

**Minutes to the regular meeting of the Board of Directors of the Sonoita-Elgin Fire District  
October 15, 2012  
6:00 p.m.**

**Call to order:** the meeting was recorded

**Pledge of Allegiance**

**Roll Call of Board Members:** Present; Izzo, Bianchi & Pfitzenmaier. Absent Ruppel & Tomlinson.

**Approval of the minutes** of Sept. 17, 2012, tabled to next meeting.

**Old Business -**

**Chief's Report** – The Chief presented his monthly report to the Board touching on the following topics: Out and About (a listing of the meetings attended by the Chief or his representative) Sonoita Rodeo, SCC EMS Meeting, Arizona Fire District Association, Ranch Rodeo at the Fairgrounds, FT. Huachuca 911 Ceremony, Benson Fire For Wildland Fire Meeting, SCC Fair, AirEvac Executives meeting at Fire Station, and Fire Chief's Assessment at Rincon Valley Fire District. Septic Tank update: the state gave us four points to respond to – we've responded to three, and gone over the inspector's head to their Phoenix contact and they say we'll have a response by next week. Pumping of the current septic tank has to be hauled to Tucson so the fee has risen to over \$400. Chief also presented information on the following topics: Website hits, run report, National Company Officer Leadership Academy and Ready, Set, Go. We have 2 FF/EMT positions open; we had 8 in-house personnel apply for the positions. Fuels Treatment work: we have finished the Lyle Canyon Grant and the Casas Arroyos Grant, and are working on the District Grant now. The Financial Statement and P & L for September were presented, there were no unexpected expense or income items. Bianchi asked about the vehicle maintenance amount and the Chief responded with information on those expenses. Two letters were presented by PowerPoint (PowerPoint will be entered into the minute book) regarding customer response to the Fuels Treatment Program. The wood that was brought out of Lyle Canyon and placed for sale has been sold. We have sent out our Affidavit of Elections and displayed a list of the Fire Board Candidates. **Pfitzenmaier:** After the elections there may be Board members who are new. Can we schedule an Open Meeting Law Training. **Chief De Wolf** - The Ombudsman's Office had a person who went around and did that and that person has been eliminated. We will see if we can get together with some other Districts in the area and perhaps bring somebody in to do this. **Pfitzenmaier.** My take on this is that is very important. This is a foreign concept. **DeWolf** – It is; and as we did with the last two Board members, the new Board members will get a packet – whether they are totally new or existing members coming back on, they'll get a packet with all the updated Open Meeting Law and everything in it. And we will try to schedule a class. **Pfitzenmaier:** I would attend as a refresher. Izzo – I think that's a great idea, you know the other districts probably have new people too. De Wolf – Yes, every district does right now, will have either two or three members to their boards.

**Correspondence or other items of importance** – None

**New Business –**

**1. Report of Terry Plympton's request for review of Pete Daniels email** –**Bianchi:** Ah, at last month's meeting, Terry Plympton raised some issues about an email she received from Pete Daniels

and requested that the Board review the email and see if any District Policies had been violated. Chairman Izzo requested that Larry Pfitzenmaier and I conduct that review. Larry and I worked independently up to a point and then we got together to see what each of us thought and met with the Chief. So, this is our report. Request by Chairman Ron Izzo: Review possible violations by Pete Daniels of certain SEFD policies associated with the publication of his email dated September 13, 2012 (*attached*) and present the findings to Ms. Plympton and the Board.

**Scope:** The investigation involved Board members Pfitzenmaier and Bianchi independently examining the issues of the complaint, Chief DeWolf investigating with his staff to determine if policy violations occurred, and a request to the Fire District attorney for an opinion as to any violation of policies.

**Facts:** Daniels sent an email announcing he formed a PAC to help elect certain candidates to the SEFD Board, to encourage the support for certain candidates, to discourage the election of two candidates, and to try to raise funds for the activities of the PAC in support of the chosen candidates. (email attached) Further, Daniels sets forth his reasons to oppose the two candidates citing that about 25% of the persons who signed the candidate's petitions had originally opposed the formation of SEFD and therefore, in Daniels' opinion, they would, if elected, try to significantly reduce the District budget and return it to an all-volunteer department. Daniels reason to support the three candidates he recommends for the Board is that he feels they would provide the best balance to provide quality emergency services in the most cost effective manner. He does so without providing supporting data for his opinions. Ms. Plympton found the email to be personally offensive, possibly in violation of several District policies; and misleading. (*letter attached*)

#### **District Policies In Question:**

1. Standards of Conduct: Policy: it is the policy of SEFD to prohibit any conduct that interferes with operations, discredits the District, is offensive to customers or fellow members, or endangers the safety of any individuals.

2. Guidelines: The following conduct is prohibited ... M. Unprofessional language or behavior, profanity, mistreatment, disrespect, or discourteous treatment of customers, vendors or other members. T. Soliciting, distributing, posting or displaying campaign literature for or against any political candidate or ballot measure while on duty or in or on District premises. Y. Off-duty conduct that brings discredit upon the District. Solicitation and Distribution: Purpose: To minimize disruption of normal District operations by limiting and controlling solicitation, distribution, and/or political activity on District premises.

1. Political Involvement: 1. Members may not engage in any political activity *during* scheduled work hours, when using District vehicles or equipment, or when in District uniform. Political activity includes, but is not limited to: A. Using one's official position or authority, directly or indirectly, to influence or attempt to influence any other member to become a member of any political organization or committee or to influence the outcome of an election. B. Using District time, equipment, facilities, or other resources to influence the outcome of an election. C. Soliciting or receiving funds for political purposes. D. District members may entertain and express personal political opinions, except when in uniform or when performing their duties on behalf of the District.

**Ms. Plympton's Assertions:** 1. That the community could associate Daniels' PAC with the District and it is possible that his comments will be considered the opinions of SEFD.

2. That Daniels' position is personally offensive, misleading, counter-productive and inflammatory. 3. That Daniels violated the Standards of Conduct relating to unprofessional behavior, disrespect or discourteous treatment of customers. 4. That Daniels may have violated the Standards of Conduct prohibiting "soliciting, distributing, posting or displaying campaign literature for or against any political candidate or ballot measure while on duty or in or on District premises".

5. That Daniels may have violated the Standard relating to off-duty conduct that brings discredit upon the District. 6. That Daniels may have violated the prohibitions regarding Political involvement. Specifically: A. Using one's official position or authority, directly or indirectly, to influence or attempt to influence any other member to become a member of any political organization or committee, or to influence the outcome of an election. B. Using District time, equipment, facilities, or other resources to influence the outcome of an election. C. Soliciting or receiving funds for political purposes.

**Findings:** Regarding the email being considered an "opinion" of SEFD, some other members of the District may agree with Ms. Plympton but we find no members of the community at large that consider Mr. Daniels' opinions to be those of the Board or District. Mr. Daniels' name for his PAC (Sonoita-Elgin Fire Board Candidates Committee) can be misconstrued to be a committee of the Fire Board. That Ms. Plympton finds his position offensive, misleading and inflammatory, no one but she can determine her feelings. Some other members of the community have expressed similar opinions to us. And some of the facts expressed in the email are misleading. The use of the old issue regarding the formation of the District is inflammatory. However, it does not rise to the level of unprofessional behavior or bringing discredit upon the District. In discussions with Mr. Daniels he asserts that he never used any District assets to promote the PAC. Further, he says he never did any promotion of the PAC while on duty or while at the fire house or to any other District members while they were on duty. Chief DeWolf also inquired of Mr. Daniels and of the Chief's staff to determine if there was any promotion of the PAC in violation of the policies. None was found. The District's attorney was asked to offer her opinion concerning Mr. Daniels' email and Ms. Plympton's objections to it. Her findings and opinion will be read into the record. *(letter attached )*

**Pfitzenmaier** – Mr. Pfitzenmaier read the District's Attorney's Opinion. *(This letter is attached .)*

**Bianchi** - Based on our investigation, we reached certain conclusions: 1. Mr. Daniels has the right to express his opinion and to form and promote a PAC as guaranteed by the Constitution, provided in doing so he does not violate any District policies. 2. Under the District's *Standards of Conduct* a District member is not to use "unprofessional language or behavior, profanity, mistreatment, disrespect or discourteous treatment of customers, visitors, or other members", nor may any of their off-duty conduct bring discredit upon the District. While we recognize that Ms. Plympton could easily be offended by the contents of the email, we do not consider Mr. Daniels' conduct to rise to a violation of either Standard of Conduct cited by her. 3. Concerning the policies relating to political involvement raised by Ms. Plympton, Mr. Daniels is allowed by policy to participate in political activity. "District members may entertain and express personal political opinions, except when in uniform or when performing their duties on behalf of the District". 4. We therefore conclude that Mr. Daniels is not guilty of any violations of stated policies. 5. We are sympathetic of Ms. Plympton's feelings and the angst the email caused her. We recommend that Mr. Daniels and all District members remain mindful of the possible consequences of their actions and strive to maintain community support for the District. Further, we recommend that Mr. Daniels give serious consideration to changing the name of his PAC so that it does not appear to reflect the official position of the District Board. *[note: on website, "attached" documents are visible on website in .pdf format]*

Mr. Chairman that concludes our report. If there is no discussion on it, I'd like to move that our report and related documents, Ms Plympton's letter, Mr. Daniel's email, the Attorney's letter be made part of the Board's records.

**Izzo** – Okay, since I've removed myself from the potential conflict of interest, we just need a second and then the vote.

**Pfitzenmaier** – I second it.

**Izzo** – In favor – both Pfitzenmaier and Bianchi said Aye, motion carried.

**2. Bianchi.** Last month the Chief explained about his trip back east to review grants that are requested from FEMA. He pointed out that he has been successful at getting grants for the District at an average of a little over \$100,000. That set me to thinking afterwards that we have limitations on the commitments that the Chief can go out and spend without Board approval. But Grants often have associated with them, certain issues, penalties, etcetera, ah, I don't recall us being presented the grant before it had gone off, merely told that a grant had gone and been submitted for whatever the issue was. I would like to discuss whether the Board should have prior review of the Grant so we can be made aware of all of the conditions, restrictions, potential penalties, things of that nature before the grant is sent off and maybe we're awarded the grant and can't do anything about it.

**Izzo** – I totally agree. I think standard practice in governments to, you know, not discourage the application of grants, all right, but simply review and approve the application, uhm, and sometimes for the purpose of making sure there isn't a commitment. You know, sometimes a grant may involve hiring, may involve personnel, so we should know up front that we're going to have to pick them up at some point, or it may involve equipment so we would know we may have to cover maintenance, you know that kind of thing in the future. Just to be aware that that's there. And probably most appropriately I would think that this would need to be an amendment to the Board policies, it may even take a policy by itself. I would ask Chief what are your thoughts on this.

**Chief DeWolf** – The District has never been obligated by a grant that they were not aware of all consequences throughout. Most of the grants that we are acquiring right now have no financial burden upon the District. There is no burden to even complete the grant. The only grant we have out right now is the fuels treatment grant for the district-wide 50/50 match – and we can opt out of it at any given time. 50/50 means the grant pays fifty percent and the homeowner pays the other fifty percent. There's no obligation to the District at all. Grants, years past, the largest grant was over \$900,000 that was a grant brought over from SEESI, that we brought over to the District and there was 100% full involvement of the Board of Directors before the grant was even submitted, as was the stipend grant which we have right now which ends in March of 2013, the Board at that time was in full involvement at that time and what the outcome of the grant was. There is no grant that we've applied for that has put the District in any jeopardy – if there's any obligations of the District it is brought to the Board meetings. Two years ago we applied for a structure truck, and the Board knew of it before, and the board was involved through the whole grant writing process. It's really something I do every month. Now two years ago we received a turnout grant, it was a ... from start to finish... a 35 day grant that we had the opportunity to apply for and receive within 35 days, If the Board is going to look into this, we need to put in there that there will be instant special board meetings to get a quorum of the Board to read through this - the timeframe on some of these grants are very narrow. But as far as obligating the District, we have never obligated the District for any grant that the district has not been well aware before the obligation. The FEMA Grant also is dropping down, they're going to give us only 45 days next year to apply for the next year – the periods are shrinking down. My only input is that we have District record that we have kept the Board up on everything we're applying for and have actually asked for Board input.

**Izzo** – So if we had policy it wouldn't be anything new. If we had a policy that said something to the effect that before you submitted the application the board needed to approve it.

**Chief DeWolf** – that could be put into policy. And you're going to go into what though? We get grants like the Firewise Grant last year - \$1,000. So are we saying any grant that we submit we're going to have a special Board meeting for – to meet and confer on this?

**Bianchi** – I think we could handle that the same way we handle the amount of funds the Chief can expend without Board approval, which is \$10,000.

**Izzo** – If it's budgeted there's no limit. So, more concerned about a grant over \$10,000. Larry you have some thoughts on this?

Pfitzenmaier – Well I don't think we need to make this any more substantial than it kind of deserves to be, we need to know, the Board needs to know the conditions and provisions that are associated with the grant. I can't remember specifically Chief, but I don't doubt that you have briefed them in the context that you present the grant to the Board, that goes along with it. I see the mechanism in continuing on as we have, I see a uh opportunity to place it in our policy, in our manual, which we don't have as policy and if that's the desire of the Board I have no objection to that. If you have a grant that has a 30 day window and its over \$10,000, it is the responsibility Board to deliver you a quorum to review it.

De Wolf – not just one quorum, it will be multiple quorums. When I lay a grant packet on the front of you guys that is 40 to 50 pages long, like the minutes tonight you're going to say I need time to digest this and to brief us on the conditions associated with the grant.

De Wolf – Which is being done now at Board meetings currently, so what are we trying to achieve I guess would be my question.

Pfitzenmaier – We're trying to make sure we understand any tails attached to grants that would, could go astray on us.

De Wolf – we have several different mechanisms in place and one is our budget. We cannot apply for a grant that has a match that is not budgeted. It has to be budgeted because otherwise we cannot pay for it. So, if we apply for a grant, like in March for a FEMA Grant, say we're going to see if we could get a structure truck, it's a half million dollars and our cost is 5%. This next coming year we have to have a budget meeting and we have to put in there 5% of a half million to be able to pay for that structure truck. So there's your first catch right there. If we apply for a grant, the grant I have for fuels treatment, if that was a fifty-fifty grant on the Fire District – the Fire District had to pay 50% of it and the grant paid 50% of it – I couldn't do that either because I would have to have \$150,000 in the District's budget in order to pay for that. So, if I'm going to apply for a grant for something that's going to encumber the District it has to be a budgeted item.

**Izzo** – Chief, for me personally, I just want to know what you're doing. These are good things, you know the fuels treatment for example, it's a good thing, I'm not saying it's not a good thing, it's a very good thing and you did talk to us about that. But if some member of the public comes up to me and says how come you're going to so-and-so's house and you're doing this work at so-and-so's house? I want to say, as a Board member, I approved this program, alright, I actually approved this program. I knew about it and I approved it. And it's a good thing. So, it's just a matter of kinda knowing...

**De Wolf** – but if we have a dialog like we're having today...

**Izzo** – That's not enough. You're going to apply for the grant, these are the terms and conditions, this is what it means and I say yeah. And then I'm going to go out like when I'm running for elections now and say this is what I did. So, it's just knowing what you're doing.

**De Wolf** – I don't have a problem if you 'all want to make a board policy – I'm just trying to figure out what we're trying to do. All you're basically saying is what Larry said is you want to be notified... I've been notifying you. The only difference I haven't been doing, what I'm willing to do, is make copies of the grant. (this was followed by a jumble of the three board members talking at the same time saying we don't need that.)

**Bianchi** – We're not requesting that. What we may consider is that a member of the Board can be set up to Chief on a tight window, so that a Board member is at least aware of it. The Board is responsible for all of your actions Chief. And I for one would like to know everything that's going on that I'm responsible for, the same way you are, you would let one of your employees submit a grant without you knowing about it. So we're just asking for the same courtesy.

**Izzo** – So, Jerry will you be drafting a policy?

**Bianchi** – Uhm, I'll take a shot at it.

Izzo – We have a whole procedure for that, has to be presented, discussion, voting.

Bianchi – Yeah

De Wolf – We don't have to go through that procedure until we have the draft work done.

Izzo – Right, we can have work sessions or whatever, to make sure that we're all in agreement, that the thing works. Are there any other discussions on that item? Okay, move on to item 7 which are audience comments.

**Audience Comments** – Soliere – First I consider you my friends, there's Ron, Doug's not here, Jerry, Larry and Ian's not here. Chief Joseph, Katie and Battalion Chief Kevin Venos. And last but not least Pete Daniels. I think that's everybody that was involved that I wrote about. I'll apologize now, I've either used your name or as a group. I'll step on toes but I'll also praise. I want you to listen to what I've got to say and also follow along on the copy that I've given you. This way you will hear and see what I'm saying and won't say did Gary say this or that, you'll know exactly what I said. And now I'll begin. *(Gary read the following ...)*

When the Sonoita-Elgin Fire Department was a volunteer department, only 50% of the people paid dues. Chief Joseph was in charge, supervising the volunteers and balancing the budget.

Now, as a fire district, 100% of the people pay their dues through taxes. We have a board of five elected members from the district. This station is well equipped with paid personnel, firefighting equipment, volunteers and is up and running 24/7. Any request from the Chief has to go through the Board. They are his supervisors – “bosses”. They say yes or no to requests and they balance the budget.

**THIS IS DIRECTED TO THE BOARD:** I do not like what I have been seeing or hearing at monthly meeting. During the Chiefs report only board members can ask questions during the Chiefs Report. Some questions cannot be answered. Chief Joseph is very fortunate to have Battalion Chief Kevin Venos and Katie at his side for clarification and support, and the question gets answered.

**THIS IS WHAT I AM SUGGESTING:** Bet with the Chief as a group or individually, listen to and review the report, ask question after reviewing the report and before the meeting, so that the Chief can be prepared to answer your questions. A “Good Supervisor/Boss” would do this and not put an employee in an awkward and uncomfortable position in front of the attending audience. I would not like it and I don't think you would like it either. It is the right thing to do.

**THIS IS ALOS DIRECTED TO THE BOARD:** During audience participation if an item is brought up and not on the agenda, a thank you and we will look into it as a board is all that has to be said. If an item was on the agenda it could and should be answered by any or all board members. I bring this to your attention because at the last month's meeting a lady spoke of Mr. Pete Daniels emails. It was not the agenda and the board said they would look into this matter. **THIS WAS A CORRECT RULING.** However, at the end of the meeting, board member Jerry Bianchi gave some personal thoughts. Which I agreed with and I am sure some people did not. As a Board Member, you should not and cannot give personal opinions about anything if it was not on the agenda.

**Izzo** – Thank you Gary.

#### **Board member comments –**

**Pfitzenmaier** – I'd like to comment on one element of Gary's discussion here. I get the impression from the paragraph heading *...This is what I am suggesting...* that the view in the audience is that we on occasion have put the Chief in an uncomfortable position by asking questions that he would not be expected to answer without some sort of preparation. Is that, am I interpreting your comments correctly? (Gary – some of the questions that are asked are put in such a situation that it might... I say the Chief being uncomfortable tonight about the budget and things like that. I think some of these things ought to be brought up privately before a meeting, and that's all I'm suggesting. On his

Chief's Report, I see questions asked, and he is very fortunate to have Katie and Battalion Chief Venos, with him to help him with some of the answers. I wouldn't want to be put in that position to stumble and feel lousy, you know it's five minutes out of your life to come down here any day and say, Hey Chief, show me the report and right then and there you could ask the questions and he has something to go on. You know this question is going to be asked, I have the answer, instead of being put on the spot.) Pfitzenmaier – two thoughts, some of us do come down here during the month and spend time with the Chief, Gary. It is not as though we meet only on the third Monday. But of course we can't meet as a quorum because we have to have an open meeting notification that we're meeting as a quorum. That's more than two of us meeting with the Chief. But I'm still a little uncomfortable with the notion that the Chief has been uncomfortable I have almost without exception been impressed with the Chief's response to question after question meeting after meeting, month after month. He seldom leans on his staff at these meetings to answer questions. And there's nothing wrong if he does either by the way. But uh, there is your view that the Chief is put in uncomfortable positions more often than he should be is a new thought, I didn't realize we were doing that I have no evidence that we are doing that.

**Soliere** – Just watching and hearing what's going on, sometimes I go wow, I would have exploded. Yes, I know exactly how I am. I've seen the Chief being put on the spot, he's never said anything to me, it's just my observation. I don't sit back, I bring things forward things and say you know I'm hearing and seeing. It was my own personal view. I probably shocked the Chief with something like this..

**Pfitzenmaier** – Gary I appreciate your personal view and this is the first time I've heard this view. There may be other times when we should have heard it sooner but didn't. There may be others in the audience that share your view. But it is honestly new to me that we have placed the Chief in uncomfortable positions repeatedly at our Board meetings is brand new notion to me and we need to work on this.

**Soliere** – You know maybe I shouldn't have even mentioned it, but I wasn't let down when you talked about grants and he says I tell you all the time and it seems like here it goes, back and forth again. And I'm kinda glad I did speak up again. I thought, oh boy, things are going too smoothly tonight. But I wasn't let down. I think some of these things should be talked privately.

**Pfitzenmaier** – Thank you.

**Bianchi** – Well at risk of offering a personal opinion (laughter) when we have a meeting on meeting law we need to have you there and then you will be able to express your opinion very forcefully, but it isn't going to go anywhere. We cannot as a board, Gary, meet, have a pre-scheduled rehearsed Board meeting that all of a sudden we go boom, boom, boom done. That is not our function, and it's against the law for us to do some of that stuff because we would be violating open meeting law, it's a frustrating thing, you need to come to that meeting. Chief, if you put it together make sure Gary comes. As a Board member, I feel if I see something taking place that reflects on the District, I have an obligation to say something about it, that's why I spoke out about it at last month's meeting.

**Izzo** – I agree with both Larry and Jerry, however it's an unfortunate consequence of Chief's job. He's in the public arena here, he answers to the Board which is elected and we have a responsibility to do this stuff in public and so it's often uncomfortable. Certainly I don't want anybody to get the idea that if we have major issues that we deal with, certainly Board members do interact with Chief, there is discussion and conversation going on. We have to be very careful, you know this thing about the grants, if Jerry would have worked all the details out with Chief and then Jerry contacted me, and these are what the details are, and then Jerry contacts Larry, right there's a violation of the open meeting law. Because they conspired without doing something at a public meeting. So it's really an unfortunate consequence of the way things are. We try to be very professional with everything that we do, but there's a lot Chief talks about that we don't understand and know about

so we ask questions to try to become educated about these things, hopefully without putting him on the spot. This year for the first time we had a work session on the budget. We've never done that before, where we sat around the table and had a discussion back and forth. It was a public meeting but it wasn't in this kind of format, where we could work out some of those items, but the way the law is, we really had to do that in a public forum too so people could hear what we were talking about and what we're doing. We hope to do that again, that was very productive, where we could give some guidance and could come back with a budget that we had all talked about.

**Pfitzenmaier** – At the risk of beating this horse any longer, (laughter) most of us and most of you in another life were involved in working with people and calling meetings and hosting meetings and attending meetings and running meetings. And the way we're, I'm not over it, I'll never get over it, I've been at it for two years and I don't expect to get cured. The open meeting laws are extraordinarily cumbersome in an unnatural way to do business and get stuff done. I know how to call meetings I know how to conduct meetings, I know how to keep the boss informed, I know all those things, but there are constraints associated with the open meeting rule that make it extraordinarily difficult to do that. Lined up here in front of you with the Chief, Katie and Battalion Chief is our only opportunity, unless we call a special meeting, to conduct business. It's just, none of us would create this method of conducting business if we started with a fresh sheet of paper. But here we are. And we're going to make it work, the new Board is going to make it work too. And the new Board looks forward to hearing Gary give us another critique.

**Motion to adjourn** – Motion to adjourn by Pfitzenmaier, seconded by Bianchi, motion carried.