

**MINUTES OF THE REGULAR MEETING OF THE
GOVERNING BOARD OF THE MIDWAY CITY
SANITARY DISTRICT OF ORANGE COUNTY
14451 CEDARWOOD AVENUE
WESTMINSTER, CA 92683**

April 20, 2010

3:00 P.M.

CALL TO ORDER

President Neugebauer called the regular meeting of the Governing Board of the Midway City Sanitary District to order at 14451 Cedarwood Avenue, Westminster, on Tuesday, April 20, 2010 at 3:00 p.m.

BOARD MEMBERS PRESENT:

Tyler Diep (late arrival 3:11pm)
Grace P. Epperson
Joy L. Neugebauer
Allan P. Krippner
Margie L. Rice

BOARD MEMBERS ABSENT:

OTHERS AT MEETING:

Greg Nordbak, General Manager
Ken Robbins, Assistant General Manager
Robert Housley, Finance Director
Tom Nixon, District Counsel
Julia Sales, Administrative Secretary

PLEDGE AND INVOCATION

Director Krippner led the salute to the flag. Director Epperson gave the Invocation.

APPROVAL OF THE MINUTES OF THE MEETING ON APRIL 6, 2010.

A motion was made by Director Epperson seconded by Director Rice to approve the April 6, 2010 Minutes. The motion was approved by the following vote:

AYES: Directors Epperson, Rice and Neugebauer
ABSENT: Director Diep
ABSTAIN: Director Krippner

PUBLIC COMMENTS

No public comment.

APPROVAL OF EXPENDITURES

April 20, 2010				
#	CK. #	AMOUNT	VENDOR	Revised
1	3549	43.10	Tyler Diep - Mileage Reimbursement March 2010	
2	3550	168.00	AWSI - Drug Screening Pre-Employment (RG, FM, MP) DMV Exam	
3	3551	21.75	Beach City Lift, Inc. - Tune-up Kit	
4	3552	1,133.45	Bodyworks - Relief Valve T62 & Re-stock Rollers, and Switches	
5	3553	5,176.68	CalPERS Retirement - Payroll Ending 04/06/2010	
6	3554	920.56	CRC - Computer Service, Back-up and Tech Support May 2010	
7	3555	108.75	DJ Printing - Business Cards for (AC, JS, GN, TK)	
8	3556	2,069.11	Daniels Tire - Tires for T61 and Re-stock	
9	3557	5,389.45	Fleet Services - Re-stock Water Separators, Hoses, Hose Fittings, Core,	
10			Brake Shoes, Brake Drums and Starter Fluid, T61 Inspect and Repair A/C & Clutch	
11	3558	334.98	Hose-Man - T61 Fittings, lever Tube, Lock Nut and Seals	
12	3559	663.38	Hydraforce - T62 Gripper Cyl. and T54 Dump Cyl.	
13	3560	2,814.76	Interstate Billing Service - T65 Parts, Labor, Shop Supplies	
14	3561	4,500.00	McGinn Actuaries - Government Accounting Standard Board Statement 45 OPEB Valuation	
15	3562	185.00	Memorial Prompt Care - Drug and Alcohol Testing (TK, AP, CR, AG)	
16	3563	100.00	Miguel's Upholstery - Replace Armrest for T56, T57, T59, T60	
17	3564	39.81	Nelson-Dunn, Inc. - Nuts and Adapter Re-stock	
18	3565	1,118.44	Orange County Sanitation District - OCHCA Fog/BMP Inspections 2009-10 QTR 2	
19	3566	706.37	Prudential Overall Supply - April 2010	
20	3567	114,118.98	Rainbow Recycling - Tonnage Fees March 2010	
21	3568	19,470.85	Rehrig Pacific Company - 395 Large Blue Refuse Cans and Lids 95 Gal.	
22	3569	414.00	Rutan & Tucker, LLP. - Professional Legal Fees for March 2010	
23	3570	804.42	South Coast Air Quality Management District - Annual Operating and Emissions Fee	
24	3571	27.00	Underground Service Alert of Southern California - 18 Tickets for March 2010	
25	3572	106.78	Zee Medical - Re-stock Medical Supplies in Break Room & Shop	
26				
27		160,435.62	SUBTOTAL	
28				
29			ADD HANDCUT CHECKS:	
30				
31	3542	664.39	AT&T Mobility - (714) 310-2313 (KR) / 310-4406 (AC) / 310-8653 (NC)	
32			310-8654 (Sewer Department) / 310-9004 (Emergency Phone)/	
33			325-3035 (DH)/325-3606 (DG)/ 350-0402 (JS) 917-7887 February 2010	
34	3543	59.99	DirecTV - Monthly Service April 2010	
35	3544	1,100.82	Southern California Edison - Westminster Lift Station, District Administration	
36			Refuse Offices and Wash Rack March 2010	
37	3545	11,458.00	Zenith Insurance Company - Workman's Compensation Progressive Payment March 2010	
38	3546	2,263.44	Southern California Edison - MCSO to repair damaged SCE Facilities Due To Project	
39	3547	40.00	City of Westminster - Water Usage for Hydrant 9 March 2010	
40	3548	42.56	Verizon - Internet Access District Offices April 2010	
41				

42		176,064.82	SUBTOTAL PLUS HANDCUTS
43			
44			ADD PAYROLL, PAYROLL TAX AND DEFERRED COMPENSATION
45		56,129.60	Payroll Ending 04/06/10 Staff Chk #14663 - 14673 Tax & Direct Deposits
46		1,238.00	Payroll Ending 04/06/10 Nationwide Deferred Compensation
47			
48			
49		233,432.42	TOTAL EXPENDITURES

A motion was made by Director Rice seconded by Director Krippner to approve the Expenditures for \$233,432.42. The motion was approved by the following vote:

AYES: Directors Epperson, Krippner, Rice and Neugebauer
 ABSENT: Director Diep

REPORTS

REPORT OF PRESIDENT

President Neugebauer received a call from Congressman Royce emphasizing we support the challengers for the LAFCO delegates.

President Neugebauer received a call from Rich Frische; he wanted to come and address the board today. President Neugebauer told him ‘yes’, but it is not an agenda item and the Board did take action at the last meeting supporting him. She believes he is not coming.

President Neugebauer read the news article on CalPERS; she made a copy for Staff and the Board, and it is about CalPERS investing money in Goldman Sachs and the impact of the investment.

Director Rice commented that CalPERS has lost MCSD money before when they have invested.

President Neugebauer had made the Finance Director Robert Housley aware of this information through GM Nordbak, so Finance Director Robert Housley has prepared a brief statement addressing this loss. He had just attended a workshop with CalPERS a few weeks ago. She asked him, “Did they address this then?”

Finance Director Robert Housley explained that CalPERS investment in Goldman Sachs was not discussed in that Workshop.

President Neugebauer reported that this could impact MCSD at some point, so she wanted to be more informed and have more knowledge in the stock which was \$330 million and is now \$309 million in value.

President Neugebauer asked what percentage of CalPERS does this effect.

Finance Director Robert Housley reported that he had made a phone call to CalPERS and this loss in Goldman Sachs was only a quarter of 1%.

President Neugebauer expressed that no one should worry over less than 1% loss.

Discussion ensued.

President Neugebauer thanked Staff for the concern and follow up.

REPORT OF GENERAL MANAGER

GM Nordbak explained that during the annual Orange County Fire Authority Inspection, only a tank valve for an odor control tank needs to be changed, and Staff has contacted OCSD to get this fixed.

GM Nordbak reported that the Budget for LAFCO came in today (a copy in each Board Members folder) and will be discussed during Item 8A.

President Neugebauer asked if the need for a tank valve change presents immediate danger and if OCSD will take the cost of fixing this tank valve.

GM Nordbak explained that there is no immediate danger and yes, OCSD has inspected the valve and will get it corrected in the next week.

REPORT FROM ORANGE COUNTY SANITATION DISTRICT MEETING

President Neugebauer reported that the last meeting was April 7, 2010 and address Energy Operations at OCSD, which was interesting. Also the two year Capital Improvement Budget was reviewed.

President Neugebauer reported that the OCSD North County Yard which was thought to have a final design, (she has been reporting on since 2006) might be postponed as a new site plan is being considered. President Neugebauer wanted to share that at the time the property, 7411 Doig, Garden Grove, was purchased it had seemed to be a critical need, and now four years later is still under consideration to be finalized.

President Neugebauer shared that one of the MCSD's Lift Station improvements to the new SCADA System, the old system from the 1940's was a glass bottle connected to the phone line and when the water rose in the wet well, an alarm would ring through the phone system. With the assistance of AGM Robbins, she was able to get the old glass bottle to put into the Westminster Museum next to the 3 legged transit.

CONSENT CALENDAR

A. Investment Report for March 2010.

A motion was made by Director Rice seconded by Director Epperson to approve the Investment Report for March 2010. The motion was approved by the following vote:

AYES: Directors Diep, Epperson, Krippner, Rice and Neugebauer

OLD BUSINESS

A. Update of Midway City Sanitary District's Fee to The Orange County Local Agency Formation Commission for Fiscal Year 2010-2011.

The LAFCO speaker, Joyce Crosthwaite explained 1) How LAFCO budgets, 2) The process of LAFCO and 3) LAFCO's action.

Director Krippner asked Joyce to confirm that population of the Cities is the factor in deciding apportionment?

Joyce Crosthwaite explained that the 34 Cities share 1/3 of LAFCO's Budget and the formula is based on their size and population.

Director Krippner asked "What are the top five populated Cities?"

Joyce Crosthwaite listed Santa Ana, Anaheim, Huntington Beach, Irvine and Orange.

Joyce Crosthwaite continued her presentation.

Director Krippner inquired, who does LAFCO contact when the new fee is extra ordinarily high, like MCSD's new Fee.

Joyce Crosthwaite explained that a LAFCO representative contacted and informed MCSD Staff that there was a problem and that the apportionment has jumped up significantly.

Discussion ensued.

President Neugebauer commented that MCSD pays 7.6% of 1/3 of LAFCO's Budget, plus MCSD's residents (since they are City of Westminster residents) are also paying a second portion of the 1/3 of LAFCO's Budget. This is just unreasonable to pay double as a Resident of the Special District and the City of Westminster.

Discussion ensued.

Joyce Crosthwaite explained that LAFCO went to ISDOC for advice and ISDOC set the formula for Special Districts to LAFCO.

President Neugebauer asked if Special Districts can opt out of LAFCO membership.

Joyce Crosthwaite explained that the decision to be a member is on a County Wide basis and there is no opting out.

President Neugebauer thanked Joyce Crosthwaite and LAFCO.

Director Rice voiced her disagreement with LAFCO.

Discussion ensued.

Director Krippner asked "What does LAFCO do daily?"

Joyce Crosthwaite explained mostly facilitations to annex islands by meeting with Agencies, Residents and Counties.

Discussion ensued.

President Neugebauer thanked Joyce Crosthwaite and asked about when LAFCO makes the final billing of the fees.

Discussion ensued.

Director Rice thanked Joyce Crosthwaite and Carolyn Emery for their time.

Joyce Crosthwaite invited the Board to attend the May 12, 2010 Final Adoption of the LAFCO Budget that will be at 9:00 a.m. in the Hall of Administration Building in the Planning Hall Room.

NEW BUSINESS

A. Consider authorizing Midway City Sanitary District to enter into an agreement to provide an alternative retirement system (FICA – Substitute Plan) in lieu of the Social Security System for part-time employees.

B. Consideration of RESOLUTION NO, 2010-10 **(Roll Call Vote)**
A RESOLUTION ADOPTING THE PUBLIC AGENCY
RETIREMENT SYSTEM 457 TRUST AND
DESIGNATING A REPRESENTATIVE OF THE MIDWAY
CITY SANITARY DISTRICT TO IMPLEMENT THE PLAN

C. Consideration of RESOLUTION NO, 2010-10 **(Roll Call Vote)**

A RESOLUTION ADOPTING AN ALTERNATIVE RETIREMENT PLAN PROVIDED THROUGH NATIONWIDE RETIREMENT SERVICES, INC. AND DESIGNATING A REPRESENTATIVE OF THE MIDWAY CITY SANITARY DISTRICT TO IMPLEMENT THE PLAN

President Neugebauer asked General Counsel Tom Nixon to bring the Board and Staff up to date on Items A, B and C with the research and recommendations.

General Counsel Tom Nixon stated that Finance Director Robert Housley did an excellent job in preparing this matter, and there is one additional legal issue that needs to be addressed and would like to have that resolved completely before bringing it to the Board for consideration. General Counsel Tom Nixon is requesting to continue these Items to the next Board meeting Tuesday, April 27, 2010.

President Neugebauer asked General Counsel Tom Nixon to explain the rationale for requesting a continuance?

General Counsel Tom Nixon explained because of the issue and how it will be played out, the contract, which has a financial impact to the Board Members themselves and he wants to verify the financial impact does not place any of the Board Members in jeopardy.

President Neugebauer verified that only the Board Members will be impacted because they are the only ones working part time. She asked "How can the Board address this if they continue?"

General Counsel Tom Nixon explained that there are two issues that he will be looking at 1) It is possible, because other agencies who have dealt with these kinds of plans on a broader basis, the full Board has been able to vote, but they haven't been faced with what MCSB Board that it really only effects the 4 Board Members (Director Epperson is excluded). If in fact there is not an exception to Government Code Section 1090 on this issue and then the rule of necessity would apply and which we would have to select Directors in addition to Director Epperson by Lot and there would be 3 Directors that would be the decision makers on that instead of 5. This is the issue that would need to be resolved.

President Neugebauer commented that while this might satisfy the legal sense, it won't change the perception in the community that the Board did something that just benefited the Board.

Discussion ensued.

A motion was made by Director Rice seconded by Director Epperson to approve to continue Items 9A, 9B & 9C to April 27, 2010 the next Board Meeting.

Motion carried

D. Consider attendance at the Mayor's Prayer Breakfast

Discussion Ensued.

A motion was made by Director Epperson seconded by Director Krippner to approve to have Staff reserve and pay for a table of 8. The motion was approved by the following vote:

AYES: Directors Diep, Epperson, Krippner, Rice and Neugebauer

E. Approval of attendance to Quarterly ISDOC Meeting on Thursday, April 29, 2010.

President Neugebauer read the Rules of Procedure.

Discussion ensued.

AGM Robbins will be driving President Neugebauer from the CASA Conference in Newport to attend the Quarterly ISDOC Luncheon in Fountain Valley.

Director Diep will be attending the Quarterly ISDOC Luncheon.

No motion needed, Staff will follow up and reserve for the attendees Director Diep, President Neugebauer and AGM Robbins.

F. District Policy on Board Notification

Discussion ensued.

A motion was made by Director Rice seconded by Director Epperson to require the General Manager to give immediate notification when any out of the ordinary incident occurs with MCSD. This could be by phone, fax, email or a combination of the three. The motion was approved by the following vote:

AYES: Directors Diep, Epperson, Krippner, Rice and Neugebauer

G. AB1234 Training

GM Nordbak reported that AB1234-Ethics training is due in June 2010. Also he reminded the Board that the AB1825-Harrassment training is due.

President Neugebauer reminded to contact CSDA and there should be classes within a Conference, so no special training on this alone.

General Counsel Tom Nixon suggested on line training on the FPPC webpage as an option.

No motion needed.

H. Attendance to OC Water Summit on May 14, 2010

President Neugebauer commented that last year's Water Summit was most informative.

Discussion ensued.

A motion was made by Director Rice seconded by Director Krippner to approve to have Staff and Board Members attend the May 14, 2010 OC Water Summit. The motion was approved by the following vote:

AYES: Directors Diep, Epperson, Krippner, Rice and Neugebauer

BOARD CONCERNS/COMMENTS

Director Diep thanked the Board for letting him attend his classes and have the meeting time at 3:00 pm. He also apologized for being so tired.

Director Rice commented that it is great to adopt a policy to advise the Board of incidents immediately and the Board should set a Policy Meeting in the near future.

President Neugebauer agreed that the Board needs to find time for a Policy Meeting.

Director Krippner commented that it is confusing that his free attendance to the SDI Governance conference in Indian Wells was denied; however there was approval for Director Diep to change the regular meeting times from 5:00pm to 3:00pm because of his school.

DISTRICT COUNSEL CONCERNS/COMMENTS

No comment at this time.

GM/STAFF CONCERNS/COMMENTS

GM Nordbak reported that MCSD received a call today and a customer is suggesting that MCSD give every resident an additional Black container and then change the weekly trash pick up to every other week.

GM Nordbak reported that a customer called to compliment an MCSD driver for stopping and explaining why he had moved her cans. GM Nordbak determined the driver was Ignacio Gonzalez and Refuse Supervisor Nick Castro has been informed.

President Neugebauer would like to schedule Administrative Luncheon on April 27, 2010 for celebration of Administrative Day.

Discussion ensued.

The Board would like Staff to reserve the Fireside for Luncheon at 11:30 a.m. on Tuesday, April 27, 2010.

A motion was made by Director Diep seconded by Director Rice to approve to have Administrative Staff and Board Members attend the April 27, 2010 Luncheon at the Fireside. The motion was approved by the following vote:

AYES: Directors Diep, Epperson, Krippner, Rice and Neugebauer

CLOSED SESSION

No closed session.

INFORMATIONAL ITEMS

There were no informational items on this agenda, other than what was previously reported in the General Manager's Report.

ADJOURNMENT

President Neugebauer adjourned the meeting at approximately 4:11 p.m. and to be continued at 10:30 a.m. on April 27, 2010.

Al P. Krippner, Secretary