

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

May 4, 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, May 4, 2010 at 3:00 p.m.

BOARD MEMBERS PRESENT:

Tyler Diep
Grace P. Epperson
Joy L. Neugebauer
Margie L. Rice
Allan P. Krippner

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

APPROVAL OF THE MINUTES OF THE MEETING ON (NO MINUTES FOR APPROVAL).

PUBLIC COMMENTS

No public comment.

APPROVAL OF EXPENDITURES

May 4, 2010			
#	CK. #	AMOUNT	VENDOR
1	3597	-	VOID - Printer Malfunction
2	3598	22.65	Allan Krippner - Mileage Reimbursement March 2010
3	3599	140.70	Joy Neugebauer - Insurance Reimbursement for May 2010
4	3600	60.68	Advances Gas Products - Acetylene & Cylinder Rental for March 2010
5	3601	40.00	Asbury Environmental Service - Used Oil Service Charge
6	3602	50.00	Benny's Oil Filter Recycling, Inc - Oil Filter Drum Charge
7	3603	954.50	Bodyworks - Repair for T61 Arm Grip & Hopper Skirt T51, T65
8	3604	75.00	Gal's Sweeper Service - Sweeping Services for April 2010
9	3605	5,176.68	CalPERS Retirement - Payroll Ending 04/20/10
10	3606	275.79	Chemex Industries - Super Sorbent
11	3607	33,856.09	City of Westminster - Fuel Charges for 01/01/2010 - 03/31/2010
12	3608	525.00	Cobocare/Floor Master - Janitorial Services for April 2010
13	3609	1,098.61	Daniels Tire - Tires for T65
14	3610	470.73	Dartco Transmission - Re-stock Filter Kit
15	3611	9,527.50	DGA - Engineering Services for Bushard and McFadden Project April 2010
16	3612	138.34	Equipment Direct - Safety Vests
17	3613	725.00	Fleet Services - T61 & T59 Inspect and Repair A/C Systems, Mark Lights, Shoe Kit
18	3614	375.00	Frog Env., Inc. - 2009 -2010 QTR Storm Water Service
19	3615	4,845.89	Hydraforce, Inc. - Complete Packer Paddle Kit T53, Dump Cyl Repair T54,T65
20	3616	601,406.37	Mike Bubalo Construction - Unitary Billing# 3 Bushard & McFadden Sewer Project
21	3617	502.08	Prudential Overall Supply - April 2010
22	3618	904.80	R & D Mechanical Supply - Galv Steel Vent Can Westminster Lift Station Accident
23	3619	613.68	Rosemead Oil Products - Gear Oil Re-stock
24	3620		Sancon Engineering - Inspection and Removal of SS Sleeve in Sewer on Grambling

		10,670.00	
25			Circle Heavy Cleaning of Grease and Grit from Sewer (Margo to Brookhurst)
26	3621	600.00	The Smoke Detectors - Test all Smoke Detectors in Refuse Trucks
27	3622	951.00	Son Nguyen - Refund Cancellation of Construction Project
28	3623	1,382.06	Top Mobile Vision - Install New Camera System on T-51
29	3624	5,350.00	Woodruff, Spradlin, & Smart - Legal Services for March 2010
30			
31		680,738.15	SUBTOTAL
32			
33			ADD HANDCUT CHECKS:
34	3573	90.75	AT&T - Internet Brookhurst Lift Station (714) 531-0272 April 2010
35	3574	39,085.77	CalPERS - Health Premiums for May 2010
36	3575	315.59	City of Westminster - Water Services for District Offices, Wash Rack and
37			Maintenance Shop for 2/24/2010 - 04/20/2010
38	3576	84.33	Gas Company - Utility Service for District Offices, Yard and Fleet Maintenance
39	3577	4,010.66	MetLife - Dental Premiums for May 2010
40	3578	532.67	Office Max - Office Supplies
May 4, 2010			
#	CK. #	AMOUNT	VENDOR
41	3579	1,265.87	Southern California Edison - Willow Station & Hammon Station & Westminster
42	3580	1,008.00	State Water Resources Control Board - Annual Permit Fee for 04/01/10 - 03/31/11
43	3581	246.08	First Bank (NC) - Re-stock Front Office
44	3582	495.27	Verizon Business - Internet Connection For Scada System April 2010
45	3583	160.00	Westminster Prayer Breakfast Committee Admission
46	3585	150.00	Joy Neugebauer - Per-diem CASA Conf. 4/28-4/30/2010
47	3586	150.00	Allan Krippner - Per-diem CASA Conf. 4/28-4/30/2010
48	3587	150.00	Margie Rice - Per-diem CASA Conf. 4/28-4/30/2010
49	3588	100.00	Greg Nordbak - Per-diem CASA Conf. 4/29-4/30/2010
50	3589	150.00	Kenny Robbins - Per-diem CASA Conf. 4/28-4/30/2010
51	3590	-	VOID - ISDDC - Quarterly Meeting - MISPRINT

52	3591	500.00	Municipal Water District of Orange County - Water Summit Registration for (TD, AK, GN, KR)
53	3592	-	VOID - ISDOC - Quarterly Meeting - MISPRINT
54	3593	48.00	ISDOC - Quarterly Meeting
55	3594	174.58	Southern California Edison - Brookhurst Station
56	3595	853.12	The Standard Life Insurance - Premiums for May 2010
57	3596	9,206.76	US Bank - (NC) Parts & Supplies Re-stock, Trash Bags Re-stock
58			(AC) Yard repair & Re-stock Batteries
59			(GN) Temp Help, Deposit for Christmas Dinner, CASA Conference(AK,GN,KR,JN,GE,MR),
60			Monthly Water System Service, Repair to copier, M.W.D.of D.C. Summit Register Fee
61			(KR) Board Meeting Food, Newtek Technology, Luncheon for Public Service Award
62			Get Well Flowers for T. Nordbak, Office Supplies
63			(RH) Government Finance Offices Association Renewal Membership, Copier Repair
64			
65		739,515.60	SUBTOTAL PLUS HANDCUTS
66			
67			ADD PAYROLL, PAYROLL TAX AND DEFERRED COMPENSATION
68		56,307.01	Payroll Ending Q4/20/10 Staff Chk # 14675 - 14868 Tax & Direct Deposits
69		2,310.21	Payroll Ending Q4/20/10 Nationwide Deferred Compensation
70		3,284.14	Board of Directors Payroll for The Month of April 2010 Chk #14688 - 14690
71			
72		801,416.96	TOTAL EXPENDITURES

A motion was made by Director Epperson seconded by Director Rice to approve the Expenditures for \$ 801,416.96. The motion was approved by the following vote:

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

REPORTS

REPORT OF PRESIDENT

President Neugebauer asked the Board if there is interest in the SDI OMNI Seminar in San Diego on June 10 & 11, 2010. This needs to be brought onto the Agenda today because the deadline to register is May 19, 2010.

A motion was made by Director Rice seconded by Director Epperson to approve to bring an Item, June 10 & 11, 2010 SDI OMNI Seminar attendance confirmation because

the information was brought to the Board's attention after the Agenda posted and there is a need for immediate action. The motion was approved by the following vote:

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

Discussion ensued.

A motion was made by Director Rice seconded by Director Epperson to approve the Board and Staff to attend the SDI OMNI Seminar in San Diego, June 10 & 11, 2010 and attendance of Julia Sales to attend the SDI OMNI Workshop, June 12, 2010. The motion was approved by the following vote:

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

REPORT OF GENERAL MANAGER

GM Nordbak requested to add to the Agenda the instruction for the November 2, 2010 District Election that was received Friday, April 30, 2010. The due date was April 30, 2010, so he contacted the Orange County Clerk, Kay and she said the extended due date is Friday, May 7, 2010.

Legal Counsel Tom Nixon said to be sure this is worded properly "This matter came to the attention of the District after the posting of the Agenda, and there is a need for immediate action."

A motion was made by Director Rice seconded by Director Epperson to approve to bring an Item, instruction for the Election to the Agenda because the information was brought to the Board's attention after the Agenda posted and there is a need for immediate action. The motion was approved by the following vote:

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

GM Nordbak stated that he needs two decisions from the Board.

1. Whether the candidate's statement of qualifications will contain no more than 200 or 400 words?
2. Is the District going to pay for the Candidate's statement?

Discussion ensued.

A motion was made by Director Rice seconded by Director Krippner to approve for no more than 200 words and the District will not pay the fee for the Candidate's statement. The motion was approved by the following vote:

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

GM Nordbak reported that he has received two letters from Arlene Shaffer asking for support, she will be running for the CSDA Regency Representative position but no date for support has been included. GM Nordbak called GM Carroll of the Costa Mesa Sanitary District and requested a date for the election. GM Carroll stated he did not currently know the date but would contact GM Nordbak when he receives it.

GM Nordbak reported to the Board that there is an updated invoice from Quick-Books staff has instituted, this will help in billing and tracking additional black containers.

REPORT FROM ORANGE COUNTY SANITATION DISTRICT MEETING

President Neugebauer reported that the OCSD Operations Committee Meeting was April 28, 2010 and the next meeting will be May 5, 2010.

President Neugebauer reported that all of the information that she gives is available on the OCSD webpage, www.ocsd.com reference the OCSD Operations Committee Meetings.

President Neugebauer reported that the OCSD reviewed the Budget and it is on schedule and they are receiving monthly reports on Capital, Operating Expenditures and General Revenues. The Budget will be adopted at OCSD at the June 2010 Board Meeting.

President Neugebauer reported previously on the earthquake after-math, and OCSD's plant one was shut down temporarily, but all functions were returned to normal shortly after the quake and no damages have been reported.

President Neugebauer reported that at the meeting on April 28, 2010, OCSD did approve a rewritten agreement with the Orange County Water District for the Ground Water Replenishment System. The rewritten agreement still provides that the leadership of the Ground Water Systems Steering Committee is unchanged with the Chair and Vice Chair alternating between the Sanitation District and the Water District.

REPORT FROM CASA SPRING CONFERENCE

Director Rice reported that most of the business that she was involved in was at the CASA Executive Board meeting and they did not mention the excess money to the general membership. They did discuss instead of giving it back as a cut on dues, they split it into Funding: \$91,000 was put into the Special Project Funds, \$31,275 into the Legal Fund, and the balance to another Special Project Fund. There was discussion on the Budget and the current Auditor that has been the same for six years. Director Rice requested that they get a new Auditor and CASA Board decided to get a new Auditor next year.

Director Rice reported that the workshop on the Prop 218 was vital to MCSD and she asked, "If MCSD did not fulfill their pledge each year, could it be taken care in the last year?" And the answer was "Yes".

Discussion ensued.

President Neugebauer reported that at the Joint Directors and Managers Meeting, there was a presentation by the 2009 achievement award winner Kathy Hopkins Fairfield from Suisun City Sewer District. The other workshops subjects were on Bio-solids, and Land/Water issues. With the Water issues it is about Regulations, Management, Technology, Watershed approaches and Waste water as a resource. With the Bio-solids it was about the challenges that are being made in compost give-a-way programs: President Neugebauer shared with the Board the MCSD's compost give-a-way that she had participated in and stated she would never participate in such a program again.

President Neugebauer reported that the air issues and odor control were presented by Carla Dillon with OCSD.

President Neugebauer reported that there was a workshop on campaigning your image, and how to get the message about recycling to the public.

President Neugebauer reported that Mike Dillon did a presentation on the battle of the State Budget and bailout.

President Neugebauer reported the wrap up was by Eric Saperston on Federal Legislation and Mike Dillon on the State.

President Neugebauer reported that the best was on the Fundamentals of rate setting policy and practice.

Discussion ensued

GM Nordbak enjoyed workshop on the SCADA System in Montreal Canada servicing 1.8 million people and how, when it rains, there is the option (Open System) of which area or stream to intentionally flood with sewage during that rain fall.

GM Nordbak reported that MCSD should work closer with Chris Mackenzie, Chief Executive Office of California's Contract Cities because MCSD, as a small sanitation district without treatment doesn't get the attention that the District deserves and working closer with California Contracted Cities would help MCSD's leverage with the Districts position on certain issues.

Discussion ensued.

REPORT FROM ISDOC MEETING

Director Diep reported that the ISDOC Meeting was well attended. ISDOC invited all Registrar voters to come and observe to be sure the election was fair.

Director Diep reported that the two challengers that had podium time to give their views.

Director Diep spoke up and said that MCSD would abstain from voting.

Discussion ensued.

CONSENT CALENDAR

A. Financial Statements for the 3rd Quarter, January – March 2010

President Neugebauer requested to have Item “A” removed: Finances should not be on the consent calendar.

Discussion ensued.

A motion was made by President Neugebauer seconded by Director Epperson to approve to postpone the Consent Calendar Item “A” until the next Budget Hearing when the Finance Director will be available and any future finance items be put as a regular Agenda Item. The motion was approved by the following vote:

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

OLD BUSINESS

A. District Policy on Claims

President Neugebauer stated though MCSD has no policy, there is an existing practice. She asked Staff to explain the existing practice.

GM Nordbak gave the example of the residential claim on Grambling Street that would be considered Emergency, however the normal non emergent claims are the ones that MCSD needs a policy to follow. MCSD cannot just have no policy and when a claim comes through, there would be no monitoring and the District just reimburses whatever the claim costs without review. MCSD should be able to hire their own contractors at MCSD's rates.

Discussion ensued.

President Neugebauer suggested that Staff and Legal Counsel Tom Nixon bring a policy before the Board for review.

President Neugebauer asked about the accident at the Westminster Lift Station and the Lift Station Vent replacement and who will pay for this.

GM Nordbak explained that a claim by the District including all cost (material and labor) has been submitted against the Driver's Insurance Company.

A motion was made by Director Rice seconded by Director Krippner to approve to have Staff and Legal Counsel Tom Nixon bring a policy to the Board for review. The motion was approved by the following vote:

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

B. City of Westminster's "Over The Top" Ordinance

Legal Counsel Tom Nixon presented to the Board the revised version of the City of Westminster's "Over the Top" Ordinance and their weighted Resolution.

Legal Counsel Tom Nixon expressed his focus has been on MCSD's jurisdictional issues within the City of Westminster's Resolution/Ordinance and not for rewriting the City of Westminster's wording. He stated that the City of Westminster's Representatives have been very cooperative in this process, in particular Christian Bettenhausen has been very helpful.

Legal Counsel Tom Nixon asked the Board to review with him the black lined proposed revision of the City of Westminster's "Over the Top" Resolution. He pointed out that in the second recital there has been some rephrasing to identify that the District provides solid waste collection and disposal services in the City of Westminster. In the fourth recital, the language eliminates prior language that the District was required to request City Council approval to implement new programs and modify existing solid waste programs that clearly is within the jurisdiction of the District and not the City of Westminster. Finally the City of Westminster has already eliminated one recital, which had language that the District was making a finding, but the District cannot have a finding for the City of Westminster.

Legal Counsel Tom Nixon moved on to review the "Over the Top" Ordinance black lined proposed revision. Again he pointed out that changes are only for MCSD's jurisdictional issues within the City of Westminster's Ordinance.

Discussion ensued.

Legal Counsel Tom Nixon's proposed changes:

Section 8.16.300 subsection B, C and E to reflect the authority is resting with the District not the Public Works Director.

Section 8.16.310, subsection A and C changing the references which previously appeared to have the City of Westminster providing authority to the District to regulate and contract solid waste services and changes to have the City of Westminster acknowledge that the District has this authority.

Section 8.16.310, subsection D, this clarifies that in an emergency situation that the District has the primary authority to issue temporary solid waste collection permits in an emergency situation. If there is an issue, the City Manager is required to consult with the District on that issue in order to make sure that the District can appropriately handle it and only if the District does not act to address an emergency situation in that circumstance the City of Westminster is then authorized to use its police power to issue temporary permits. He emphasized that if in fact the District was not acting in the emergency situation, it would fall into the City of Westminster's jurisdiction to address the situation.

Section 8.16.330, subsection C has to do with bulky items and there's no authorization required from the City of Westminster for the District Franchisee to levy a bulky item, so this language is being eliminated. In addition, he agrees with GM Nordbak's suggestion to add medical waste, so that it will read hazardous waste and medical waste in the last sentence of this Subsection C.

Section 8.16.350, Subsection B, which specifically refers to the "Over the Top" Program regarding the fee for overloaded containers and because this fee is intrigal to the effectiveness of the "Over the Top" Program and to avoid any confusion, he suggested that the Board authorize that the City of Westminster can provide the administration of the clean up hearing process.

Section 8.16.370 permits authority for recyclables collection.

Section 8.16.380 is the clarification of the District authority over disposal methods.

Discussion ensued.

Legal Counsel Tom Nixon clarified the Board's suggestion only to the City of Westminster to correct on the Ordinance:

Section 8.16.300 there were three Subsections A, B and D to add MCSD to the MCSD Franchisee.

Section 8.16.310 Subsection D the word "only" is to be moved between enforceable and until.

Section 8.16.330 Subsection C add the language that the City of Westminster acknowledges that MCSD Franchisee is not required to collect hazardous or medical waste.

Section 8.16.350 Subsection B, the words level full to be hyphenated and put in quotes.

And finally suggest language as to the “Over the Top” aspect that the City of Westminster keep MCSD in the loop and Rainbow Disposal provide MCSD the exact same report that they supply to the City of Westminster quarterly or monthly for the “Over the Top” Program.

A motion was made by Director Diep seconded by Director Krippner to approve Legal Counsel to work with the City of Westminster Legal Department and prepare a Resolution for the Board to review at a future date. The motion was approved by the following vote:

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

President Neugebauer commented that this “Over the Top” Program has been given a lot of scrutiny and commended Staff for their patience and diligence, also Rainbow Disposal and the City of Westminster for working together to make our city a healthier and safer place to live.

NEW BUSINESS

A. Consider scheduling the next Budget meeting for FY 2010/11

Discussion ensued.

The Board agreed to have another Budget meeting on Tuesday, May 25, 2010 at 10:00 a.m.

A motion was made by Director Krippner seconded by Director Epperson to approve the next Budget meeting to at 10:00 a.m. on Tuesday, May 25, 2010. 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 accommodating his schedule and said it is okay to change the Board meetings back to 5:00 p.m.

Discussion ensued.

The Board directed Staff to put to the next Agenda the considering of changing the meeting time.

Director Rice gave thanks to Legal Counsel Tom Nixon.

Legal Counsel Tom Nixon stated that he appreciates working with Christian Bettenhausen (Legal Counsel for the City of Westminster).

President Neugebauer is concerned and embarrassed by MCSD's Website and directed Staff to be sure it is on the next Agenda to consider getting a Representative to upgrade MCSD Webpage.

The Board directed Staff to take the website down if possible until it can be improved.

GM Nordbak stated that he would have it put onto the Budget Meeting Agenda.

Discussion ensued.

DISTRICT COUNSEL CONCERNS/COMMENTS

No comments at this time.

President Neugebauer gave thanks to Legal Counsel Tom Nixon.

Director Diep and Krippner also gave thanks for all the work from Legal Counsel Tom Nixon.

GM/STAFF CONCERNS/COMMENTS

GM Nordbak reported that a vehicle damaged MCSD vent pipes at the Westminster Lift Station and a claim has been filed with vehicle insurance.

GM Nordbak reported that MCSD received an invitation to the Alzheimer's Foundation and Ron Shenkman will be one of the honorees on Friday, May 14, 2010 at 6:30 – 10:00 p.m.

The Board discussed and agreed no attendance because it conflicts with MWDOC meeting the same day.

GM Nordbak wants the Board to be aware of the Garden Grove 23rd Annual Memorial Service is coming up.

GM Nordbak reported that Finance Director Housley is out having surgery.

The Board directed Staff to order Finance Director Housley a plant.

GM Nordbak reported to the Board that there is a confidential email from Legal Counsel Tom Nixon for their review.

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 4:59 p.m.

Al P. Krippner, Secretary