legal basis for the Resolution. He also stated that the document had not been signed and was not on the website.

There was no action taken regarding this matter.

B. Adoption of Resolution 20-423 establishing the District's Appropriation Limit for Fiscal year 2020-2021.

Chairperson Kellas introduced this item. There was no public comment on this item.
A motion was made to adopt resolution 20-423.

Motion: Kellas
2nd: De la Rosa
All in: 5/0

Roll Call:

Kellas: Yes Russell: Yes Carson: Yes Maurer: Yes De la Rosa: Yes

C. Review of the draft Budget FY 2020/2021.

Michael Hanchett introduced the item and provided a summary of what was discussed at the Budget Committee meeting. He commented on changes to the cost of liability insurance, the outfall inspection, and other changes to operation and maintenance items, and the increase in legal fees.

There was a motion to approve the preliminary version of the FY 20/21 budget.

Motion: Kellas
2nd: De la Rosa
All in: 4/1
Abstain: Carson

Roll Call:

Kellas: Yes Russell: Yes Carson: Abstain Maurer: Yes De la Rosa: Yes

D. Consideration of Chairperson's appointment of a new member to the Water & Budget Committees.

Chairperson Kellas introduced the item. She made the following recommendations for the committees. She also asked if any members of the public would like to be added as committee members.

David Sansone asked that be added to the Water Committee.

Budget Committee:

Daniel de la Rosa (D)
William Maurer (D)
Michael Hanchett

Water Committee:

Michael Hanchett
David Sansone
Leroy Price

Kathy Fry

John Russell (D)
Daniel de la Rosa (D)

A motion was made to add David Sansone to the Water Committee.

Motion: Kellas
2nd: Carson
All in: 5/0

Roll Call:

Kellas: Yes Russell: Yes Carson: Yes Maurer: Yes De la Rosa: Yes

A motion was made to remove Kellas from the Budget Committee and add Director Maurer.

Motion: Kellas
2nd: Russell
All in: 5/0

Roll Call:

Kellas: Yes Russell: Yes Carson: Yes Maurer: Yes De la Rosa: Yes

E. Direction to staff regarding real property offer for A.P.N. 013.091.027.

Chairperson Kellas introduced this item.

Natalie Frye Laacke commented that staff had determined that this matter did not need to be part of the closed session. She stated that the Board did not have enough information related to the property to be able to provide any direction to staff.

A copy of the letter from the property owner to the District was shown as part of the Zoom shared screen function. This allowed all members of the public to see the correspondence.

Henry Krzcuik commented that he had not received a copy of the letter.

Staff stated that an email was sent to the Board and members of the Board Packet Distribution list at 2:38 pm containing a copy of the letter.

6. BOARD/STAFF GENERAL DISCUSSIONS AND PROPOSED AGENDA ITEMS – None

7. PUBLIC COMMENT ON CLOSED SESSION ITEMS–

Henry Krzcuik commented about where the funds would come from. He expressed his concerns about using water funds to reimburse sewer funds while keeping in compliance with prop 218 laws.

Michael Hanchett stated that the Board had discussed this matter several years ago and he questioned the procedures for determining residential and commercial EDU allocations.

David Sansone remarked that he believed that the property used to be zoned commercial and not residential. He also asked that staff verify that any dates included in a refund request would be verified that the zoning determination had been finalized.

8. ADJOURN FOR CLOSED SESSION @ 4:09 PM

A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9:
(Number of cases: 1 – Manish Gupta)

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code Section 54956.8)

*This matter was discussed as part of the Business Action Items E.

9. RECONVENE TO OPEN SESSION – 5:33 PM

No reportable action was taken regarding this matter.

10. ADJOURNMENT @ 5:34 PM

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4. CONSENT AGENDA

- B. Review and approval of Minutes for the Regular Meeting on August 12, 2020.**

MINUTES
SAN SIMEON COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS REGULAR MEETING
Wednesday, August 12, 2020
3:00 pm

Internet Meeting Location

1. REGULAR SESSION: 3:00 PM

- | | |
|---|---|
| A. Chairperson Kellas – Present
Vice-Chairperson Russell – Present
Director Carson – Present
Director Maurer – Present
Director de la Rosa – Present | General Manager, Charlie Grace
District Counsel, Natalie Frye Laacke |
|---|---|

2. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

Public Comment - No public comment

3. SPECIAL PRESENTATIONS AND REPORTS:

A. STAFF REPORTS:

- i. **Superintendent's Report** – Jerry Copeland provided a summary of June activities.
- ii. **Sheriff's Report** – Commander Nelson provided the report for June.
- iii. **General Manager's Report** – Charlie Grace provided a summary of June Activities. Jeff Oliveira provided an update on grant information.
- iv. **District Financial Summary** – Cortney Murguia provided a summary of the monthly financials.
- v. **District Counsel's Report** – Natalie Frye Laacke provided a Summary of June Activities.

B. BOARD OF DIRECTORS AND COMMITTEE REPORTS: None

C. SPECIAL PRESENTATION: None

D. PUBLIC COMMENTS ON SPECIAL PRESENTATIONS AND REPORTS:

Public Comment - None

4. CONSENT AGENDA ITEMS:

A. Review and approval of Minutes for the Regular Meeting on July 8, 2020.

Director Carson pointed out discrepancies under item 2. Public comment.

Director Russell remarked on item 7. Public comment related to the closed session items. He asked that more detail be added to the description.

B. Review and approval of Minutes for the Special Meeting on July 31, 2020.

C. Review and approval of Disbursements Journal.

Henry Krzciuk questioned the formula being used to calculate the consumer price index (CPI) percentage/inflation factor used for the Grace Environmental Services (GES) contract increase.

Cortney Murguia responded that the inflation factor used is 1.4% based on CPI.

D. Review and approval of updates to the Policy and Procedures Manual.

Henry Krzciuk commented about the changes that had been made and requested that they be annotated.

Henry Krzciuk commented about Exhibit A on page 73 of the board packet regarding designated positions.

Cortney Murguia, Chairperson Kellas, and Natalie Frye Laacke discussed the resolution concerning this matter agreeing that it has already been voted on and approved. Natalie Frye Laacke pointed out that Exhibit B gives a written definition of a consultant and notes that those covered under the consultant conditions are covered by the policy in question.

A motion was made to approve items 4 B,C, and D with the changes recommended by Director Russell.

Motion: Kellas
2nd: Russell
All in: 5/0

Roll Call:

Kellas: Yes Russell: Yes Carson: Yes Maurer: Yes De la Rosa: Yes

5. BUSINESS ACTION ITEMS:

A. Review of authorization of powers to the General Manager awarded under Resolution 20-419.

A motion was made to table the item for another month because of increasing pandemic conditions.

Motion: Kellas
2nd: Russell
All in: 5/0

Roll Call:

Kellas: Yes Russell: Yes Carson: Yes Maurer: Yes De la Rosa: Yes

B. Adoption of Resolution 20-424 approving the Fiscal Year Budget for 2020/2021.

Chairperson Kellas introduced this item.

Henry Krzciuk commented that the public is not able to see the report for expenses incurred on the budget report in comparison to last fiscal year. He claimed to have made a public records request for this and voiced his disconcert. He also voiced that he is concerned about the budget and requests that quarterly updates are given.

Cortney Murguia pointed out that an accounting report is in the district financials every month that shows income and expenses.

Chairperson Kellas replied that this will be discussed with the budget committee.

A motion was made to accept the matter as is and for the budget committee to review the questions that came up.

Motion: Kellas
2nd: De La Rosa
All in: 5/0

Roll Call:

Kellas: Yes Russell: Yes Carson: Yes Maurer: Yes De la Rosa: Yes

C. Discussion related to the LAFCO solid waste authority powers related to District Resolution 20-425.

Pam Ricci, from RRM Design, introduced the item and gave an informative presentation on this matter.

Director Carson and Pam Ricci discussed the rate review for the garbage collection/waste management.

Vice Chairperson Russell and Cortney Murguia conferred about implementing a city clean/trash pick up similar to the service provided in Cambria.

Chairperson Kellas questioned if green waste can be implemented.

Cortney Murguia responded to this inquiry and will look into the matter.

Henry Krzciuk commended the presentation and asked if we have anything in writing from Grace Environmental Services that discusses charges for this new service and Prop 218 work. He suggests that a road repair reserve is used to accumulate road repair funds.

A motion was made to accept Resolution 20-425 for application to Local Agency Formation Commission (LAFCO) to establish a solid waste management authority for the district.

Motion: Kellas

2nd: Carson

All in: 5/0

Roll Call:

Kellas: Yes

Russell: Yes

Carson: Yes

Maurer: Yes

De la Rosa: Yes

D. Discussion and review of resumes for the on call engineering services for the District Office.

Cortney Murguia offered for the staff report to be given. Charlie gave the staff report.

Henry Krzciuk commented that no hourly rates were provided. He questioned if this information is being withheld for a certain reason.

Chairperson Kellas responded that this information is not being withheld for any particular reason, this is just an initial request for information.

Henry Krzciuk believed that one of the companies "clearly doesn't meet the requirements".

Charlie Grace responded that we are moving forward with the proposal and that we are limited in choices because only two firms responded. Charlie offered a myriad of options that can be taken moving forward.

Vice Chairperson Russell, Charlie Grace, Michael Hanchett, and David Sansone evaluated the engineering firms under consideration.

Chairperson Kellas suggested rewriting the RFP and attacking it from a different direction. She cited that Jeff (Oliveira) is typically our go to person. In lieu of the complaints from members of the public about the use of services provided by Oliveira Consulting, the RFPs were sent out as a solution to ameliorate the issue.

Charlie Grace addressed concerns as he states that he reached out to colleagues that may meet the needs of our district expressed by Director Russell.

Jeff Oliveira made the clarification that his company does not provide engineering services.

Vice Chairperson Russell commended that he does not feel that he can vote on either one of these.

Michael Hanchett pointed out that RRM is a local firm that seems to be capable, it may be worth our time to look into them for suggestions.

A motion was made to table the engineering and have staff send them thank you letters expressing that these firms offer more than what we need.

Motion: Kellas

2nd: Carson

All in: 5/0

Roll Call:

Kellas: Yes

Russell: Yes

Carson: Yes

Maurer: Yes

De la Rosa: Yes

6. BOARD/STAFF GENERAL DISCUSSIONS AND PROPOSED AGENDA ITEMS – None

7. ADJOURN FOR CLOSED SESSION @ 4:23 PM

In lieu of technical difficulties, the closed session was adjourned. (Later rescheduled for Monday, August 17, 2020)

8. RECONVENE TO OPEN SESSION – 4:28 PM

No reportable action was taken regarding this matter.

9. ADJOURNMENT @ 4:30 PM

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4. CONSENT AGENDA

C. Review and approval of Minutes for the Special Meeting on August 17, 2020.

**SPECIAL MEETING MINUTES
SAN SIMEON COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS CLOSED SESSION MEETING
Monday August 17, 2020
3:00 PM**

Internet Meeting Location

1. CLOSED SESSION - @ 3:09 PM

(Chairperson Kellas had technical difficulties which caused a delay in the meeting starting)

A. Chairperson Kellas – Present	General Manager, Charlie Grace
Vice-Chairperson Russell – Present	District Counsel, Natalie Frye Laacke
Director Carson – Present	
Director Maurer – Present	
Director de la Rosa – Present	

2. PUBLIC COMMENT

Henry Krzciuk inquired as to who would be attending the closed session, staff, attorney's, contractors.

Vice Chairperson Russell responded that Charlie Grace would not be attending the meeting.

Natalie Frye Laacke responding that only she and the Director's would be attending the closed session.

3. CLOSED SESSION @ 3:12 PM

A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9.

4. RECONVENE TO OPEN SESSION – @ 4:06 PM

There was no reportable action taken.

5. ADJOURNMENT – @ 4:07 PM

4. CONSENT AGENDA

**D. Review and approval of Disbursements
Journal.**

SAN SIMEON COMMUNITY SERVICES DISTRICT
Disbursements Journal
September 2020

Type	Date	Num	Name	Memo	Paid Amount
Paycheck	09/09/2020	2073	DANIEL de la ROSA	Board Service August 2 through September 1, 2020.	-92.35
Paycheck	09/09/2020	2074	GWEN KELLAS	Board Service August 2 through September 1, 2020.	-92.35
Paycheck	09/09/2020	2075	JOHN K RUSSELL	Board Service August 2 through September 1, 2020.	-92.35
Paycheck	09/09/2020	2076	WILLIAM E MAURER	Board Service August 2 through September 1, 2020.	-92.35
Paycheck	09/09/2020	2077	WILLIAM J CARSON	Board Service August 2 through September 1, 2020.	-92.35
Bill Pmt -Check	09/09/2020	2078	Kathleen Fry Bookkeeping Services	Bookkeeping services August 2020. Inv 2020-08-CSD dated 8/31/2020.	-1,320.00
Bill Pmt -Check	09/09/2020	2079	LAFCO	Application fee to apply to obtain solid waste authority from LAFCO.	-3,000.00
Bill Pmt -Check	09/09/2020	2080	Lori Mather Video Services	Attendance/Record/Edit Special SSCSD Board Meeting (held via Zoom on 7/31/20). Invoice dated 8/13/2020.	-300.00
Bill Pmt -Check	09/09/2020	2081	Lori Mather Video Services	Editing/back-up archiving Special SSCSD Board Meeting (held via Zoom on 8/17/20). Invoice dated 8/17/2020.	-150.00
Bill Pmt -Check	09/09/2020	2082	Oliveira Environmental Consulting LLC	Prof Svcs related to reservoir proj; LCP, NFWF, OPC, Prop 1 grant, and other grant opportunities. Inv OEC-2020-029 dated 8/26/2020.	-2,310.00
Bill Pmt -Check	09/09/2020	2083	Simply Clear Marketing & Media	Monthly Website Service and Mgt fee. Service period Sep 21 - Oct 20, 2020. Inv 305942 dated 8/31/2020.	-400.00
Bill Pmt -Check	09/09/2020	2084	Simply Clear Marketing & Media	Website Accessibility - system set up fees and annual fee. Inv 30886 dated 8/26/2020.	-2,575.00
Bill Pmt -Check	09/09/2020	2085	Wood Environment & Infrastructure Solutio	On-Call Grant Support Services through 07/3/20. Inv S49833985 dated 08/25/2020.	-855.00
Bill Pmt -Check	09/09/2020	2086	Grace Environmental Services - GES	Electrical cost overage - per contract. Service period July 2019 to June 2020. Inv 1390 dated 7/30/2020.	-14,585.95
Bill Pmt -Check	09/09/2020	2087	Grace Environmental Services - GES	Operations Management, Electrical and Maintenance Fees Sept 2020. Inv 1395 dated 9/1/2020.	-54,197.38
Liability Check	09/25/2020	Elec Pymt	United States Treasury (US Treasury)	Payroll tax payment for paychecks dated 9/9/2020.	-76.50
Check	09/25/2020	Elec Pymt	CalPERS Fiscal Services Division	Retiree Health monthly premium for October 2020.	-353.08
Check	09/25/2020	Elec Pymt	CalPERS Fiscal Services Division	Unfunded Accrued Liability only - prepayment for October 2020. Cust. ID # 7226734344.	-1,317.97
TOTAL					-81,902.63

5. A. Business Items



BUSINESS ACTION ITEM STAFF REPORT

Item 5.A. Review of authorization of powers to the General Manager awarded under Resolution 20-419.

Summary:

On April 22, 2020, District Resolution 20-419 was adopted by the Board. A copy of this resolution is included with this staff report. Within this resolution item number six (6) requires that the authority vested in the General Manager by this resolution will be reviewed during each regularly scheduled Board meeting.

Enc: Resolution 20-419

RESOLUTION NO. 20-419

**RESOLUTION OF THE SAN SIMEON COMMUNITY SERVICES
DISTRICT TO TEMPORARILY AUTHORIZE INCREASED
AUTHORITY OF THE GENERAL MANAGER AND TEMPORARY
RELIEF FOR NONPAYMENT OF WATER/SEWER BILLS**

Recitals

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as a result of the threat of Novel Coronavirus 2019 (“COVID-19”); and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20 in further response to the spread of COVID-19, mandating compliance with state and local public health officials as pertains to measures to control the spread of COVID-19; and

WHEREAS, on March 13, 2020, the San Luis Obispo County Health Officer declared a public health emergency and the County Emergency Services Director also proclaimed a local emergency due to the COVID-19 pandemic; and

WHEREAS, on March 14, 2020, the San Luis Obispo County Public Health Department announced the first confirmed case of COVID-19 in San Luis Obispo County, and additional cases have since been confirmed; and

WHEREAS, the health, safety and welfare of San Simeon Community Services District (“District”) residents, businesses, visitors and staff are of utmost importance to the Board of Directors (“Board”), and additional future measures may be needed to protect the community; and

WHEREAS, preparing for, responding to, mitigating, and recovering from the spread of COVID-19 may require the District to divert resources from normal day-to-day operations and it may impose extraordinary requirements on and expenses to the District; and

WHEREAS, the District General Manager (“General Manager”) currently has spending authority up to \$5,000.00, without prior Board approval in addition to limited authority related to personnel matters; and

WHEREAS, in the absence of Board action, strict compliance with certain District rules and ordinances could prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of COVID-19; and

WHEREAS, after consideration of all the facts reasonably available for review at the present time, the Board of Directors finds it in the best interest of the District to authorize the increase in General Manager spending authority to \$10,000, and up to \$15,000 upon authorization

from the President of the Board, and approves all acts necessary and appropriate to ensure the operation of the District.

WHEREAS, the Board understands that the closures of schools and other businesses due to COVID-19 is causing or may cause a financial hardship for many of its ratepayers and therefore will suspend discontinuation of services and make other accommodations for ratepayers experiencing a hardship during this emergency.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Directors of the San Simeon Community Services District, as follows:

1. The Board of Directors authorizes an increase in the General Manager's spending authority to \$10,000, and up to \$15,000 upon authorization from the President of the Board.
2. The Board of Directors orders that the process to discontinue water or sewer service for nonpayment shall be suspended. Ratepayers experiencing a financial hardship should contact the District office.
3. The Board of Directors orders that all late fees for nonpayment of water or sewer service shall be waived. Ratepayers experiencing a financial hardship should contact the District office.
4. The Board of Directors orders that for ratepayers experiencing a financial hardship due to COVID-19, the General Manager is authorized to work with the ratepayer on an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges.
5. The General Manager may take all actions necessary, proper, and appropriate in his/her reasonable discretion to ensure the operation of the District, the safety of employees, and the safety of the public, including, but not limited to reasonable deviations from Board adopted Ordinances, Resolutions, Policies, and Procedures.
6. The authority vested in the General Manager by this resolution will be reviewed during each regularly scheduled Board meeting and otherwise terminate upon a declaration by the Governor that the State of Emergency has ended and the County Health Officer that the Public Health Emergency has ended and the County Emergency Services Director that the Local Emergency has ended.

ADOPTED by the Board of Directors of the San Simeon Community Services District on April 22, 2020, by the following roll call votes:

AYES: Carson, Kellas, Maurer

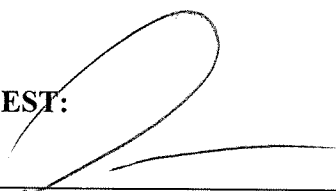
NOES: Russell
ABSENT: \emptyset
ABSTAINED: \emptyset

The foregoing Resolution is hereby adopted this 22 day of April, 2020.



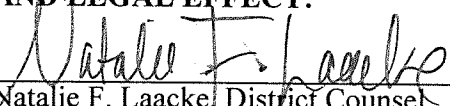
Gwen Kellas, acting Chairperson of the
Board of Directors

ATTEST:



Charles Grace, General Manager and
Secretary for the Board of Directors

**APPROVED AS TO FORM
AND LEGAL EFFECT:**



Natalie F. Laacke, District Counsel

On March 20, 2020, at a Special Meeting, the Board of Directors approved Resolution 20-419 in response to the COVID19 pandemic. On April 22, 2020 the Board approved a second version of Resolution 20-419 which had been modified. Both versions of the Resolution are part of this file. The final version is the April 22, 2020 signed resolution.

RESOLUTION NO. 20-419

DECLARATION OF EMERGENCY AND RESOLUTION OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT TO TEMPORARILY AUTHORIZE INCREASED AUTHORITY OF THE GENERAL MANAGER AND TEMPORARY RELIEF FOR NONPAYMENT OF WATER/SEWER BILLS

Recitals

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as a result of the threat of Novel Coronavirus 2019 (“COVID-19”); and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20 in further response to the spread of COVID-19, mandating compliance with state and local public health officials as pertains to measures to control the spread of COVID-19; and

WHEREAS, on March 13, 2020, the San Luis Obispo County Health Officer declared a public health emergency and the County Emergency Services Director also proclaimed a local emergency due to the COVID-19 pandemic; and

WHEREAS, on March 14, 2020, the San Luis Obispo County Public Health Department announced the first confirmed case of COVID-19 in San Luis Obispo County, and additional cases have since been confirmed; and

WHEREAS, the health, safety and welfare of San Simeon Community Services District (“District”) residents, businesses, visitors and staff are of utmost importance to the Board of Directors (“Board”), and additional future measures may be needed to protect the community; and

WHEREAS, preparing for, responding to, mitigating, and recovering from the spread of COVID-19 may require the District to divert resources from normal day-to-day operations and it may impose extraordinary requirements on and expenses to the District; and

WHEREAS, the District General Manager (“General Manager”) currently has spending authority up to \$5,000.00, without prior Board approval in addition to limited authority related to personnel matters; and

WHEREAS, in the absence of Board action, strict compliance with certain District rules and ordinances could prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of COVID-19; and

WHEREAS, after consideration of all the facts reasonably available for review at the present time, the Board of Directors finds it in the best interest of the District to authorize the increase in General Manager spending authority to \$10,000, and up to \$15,000 upon authorization

from the President of the Board, and approves all acts necessary and appropriate to ensure the operation of the District.

WHEREAS, the Board understands that the closures of schools and other businesses due to COVID-19 is causing or may cause a financial hardship for many of its ratepayers and therefore will suspend discontinuation of services and make other accommodations for ratepayers experiencing a hardship during this emergency.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Directors of the San Simeon Community Services District, as follows:

1. The Board of Directors declares a State of Emergency to exist in San Simeon as a result of the threat of Novel Coronavirus 2019 (“COVID-19”)
2. The Board of Directors authorizes an increase in the General Manager’s spending authority to \$10,000, and up to \$15,000 upon authorization from the President of the Board.
3. The Board of Directors orders that the process to discontinue water or sewer service for nonpayment shall be suspended for ninety (90) days from the date of adoption of this Resolution.
4. The Board of Directors orders that all late fees for nonpayment of water or sewer service shall be waived for ninety (90) days from the date of adoption of this Resolution.
5. The Board of Directors orders that for ratepayers experiencing a financial hardship due to COVID-19, the General Manager is authorized to work with the ratepayer on an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges for ninety (90) days or more.
6. The General Manager may take all actions necessary, proper, and appropriate in his/her reasonable discretion to ensure the operation of the District, the safety of employees, and the safety of the public, including, but not limited to reasonable deviations from Board adopted Ordinances, Resolutions, Policies, and Procedures.
7. The authority vested in the General Manager by this resolution will terminate upon a declaration by the Governor that the State of Emergency has ended and the County Health Officer that the Public Health Emergency has ended and the County Emergency Services Director that the Local Emergency has ended.

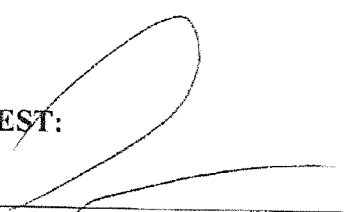
ADOPTED by the Board of Directors of the San Simeon Community Services District on March 20, 2020, by the following roll call votes:

AYES: *McGuire, Kellas, Carson, Maurer*
NOES: *Russell*
ABSENT:
ABSTAINED:

The foregoing Resolution is hereby adopted this 20 day of March, 2020.

M. M. McGuire
Mary Margaret McGuire, Chairperson of the Board of Directors

ATTEST:


Charles Grace, General Manager and Secretary for the Board of Directors

APPROVED AS TO FORM AND LEGAL EFFECT:

Natalie F. Laacke
Natalie F. Laacke, District Counsel

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5. B. Business Items



BUSINESS ACTION ITEM STAFF REPORT

Item 5.B. Discussion related to obtaining information about the District becoming part a County Services Area (CSA). – request from Julie Tacker

The District received an email communication from Julie Tacker to add an item to the agenda regarding converting the District to a County Service Area. A copy of Ms. Tacker's email is included in the Board Packet.

District Staff is seeking direction from the Board regarding Ms. Tacker's request. If the Board would like to research County Service Areas, identify the potential pros/ cons of such a conversion and/or contact LAFCO for more information, it can do so and the item can be placed on a future agenda for discussion.

Enc: Copy of email request from Julie Tacker

[REDACTED]

From: Julie Tacker [REDACTED] >
Sent: Tuesday, July 28, 2020 12:13 PM
To: gkellas@sansimeoncsd.org
Cc: wmaruer@sansimeoncsd.org; ddelarosa@sansimeoncsd.org;
jrussell@sansimeoncsd.org; williamcarson99@icloud.com; Natalie Frye Laacke
Subject: Request to add August Agenda Item

To: Chairperson Ms. Gwen Kellas

Cc: SSCSD Directors and District Counsel

Subject: Request to add item to the August San Simeon CSD Board meeting agenda

In accordance with San Simeon CSD's Policies and Procedures, Section 7.01 "...A member of the public may also request that a matter directly related to district business be placed on the agenda. Such a request must be placed to the General Manager or the Board Chairperson at least fifteen (15) day prior to the date of the meeting....".

The Policy requires that the request be placed with the General Manager or Board Chairperson. Since the requested agenda item is directly related to the General Manager's business interests, it did not seem appropriate to make such a request to the General Manager.

Please consider this correspondence a request to add the following as an August 12, 2020 agenda item:

"With the present Grace Environmental Services Contract expiring January 2020, and because the present Charles Grace General Manager/GES Agreement is subject to questions and review, future service provider alternatives and approaches should be discussed. The alternatives for consideration should include converting from a Community Services District to a County Service Area. An independent cost benefit analysis should be considered by a certified financial consulting company that specializes in publicly owned utilities and special districts."

Since some Directors may not be familiar with County Service Areas (CSA), the link below is provided to the County's CSA website. The County Local Area Formation Commission also has information on CSA's and is the agency through which such conversion would occur. Substantial savings may be possible. It is one alternative that should be considered for the future.

<https://www.slocounty.ca.gov/Departments/Public-Works/Committees-Programs/County-Service-Areas.aspx#:~:text=County%20Service%20Areas.%20A%20County%20Service%20Area%20%28CSA%29,services%20include%20one%20or%20more%20of%20the%20following%3A>

This may be a bit awkward, because of your general manager's business interest, but these alternatives should be included in a comprehensive staff report for board review August 12th.

Respectfully,
Julie Tacker

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5. C. Business Items



BUSINESS ACTION ITEM STAFF REPORT

Item 5.C. Discussion and Consideration related to the Water Service Moratorium and request from owner of APN 013-071-009 Robert Hather.

The District received a letter from William Walter an attorney that represents Mr. Robert Hather. Mr. Hather owns real property (vacant land) within the District. Mr. Hather is requesting removal of the water moratorium. A copy of that letter is included in the Board packet.

Mr. Hather made a similar request in a letter dated October 30, 2019, which is also included in the Board Packet. At its Regular Board meeting on November 13, 2019, the District considered Mr. Hather's October 30, 2019 letter and decided to move forward with an analysis of the potential impacts removing the water moratorium could have on the environment. (i.e. California Environmental Quality Act "CEQA" review)

In February of 2020, the District prepared a Request for Proposal ("RFP") soliciting firms to perform the CEQA analysis / review. Only one response was received from Oliveira Consulting. To ensure the District would obtain the most qualified environmental consultant at a competitive price, the Board reached a general consensus that in the best interest of the District round of RFPs. Due to COVID-19 and the District's effort to solicit an "on-call" engineering firm the "second" round of RFP for the environmental consultant has not yet been advertised.

Mr. Hather is now questioning the need to conduct a CEQA review/analysis before consideration of lifting the water moratorium. He has taken the position that removing the water moratorium (which would require amending or repealing the District's ordinance imposing the moratorium) is a "ministerial" act by the Board. Ministerial acts by the Board, generally, do not require CEQA review.

CEQA defines a "project" as an activity that (1) is a *discretionary* action by a governmental agency and (2) will either have a direct or reasonably foreseeable indirect impact on the environment (Pub. Res. Code, § 21065) (emphasis added).

"Discretionary project" means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes,

ordinances, regulations, or other fixed standards. The key question is whether the public agency can use its subjective judgment to decide whether and how to carry out or approve a project. 14 Cal. Code of Regs. Section 15357.

“Ministerial” describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Common examples of ministerial permits include automobile registrations, dog licenses, and marriage licenses. A building permit is ministerial if the ordinance requiring the permit limits the public official to determining whether the zoning allows the structure to be built in the requested location, the structure would meet the strength requirements in the Uniform Building Code, and the applicant has paid his fee. 14 Cal. Code of Regs. Section 15369.

Mr. Walter is relying heavily on the language of Water Code Section 355 that says “*until* the supply of water available for distribution within such area has been replenished or augmented” for his argument that it is ministerial. The argument seems to be that the “until” language acts as a threshold, which triggers an automatic reaction requiring the district to end the moratorium.

The *Swanson* case cited by Walter was discussed further in *Building Industry Association of Northern California v. Marin Municipal Water District* (1991) 235 Cal.App.3d 1641. This case involved another moratorium ordinance prohibiting new water connections in the same district as *Swanson*. In this case, the Court analyzed the District’s authority under sections 350 *et seq* of the Water Code, and emphasized the discretionary nature of these codes, as noted in this discussion of Section 353 and 354:

Section 353 empowers a district to prescribe rules and regulations during a water shortage emergency. That section provides: "When the governing body has . . . declared the existence of an emergency condition of water shortage . . . it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water . . . as will *in the sound discretion of such governing body conserve the water supply for the greatest public benefit* with particular regard to domestic use, sanitation, and fire protection." (Italics added.) A ban on new service connections is explicitly authorized by section 356, which states: "The regulations and restrictions may include the right to deny applications for new or additional service connections . . . (1646-1647 [emphasis in original].)

The plaintiffs tried to argue that Section 353 and 354 (which discusses allocation requirements) required the District to make certain findings before adopting a moratorium or limiting current consumers use, and the Court disagreed. Instead, they held that the plain language clearly indicates “the district has discretion to determine how to conserve its water supply for the greatest benefit...” (*Id.* at 1647). They said that Section 353 allows them to impose rationing on current consumers, and Section 354

discusses the process for doing that. The court also held that Section 356 provides that “a district's *discretion* includes the unrestricted right to deny applications for any new or additional service connections.” (*Id.* [emphasis added].)

The language in the Water Code and the case law interpreting it suggests imposing a moratorium is discretionary. The question is how can a discretionary moratorium be automatically lifted by a ministerial action?

CEQA Guidelines, provide the following definition of a project. "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. This broad definition is intended to provide the maximum protection of the environment.

Staff is looking for direction from the Board.

Enc: Correspondence from Robert Hather and attorney

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Robert Hather
[REDACTED]
[REDACTED]
[REDACTED]

Oct 30, 2019

San Simeon Community Service District
111 Pico Ave.
San Simeon, CA 93452

Re: Request for water will serve letter for property on Avonne

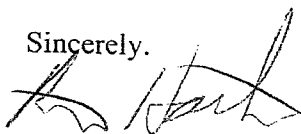
Please find attached my application for a will serve letter for obtaining water on my lot located at the south east end of Avonne, parcel 013-071-009.

I have recently attended a pre building permit application meeting with the San Luis Obispo County Planning and Building Dept to review my plans for building 15 town homes on my lot. This preliminary review indicated my building plans are consistent with current land use requirements. At this point in the permitting process the County requires a will serve letter from the district to proceed with my application for a building permit.

Please issue the will serve letter without delay. Given that the district's water quality and quantity now exists to extend further build out of the town of San Simeon there is a legal duty upon your district to issue will serve letters. Ordinance 102 and preceding ordinances 61, 63, and 66 are no longer valid due to the installation of the desal plant.

The issuance of will serve letters at this time is your legal obligation. The fees I paid to be on your water list should be applied to the hookup fees at the time the building permit is issued.

Sincerely,



Robert Hather

RECEIVED

AUG 03 2020

BY: CAM

Robert Hather



July 27, 2020

District Board
San Simeon Community Service District
111 Pico Ave.
San Simeon, CA 93452

Directors,

The installation of the district's reverse osmoses water treatment system has eliminated the water quality and water quantity limitations which led to the imposition of the district's 35 year moratorium. Therefore, there is no longer a water quantity or quality limitation for me and others who have paid to be on the District's "Waiting List Commitments" since 2014 to be denied will serve letters.

In order to start the process of making a beneficial use of my property, I need to submit a complete application with San Luis Obispo County consistent with the Local Coastal Program certified by the Coastal Commission for a coastal development permit to build 15 townhouses on my property located on Avonne, APN # 013-071-009. Two of the units would be subject to the County affordable housing regulations. The County requires a will serve letter from the District to even begin processing of the project. The will serve letter is subject to the review and approval by the County and the Coastal Commission (if appealed) of my project before any water or sewer service would be used.

I have asked and inquired about will serve letters on four occasions since 2017, and since those times, it has become clear to everyone that the justification for the moratorium has ceased. Due to the hardship caused by delays of not being able to commence any County approval process and having no beneficial use of my land, I asked a local land use and water attorney, William Walter, to review various District resolutions and ordinances to determine if the moratorium can legally and constitutionally continue to be imposed on my processing of any CDP for the property. He concludes that the moratorium must be terminated, that termination of the moratorium is a ministerial duty exempt from CEQA review, that providing a will serve letter is ministerial, and that the Coastal Act process my project must follow is the "functional equivalent" under CEQA of full environmental review.

I look forward to working with the District staff to obtain an appropriate will serve letter, which would be subject to project approval under the certified Local Coastal Plan and recently updated North Coast Area Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hather", written over a white background.

Robert Hather

Cc: William S. Walter

LAW OFFICES
WILLIAM S. WALTER

A PROFESSIONAL CORPORATION

THE BELLO HOUSE

679 MONTEREY STREET

SAN LUIS OBISPO, CALIFORNIA 93401

TELEPHONE (805) 541-6601

FACSIMILE (805) 541-6640

EMAIL

WWALTER@TCSN.NET

July 24, 2020

VIA EMAIL (nfryelaacke@ammcglaw.com)

Natalie Frye Laacke, Esq.
AMMCG, LLP
P.O. Box 3835
San Luis Obispo, CA 93404-3835

RE: Water Service Moratorium, San Simeon Community Services District;
Robert Hather, San Simeon Lots (APN# 013-071-009)

Dear Counsel:

Thank you for talking with me and providing via email various documents related to the District's moratorium on water service connections. As I mentioned, I represent Bob Hather, who owns a one-acre property in the service area of the District located on Avonne Ave. The North Coast Area Plan certified by the California Coastal Commission designates his property as Residential Multifamily with an allowed density of 15 units. His project would provide two (2) affordable housing units under County of San Luis Obispo Local Coastal Program (LCP) requirements for a coastal development permit.

Based upon a review of the documents and applicable law:

1. The District has a ministerial duty to terminate the continued water connection moratorium.
2. The termination of the water connection moratorium is a "ministerial project" and exempt from CEQA review.
3. The CEQA process for the review of an Application for a Coastal Development Permit of the Hather Property is through County processing under the County's certified Local Coastal Program, North Coast Area Plan, Coastal Zone Land Use Ordinance (CZLUO), Coastal Framework for Planning, and Coastal Policies Document,

subject to Coastal Commission Appeal, which is the “functional equivalent” of required CEQA compliance.

The basis of the moratoria has ceased to exist,¹ which under Water Code Section 355 as interpreted by legal precedents creates a mandatory duty to terminate the moratorium.

The application of facts to established law terminating the moratoria is a Ministerial Project pursuant to State CEQA Guidelines Section .

The California Coastal Act and the County of San Luis Obispo Certified Local Coastal Program, including the North Coast Area Plan, Coastal Zone Land Use Ordinance, Coastal Framework for Planning, Coastal Policies Document, Official Land Use Maps/Designations control the process for the approval of Coastal Development Permits within the District’s Service Area and is the functional equivalent of CEQA analysis for proposed private projects.

1. The District Has A Ministerial Duty To Terminate The Continued Water Connection Moratorium.

District Ordinance No. 117 Amending and Restating the District’s Water Conservation Plan (December 14, 2016) is based upon the Board of Director’s authority² under Water Code Section 353. Section 353 is one of nine sections addressing “Water Shortage Emergencies” (Water Code Sections 350 through 359.) The duration of water moratoria is limited by Section 355, which provides:

“The regulations and restrictions shall thereafter be and remain in full force and effect during the period of the emergency and until the supply of water available for distribution within such area has been replenished or augmented.”

¹ See “San Simeon Community Services District Potable Water Well Head Treatment Project,”; District Resolution No. 15-372, April 8, 2015.

² Water Code Section 350 provides the authority to the “governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company”.

The Court of Appeal in *Swanson v. Marin Mun. Water Dist.* (1976) 56 Cal.App.3rd 512, upheld the imposition of a water connection moratorium recognizing that the Legislature has limited the duration of the restriction for so long as the emergency continues and not beyond:

“In passing, it must be noted that, as to Mr. Swanson and others who are similarly situated, we are not unmindful of the somewhat dire consequences which flow from our decision in this matter. Politically, the power to "cut off one's water by the simple expedient of imposing a moratorium such as the one here involved is a potent weapon in effecting a no-growth policy within a community. Since District has neither the power nor the authority to initiate or implement such a policy, the imposition of any restriction on the use of its water supply for that purpose would be invalid. We hasten to point out, however, that, as indicated by our decision, we find no evidence in the record before us of any such abuse of authority. Nevertheless, **we do foresee a continuing obligation on the part of District to exert every reasonable effort to augment its available water supply in order to meet increasing demands. Clearly, the Legislature anticipated the need for such a requirement when it limited the duration of such restriction to the period of the emergency and "until the supply of water available for distribution within such area has been replenished or augmented."** (§ 355.)” (Emphasis added.)

A similar analysis of Section 355 limitations on the a water moratium only during the duration of the emergency conditions was explained by the Court of Appeal in *Ailanto Properties, Inc. v. City of Half Moon Bay* (2006) 142 Cal. App.4th 572:

“...the Water Code authorizes the governing body of a distributor of a public water supply to deny applications for new or additional water service connections in the event of a water shortage emergency condition. (See Wat. Code, §§ 350, 353, 356; see generally *Building Industry Assn. v. Marin Mun. Water Dist.* (1991) 235 Cal. App. 3d 1641, 1646–1647 [1 Cal. Rptr. 2d 625].) If such a water moratorium is imposed, Water Code section 355 provides that the moratorium “shall thereafter be and remain in full force and effect during the period of the emergency and until the supply of water available for distribution within such area has been replenished or augmented.” The Water Code thus permits a **water moratorium to**

continue until the water supply has been replenished or augmented; it places no other limit on the length of the moratorium.” (Emphasis added.)

The Court of Appeal in *Gilbert v. Cal.* (1990) 281 Cal.App.3d 234 upheld a moratorium noting the limitations on duration:

“Water Code Section 355 mandates that these regulations and restrictions ‘shall thereafter be and remain in full force and effect during the period of the emergency and until the supply of water available for distribution within such area has been replenished or augmented.’”

“...These regulations and restrictions by law must remain in effect throughout the duration of the emergency **and until** the water supply is augmented or replenished.”

“...The District is not bound in perpetuity to maintain the moratorium. It can drop the moratorium, and get out from under the condition, by meeting the requirements of Water Code Section 355.” (Emphasis added.)

Richard M. Golden, *The Thirst for Population Control: Water Hookup Moratoria and the Duty to Augment Supply*, 27 Hastings L.J.753, 763-764 (1976) analyzed Section 355 and identified the *temporary* nature of a water connection moratorium:

“By definition, the term ‘emergency’ implies an unexpected, urgent condition.³ It indicates a *temporary* state of affairs. This sense of the temporary nature of the emergency ordinances is emphasized by the statute’s use of the word ‘until,’ which fixes a point at which the emergency ordinance will cease.⁴

“In summary, a water hookup moratorium may exist until the water shortage emergency condition is abated by replenishment or augmentation of the water supply.”

³ Note 61, “See Los Angeles Dredging Co. v. Long Beach, 210 Cal.348, 356, 291 P. 839, 842 (1930).”

⁴ Note 63, “See Faust v. Faust, 103 Cal.App.2d 755, 757, 230 P.2d 408, 409-10 (1951).”

The Ninth Circuit Court of Appeals held that denial of water hook-ups by a utility district may deny property owners of all economically viable use of their land, thereby resulting in a triable issue of fact of a takings of private property without just compensation when sufficient water may exist for the development of private property. *Lockary v. Kayfetz* (9th Cir. 1990) 917 F.2d 1150.

Once the justification for a water connection moratorium no longer exists, there is a mandatory duty created by Water Code Section 355 to cease imposing the moratorium. As discussed in the next section, the mandatory duty to cease the moratorium is a ministerial action not subject to CEQA review.

2. The Termination of The Water Connection Moratorium by Water Code Section 355 Is A “Ministerial” And Exempt From CEQA Review.

The California Supreme Court in *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal4th 105 explained the reasons why CEQA review is not required for ministerial projects:

“The statutory distinction between discretionary and purely ministerial projects implicitly recognizes that unless a public agency can shape the project in a way that would respond to concerns raised in an EIR, or its functional equivalent, environmental review would be a meaningless exercise. (Cf. *Friends of Westwood, Inc. v. City of Los Angeles*, *supra*, 191 Cal. App. 3d at p. 267.) Thus, ministerial projects “involv[e] little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.” (Guidelines, § 15369.) By contrast, a discretionary project is one which “requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity.” (Guidelines, § 15357; see *Miller v. City of Hermosa Beach* (1993) 13 Cal. App. 4th 1118, 1138-1142 [17 Cal. Rptr. 2d 408] [applying these definitions to decide whether city's building permit process was subject to CEQA].)”

State CEQA Guidelines⁵ Section 15300.1 provides that,

⁵ 14 Cal. Code Regs. 15260, etc.

“Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority.”

CEQA Guidelines Section 15369 defines a ministerial project as:

“‘Ministerial’ describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.”

In contrast, CEQA review applies to “discretionary” projects which are defined by Guidelines Section 15357:

“‘Discretionary project’ means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, regulations, or other fixed standards. The key question is whether the public agency can use its subjective judgment to decide whether and how to carry out or approve a project.”

The duty to cease the moratorium on water connections is a mandatory and ministerial, and not discretionary or subject to CEQA review. It is the application. Clearly, the **“public official merely applies the law to the facts as presented.”**

State CEQA Guidelines Section 15268, “Ministerial Projects,” (a) provides that ministerial projects are “exempt from the requirements of CEQA.” Subdivision (b) provides:

“(b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:

...
“(4) Approval of individual utility service connections and disconnections.”

District Ordinance 117, Section 8, “Lifting of Restrictions Imposed During A Water Shortage,” treats lifting the restrictions of the moratorium as ministerial:

“The General Manager shall lift or reduce the restrictions imposed during a water shortage as set forth above when he or she determines, after consultation with the Chairperson of the Board of Directors and such other persons as he or she deems appropriate, that the conditions which caused the shortage have been alleviated. Such action shall be promptly and extensively publicized.” (p. 6.)

Even in the absence of this provision, the termination of the water connection moratorium is a ministerial action exempt from CEQA compliance.

3. The CEQA Process For The Review Of An Application For A Coastal Development Permit Of The Hather Property Is Through County Processing Under The County’s Certified Local Coastal Program, North Coast Area Plan, Coastal Zone Land Use Ordinance (CZLUO), Coastal Framework For Planning, And Coastal Policies Document, Subject To Coastal Commission Appeal, Which Is The “Functional Equivalent” Of Required CEQA Compliance.

Santa Barbara County Flower & Nursery Growers Assn. v. County of Santa Barbara (2004) 121 Cal.App.4th 864 illustrates that the preparation of an environmental impact report for properties subject to the “functional equivalent” development approval process under the California Coastal Act is an unnecessary act. After the County of Santa Barbara prepared and the parties litigated in the trial and appellate courts over the adequacy of an environmental impact report for a Coastal Zone project, the Court of Appeal held that because the Coastal Act process was the “functional equivalent” of an EIR:

“Here, the County **unnecessarily prepared an EIR** and the Association unnecessarily participated in the approval process applicable to EIR’s. The Association understandably may have been dismayed that a significant administrative proceeding was conducted through error. Nevertheless, the court cannot provide a remedy to the Association without interfering with the statutory authority and established regulatory process of the [Coastal] Commission.” (Emphasis added.)

The Coastal Act development review and appeal process which is applicable to any development of the Hather Property (or any others within the District service area) is pursuant to the rigorous approval process, including appeal to the Coastal Commission, which is the functional equivalent of an Environmental

Impact Report. *Kackorowski v. Mendocino County Bd. of Supervisors* (2001) 88 Cal.App.4th 564.⁶

Once the Secretary of the Resources agency certified the Coastal Commission's regulatory program,⁷

“an administrative agency is exempted from the requirements of preparing initial studies, negative declarations and environmental impact reports. In that case, the agency must prepare paperwork which acts as a substitute document for the normal environmental review papers, such as an environmental impact report (Pub. Resources Code, [Section] 21080.5, subd.(a).” *Ross v. California Coastal Comm.* (2011) 199 Cal.App.4th 900.

No development of the Hather Property will be allowed without compliance with the Certified Local Coastal Program requirements and detailed processes, subject to appeal to the Coastal Commission at the conclusion of the County process. The Coastal Act process is the exclusive process for review and approval of development of the Hather Property.

⁶ “The Coastal Act, adopted in 1976, required units of local government within the coastal zone to prepare a local coastal program (LCP) in consultation with the Commission and subject to certification by the Commission. (§§ 30500, 30511, 30512, 30513.) Once certified, an LCP can only be amended with the Commission's approval. (§ 30514.) Authority for ensuring compliance with a certified LCP is delegated by the Commission to the unit of local government responsible for implementing the LCP; the Commission retains a limited exclusive jurisdiction over some types of development, and a broader appellate authority over developments approved by units of local government. (§§ 30519, 30603.) The only grounds for appeal are that the locally approved development does not conform to the standards of a certified LCP or the Coastal Act's access policies. (§ 30603, subd. (b)(1).) If the Commission determines that an appeal presents a “substantial issue,” the permit application is reviewed de novo; in effect, the Commission hears the application as if no local governmental unit was previously involved, deciding for itself whether the proposed project satisfies legal standards and requirements. (§§ 30604, 30625, subd. (b)(1); Cal. Code Regs., tit. 14, §§ 13115, 13119, 13321.) Although the Commission is not categorically exempt from CEQA requirements (see § 21080; Cal. Code Regs., tit. 14, §§ 15260- 15285), its permit appeal procedure is treated as the **functional equivalent** of the EIR process. (§ 21080.5; *San Mateo County Coastal Landowners' Assn. v. County of San Mateo* (1995) 38 Cal. App. 4th 523, 551-552 [45 Cal. Rptr. 2d 117] [describing effect of § 21080.5]; Cal. Code Regs., tit. 14, § 15251, subd. (c).) If there is need for a change of the conditions for the permit, any amendment will come only from the Commission. (See Cal. Code Regs., tit. 14, §§ 13164-13168.)” (Highlighting added.)

⁷ “Under the California Environmental Quality Act, a state agency with a regulatory program may be exempted from the requirements of preparing initial studies, negative declarations and environmental impact reports. This exemption arises if the secretary certifies that the agency's regulatory program satisfies the criteria set forth in Public Resources Code section 21080.5. (*Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1230 [32 Cal. Rptr. 2d 19, 876 P.2d 505]; *Californians for Alternatives to Toxics v. Department of Pesticide Regulation* (2006) 136 Cal.App.4th 1049, 1067 [39 Cal. Rptr. 3d 393].)” *Ross v. California Coastal Com.*, *supra*.

Natalie Frye Laacke, Esq
San Simeon Community Services District
July 24, 2020

We appreciate the opportunity to present my client's position to you in this letter. Please feel free to contact me to discuss any of the issues addressed in this letter.

Very truly yours,

WILLIAM S. WALTER

CC: Robert Hather

5.D. Business Items



BUSINESS ACTION ITEM STAFF REPORT

Item 5.D. Discussion related to graffiti and vandalism on Pico Avenue beach access and the installation of cameras in San Simeon.

In the last 90 days there have been two incidents involving vandalism at the Pico Avenue beach access. These incidents cost the community of San Simeon as a result of sign replacement, wood repair or replacement and graffiti removal.

After the most recent incident, the Deputy that responded suggested that the District may wish to consider installing cameras which could record certain areas. Staff has met with three companies that are in the process of providing quotes for the installation of cameras. Staff will bring these quotes back to the Board within the next 60 days.

5.E. Business Items



BUSINESS ACTION ITEM STAFF REPORT

ITEM 5.E. Authorization for Staff and or Chairperson to write a letter to the Board of Supervisors recommending appointment of Daniel de la Rosa to the Board.

On August 28, 2020 the District received correspondence from the San Luis Obispo County Clerk Recorder regarding Elections Code Section 10515 related to Declaration of Candidacy. Due to the fact that Daniel de la Rosa was appointed so close to the election, he was never formally notified that he needed to place his name on the upcoming election ballot. The District currently has four vacant positions on the Board but only three people are the ballot for the upcoming election.

The attached letter asks that if the District has any recommendations about who should fill the position to please write a letter of who is being recommended. Ultimately, the County Board of Supervisors will make the appointment, not the SSCSD Board.

The Board may choose to approve or authorize a letter which recommends that Mr. de la Rosa (incumbent) be appointed. Although the election is not until November, they have asked that any recommendation letter be submitted by September 30, 2020.

Staff is looking for direction from the Board.

Enc: Letter from SLO County Clerk Recorder



**COUNTY OF SAN LUIS OBISPO
OFFICE OF THE CLERK-RECORDER**

Tommy Gong - County Clerk Recorder

August 25, 2020

San Simeon Community Services District
District Secretary
111 Pico Avenue
San Simeon, CA 93452

Dear District Secretary:

At the close of the nomination period for the November 3, 2020 Presidential General Election it was determined that no one filed Declarations of Candidacy for **ONE** four-year position to be filled on your district's governing board. Therefore, an election will not be held in your district for this position.

Pursuant to Elections Code Section 10515, if no person has filed a Declaration of Candidacy for any office, the Board of Supervisors shall appoint any person to the office who is qualified on the date when the election would have been held.

If your district has any recommendations for this/these appointment(s), please notify our office in writing no later than September 30, 2020, so it may be presented to the Board of Supervisors.

After the Board of Supervisors has made the appointment(s), our office will send out the Certificate of Appointment and Oath of Office forms to this/these candidate(s).

Please feel free to contact our office by phone at 781-5144 or by email hunn@co.slo.ca.us if you have questions concerning this matter. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Helen Nunn".

Helen Nunn
Deputy Director Clerk-Recorder

Item 7 – Closed Session Materials

RECEIVED



486 Marsh Street, Suite C
San Luis Obispo, CA 93401
805-316-0508

JUL 07 2020

BY: CAM

July 1, 2020

San Simeon Community Services District
111 Pico Avenue
San Simeon, CA 93452

Via: Email & US Postal Service

Re: Oceanside Apartments at 9490 Avonne Ave; Claim of Manish Enterprises, Inc., owner

Dear Board Members:

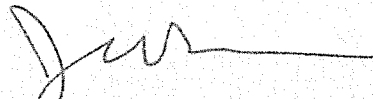
I represent Manish Gupta and Manish Enterprises, Inc., concerning the referenced apartment property in San Simeon. Recently Mr. Gupta presented the attached request for consideration of overcharges. I am informed your staff intends to recommend a zero reimbursement for the overcharges on his apartment complex, based on advice of counsel. I find this to be quite an indefensible position and wish you to consider this matter from a Board management perspective.

As you are aware, the billing rate for sewer is clearly differentiated in the District ordinances between motel use and the apartment use. My client recently discovered that since 2014 the District has been charging the meters associated with this property, 278 and 279, the motel rate for sewer, even though it has been in use as an apartment all this time, having been converted from motel use by County approval in 2013 and construction efforts in 2014. The rate has been recently corrected to apartment use, per the attached 2020 billings for meters (278 and 279). These can be compared to the 2020 billings for these same meters, also attached.

The District has been fully aware since at least 2014 of the use of the property as apartments. The District was aware of the County approval in 2013 to convert this use from motel to apartments as it was a referral agency and had to sign off prior to County approval. The District also signed off on construction cards during construction of the conversion in 2014. This utility had a responsibility to charge the correct rate on this use and did not. That is a clear overcharge and my client should receive a full refund of his claim for all years of the overcharge.

Attached are the documents summarizing my client's claim, which totals \$94,676.20. He would welcome discussion of avenues for repayment of these overcharges.

Belsher Law, PC



John W. Belsher, Esq. Attorney for
Manish Gupta and Manish Enterprises, Inc.

JWB//llm

Cc:

Client

Natalie Frye Laacke (nfryelaacke@ammcglaw.com)

**MANISH ENTERPRISES INC.
9490 Avonne Ave.
SAN SIMEON, CA 93452**

San Simeon Community Services District
9245 Balboa Ave.
San Simeon, CA 93452

June 8, 2020

Re: 9490 Avonne Ave. San Simeon, CA 93452

Dear Respected Board Members,

My name is Manish Gupta and I am the owner of the Oceanside Apartments on 9490 Avonne Ave. San Simeon, CA. 93452.

I'd like to request a review of my water bill since December 6, 2013 (12/6/13).

Specifically, I would like to have the sewer rates reviewed.

I believe that when the address above was approved from commercial to multi-family residential on December 6, 2013, the rate structure for the water bill was not changed to reflect it.

Thus, I have been paying commercial water rates rather than residential multi-family.

Please advise on the credit amounts due.

I look forward to hearing from you.

Sincerely,

Manish Gupta

**MANISH ENTERPRISES INC.
9490 Avonne Ave.
SAN SIMEON, CA 93452**

San Simeon Community Services District
9245 Balboa Ave.
San Simeon, CA 93452

June 8, 2020

Re: 9490 Avonne Ave. San Simeon, CA 93452

Dear Respected Board Members,

My name is Manish Gupta and I am the owner of the Oceanside Apartments on 9490 Avonne Ave. San Simeon, CA. 93452.

I'd like to request a review of my water bill since December 6, 2013 (12/6/13).

Specifically, I would like to have the sewer rates reviewed.

I believe that when the address above was approved from commercial to multi-family residential on December 6, 2013, the rate structure for the water bill was not changed to reflect it.

Thus, I have been paying commercial water rates rather than residential multi-family.

Please advise on the credit amounts due.

I look forward to hearing from you.

Sincerely,

Manish Gupta

**San Simeon CSD
Ordinance
Rate Increases**

Fiscal Year	09-10	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22
Ordinance	#103	#105	#105	#105	#105	#105	#110	#110	#110	#110	#110	#121	#121	#121
Ordinance Adopted	8/9/2007	8/12/2009	8/12/2009	8/12/2009	8/12/2009	8/12/2009	11/11/2011	11/11/2011	11/11/2011	11/11/2011	11/11/2011	8/14/2019	8/14/2019	8/14/2019
Ordinance Effect	7/1/2009	9/1/2009	7/1/2010	7/1/2011	7/1/2012	7/1/2013	7/1/2014	7/1/2015	7/1/2016	7/1/2017	7/1/2018	9/25/2019	7/1/2020	7/1/2021
Meter Charge														
Per Month - Per Meter	\$15.36	\$16.74	\$18.26	\$20.44	\$23.04	\$25.80	\$27.37	\$28.10	\$30.82	\$32.33	\$34.20	\$36.18	\$37.27	\$38.39
% increase	4.50%	9.00%	9.20%	11.80%	12.7%	12.0%	6.1%	6.3%	5.9%	4.9%	5.8%	5.8%	CPI+3.0%	CPI+3.0%
Water Rates														
Per 100cf Water Used														
All Users	\$5.49	\$5.98	\$6.53	\$7.30	\$8.23	\$9.22	\$9.78	\$10.40	\$11.01	\$11.55	\$12.22	\$12.93	\$13.32	\$13.72
% increase	4.50%	9.00%	9.20%	11.80%	12.7%	12.0%	6.1%	6.3%	5.9%	4.9%	5.8%	5.8%	CPI+3.0%	CPI+3.0%
Irrigation Meters	\$8.80	\$9.59	\$10.95	\$12.24	\$13.79	\$15.44	\$16.38	\$17.41	\$18.44	\$19.34	\$20.47	\$21.65	\$22.30	\$22.97
% increase	4.50%	9.00%	14.20%	11.80%	12.7%	12.0%	6.1%	6.3%	5.9%	4.9%	5.8%	5.8%	CPI+3.0%	CPI+3.0%
Sewer Rates														
Per 100cf Water Used														
Motels	\$5.38	\$6.13	\$7.00	\$8.18	\$9.62	\$11.26	\$11.95	\$12.70	\$13.45	\$14.11	\$14.93	\$15.79	\$16.27	\$16.75
% increase	4.50%	14.00%	14.20%	16.80%	17.7%	17.0%	6.1%	6.3%	5.9%	4.9%	5.8%	5.8%	CPI+3.0%	CPI+3.0%
Residences	\$3.31	\$3.77	\$4.31	\$5.03	\$5.92	\$6.93	\$7.35	\$7.82	\$8.28	\$8.68	\$9.19	\$9.72	\$10.01	\$10.31
% increase	4.50%	14.00%	14.20%	16.80%	17.6%	17.1%	6.1%	6.3%	5.9%	4.9%	5.8%	5.8%	CPI+3.0%	CPI+3.0%
Restaurants	\$8.34	\$9.50	\$10.85	\$12.67	\$14.91	\$17.44	\$18.50	\$19.67	\$20.83	\$21.85	\$23.12	\$24.46	\$25.19	\$25.95
% increase	4.50%	14.00%	14.20%	16.80%	17.7%	17.0%	6.1%	6.3%	5.9%	4.9%	5.8%	5.8%	CPI+3.0%	CPI+3.0%
Commercial	\$3.31	\$3.77	\$4.31	\$5.03	\$5.92	\$6.93	\$7.35	\$7.82	\$8.28	\$8.68	\$9.19	\$9.72	\$10.01	\$10.31
% increase	4.50%	14.00%	14.20%	16.80%	17.6%	17.1%	6.1%	6.3%	5.9%	4.9%	5.8%	5.8%	CPI+3.0%	CPI+3.0%
Irrigation	none	none	none	none	none	none	none	none	none	none	none	none	none	none
% increase														
Recycled Water														
							0.0074	0.0083	0.0088	0.0092	0.0098	0.0103	0.0109	0.0116

Account Number	<u>279</u>	<u>278</u>	
Total Credit for 2020	\$ 5,201.36	\$ 442.26	
Total Credit for 2019	\$ 13,788.16	\$ 4,663.99	
Total Credit for 2018	\$ 2,845.24	\$ 13,917.97	
Total Credit for 2017	\$ 2,731.53	\$ 12,945.69	
Total Credit for 2016	\$ 4,244.93	\$ 9,834.15	
Total Credit for 2015	\$ 1,971.84	\$ 11,454.80	
Total Credit for 2014		\$ 10,634.28	
Grand Total	<u>\$ 30,783.06</u>	<u>\$ 63,893.14</u>	\$ 94,676.20

6. BOARD/STAFF GENERAL DISCUSSIONS AND PROPOSED AGENDA ITEMS – Requests from Board members to Staff to receive feedback, prepare information, and/or place an item on a future agenda(s).

7. CLOSED SESSION –

A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (Number of cases: 1 – Manish Gupta)

8. ADJOURNMENT

All staff reports or other written documentation, including any supplemental material distributed to a majority of the Board within 72 hours of a regular meeting, relating to each item of business on the agenda are available for public inspection during regular business hours in the District office, 111 Pico Avenue, San Simeon. If requested, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. To make a request for a disability-related modification or accommodation, contact the District Administrator at 805-927-4778 as soon as possible and at least 48 hours prior to the meeting date. This agenda was prepared and posted pursuant to Government Code Section 54954.2.