

**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 18, 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 18, 2010 at 3:00 p.m.

BOARD MEMBERS PRESENT:

Tyler Diep
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 Epperson led the salute to the flag. President Neugebauer gave the Invocation.

APPROVAL OF THE MINUTES OF THE MEETING ON APRIL 20, 2010.

A motion was made by Director Rice seconded by Director Epperson to approve the April 20, 2010 Minutes. The motion was approved by the following vote:

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

APPROVAL OF THE MINUTES OF THE MEETING ON APRIL 27, 2010.

A motion was made by Director Epperson seconded by Director Krippner to approve the April 27, 2010 Minutes. The motion was approved by the following vote:

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

PUBLIC COMMENTS

The public commented that they would speak when the Board got to Item 9E, Consider Implementation of authorized Residential User Fee Rates for FY 2010-2011 for Sanitary Sewer and Solid Waste Services/Notice of Public Hearing.

APPROVAL OF EXPENDITURES

May 18, 2010			
#	CK #	AMOUNT	VENDOR
1	3634	42.15	Al Krippner - CASA Conference Reimbursement for Travel April 2010
2	3635	58.73	Advanced Gas Products - Cylinder Rental April 2010
3	3636	127,798.95	Bodyworks - T65 Cable Switch, T60 & T62 Tubing, Body Replacement for T57
4	3637	5,242.47	CalPERS Retirement - Payroll Ending 05/02/2010
5	3638	920.56	CRC - Computer Service, Back-up and Tech Support May 2010
6	3639	311.86	Cummins Cal Pacific, LLC - Temperature Sensor T59
7	3640	963.09	Daniels Tire Service - T55 Recap Tires
8	3641	2,495.80	Fleet Services - Inspection/Repair for A/C System T59 & T52, Fitting Hose Restock,
9			Brake Shoes & Core T55 Air Dryer, Restock Break Pads and Core, Restock Lube, Spring Brake
10	3642	16,285.50	Flo-System, Inc. - Lift Stations Preventative Maintenance
11	3643	20.00	Hartford Steam Boiler Inspection & Ins. Company - Annual Air Tank Inspection
12	3644	147.03	Hillco Fastener Warehouse - Weather Pack Terminal Restock, Steel Rivets, Hex Bolts
13	3645	4,719.71	Hydraforce, Inc. - Dump Cylinder Grabber Cylinder for Restock, Gripper Cylinder, Lift Arm Heil T54
14	3646	28.62	O'Reilly Auto Parts - Oil for SI
15	3647	1,850.60	Orange County Sanitation District - Permit Fees April 2010
16	3648	469.96	Prudential Overall Supply - May 2010
17	3649	111,021.59	Rainbow Recycling - Tonnage Fees April 2010
18	3650	21,988.60	Rehrig Pacific Company - 432 Large Black Refuse Carts and Lids 95 Gal.

19	3651	176.18	Sign Design - Lettering for Back of Refuse Trucks
20	3652	179.68	Sunset Ford - Fuel Filler for T9
21	3653	12.00	Underground Service Alert of Southern California - 8 Tickets for April 2010
22			
23		294,733.08	SUBTOTAL
24			
25			ADD HANDCUT CHECKS:
26	3625	652.14	AT&T Mobility - (714) 310-2313 (KR) / 310-4406 (AC) / 310-8653 (NC)
27			310-8654 (Sewer Department) / 310-9004 (Emergency Phone)/
28			325-3035 (DH)/325-3606 (DG)/ 350-0402 (JS) 917-7887 April 2010
29	3626	59.99	DirecTV - Monthly Service May 2010
30	3627	363.96	Office Max - Office Supplies
31	3628	1,075.68	Southern California Edison - Westminster Lift Station, District Administration
32			Refuse Offices and Wash Rack April 2010
33	3629	824.40	Verizon CA - Monthly Service - (714) 891-9410 (GE) Fax / 891-8624
34			District Fax 893-3553/ 893-3554/ 893-3555/ 897-5368 District Phones/
35			(714) 893-2299/ 903-1863/ 903-6154/ 903-6274 Lift Stations (May 2010)
36	3630	11,458.00	Zenith Insurance Company - Workman's Compensation Progressive Payment May 2010
37	3631	749.00	HB Auto & AC - Radiator T53
38	3632	37.45	Verizon - Internet Access District Offices May 2010
39	3633	643.50	Blue Shield of California - Nancy Gilbert COBRA Insurance for April & May 2010
May 18, 2010			
#	CK. #	AMOUNT	VENDOR
40			
41		310,597.20	SUBTOTAL PLUS HANDCUTS
42			
43			ADD PAYROLL, PAYROLL TAX AND DEFERRED COMPENSATION
44		56,264.28	Payroll Ending 05/04/10 Staff Chk #14691-14701 Tax & Direct Deposits
45		1,238.00	Payroll Ending 05/04/10 Nationwide Deferred Compensation
46			
47			TOTAL EXPENDITURES

		368,099.48	
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A motion was made by Director Epperson seconded by Director Krippner to approve the Expenditures for \$368,099.48. The motion was approved by the following vote:

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

REPORTS

REPORT OF PRESIDENT

President Neugebauer reported that she received a mailer from the Orange County Coastkeeper; she is putting the mailer to the District Library for everyone to view.

President Neugebauer shared that she received information from Leaf & Cole Auditors addressed to the Board of Directors, MCSD and the purpose of the communication is to confirm the understanding of the services that is provided to MCSD for the year ending June 30, 2010. She gave the client and master copy to Finance Director Housley.

REPORT OF GENERAL MANAGER

GM Nordbak reported that there was an accident at the Bushard/McFadden Project: A motorist driving Westbound made an illegal left turn and hit a motorcyclist that was headed Eastbound: the motorcyclist is in critical condition. GM Nordbak and AGM Robbins inspected the construction site and found that all of the signage was posted appropriately; however, the District requested additional signage in the area.

President Neugebauer asked for the status of the Bushard/McFadden Project and the completion date.

AGM Robbins explained that there might be sagging sections of the line that would need to be corrected and could delay the paving that is scheduled for Tuesday, May 25, 2010.

Discussion ensued.

REPORT FROM ORANGE COUNTY SANITATION DISTRICT MEETING

President Neugebauer reported that the last Orange County Sanitation District Operations Meeting was May 5, 2010. The next meeting is scheduled for May 26, 2010.

President Neugebauer reported that the Operations Committee reviewed the Bond Rating that went from AA+ to AAA: the triple A rating is only assigned in cases of

exceptionally strong capacity for payment of financial commitments. There was also a budget overview and presentation on Capital Improvement Program.

REPORT FROM ORANGE COUNTY WATER SUMMIT

Director Rice reported that she found that the discussion on the pros and cons on Bonds was interesting. She reported she gave a copy of the meeting information to Scott Miller, City of Westminster.

President Neugebauer reported that there were presentations on earthquake solutions, flood control, farming, desalination and ground water replenishment.

President Neugebauer reported that National Geographic Magazines were handed out and she brought a copy for Director Diep.

President Neugebauer reported that the Orange County Report Card grade for Waste Water is a "B" and for Solid Waste the grade is a "B+". She suggested putting this grading onto the next calendar.

GM Nordbak found it was disturbing that the Officer in charge of the Army Corp of Engineers called out Congress for not finishing projects with a member of congress sitting in the room.

Discussion ensued.

Director Rice reported on the AB939 report from the City of Westminster meeting: the public outreach and education campaign initiated in Orange County Cities with resources to implement or enhance their recycling and waste divisions. Since the inception in January 2009, the educational partnership has brought recycling curriculum to more than 3000 sixth graders. There is a new project "Food Waste collection pilot program" that will be reported in the next meeting.

Director Rice reported that the Prima Deshecha Landfill Tour will be Thursday, June 24, 2010, 1:30 to 3:00 p.m.

President Neugebauer requested Staff to put the Landfill Tour on the next Agenda.

Director Rice reported that on May 21-22, 2010 there will be a free E-Waste recycling in Santa Ana.

Director Rice reported that on May 20, 2010 there will be a County of Orange Green Fair at the Santa Ana Civic Center Plaza.

CONSENT CALENDAR

- A. Approval of the request of Solid Waste Employee Robert Mayfield to receive 24 hours of vacation pay in lieu of time off.
- B. Approval of the request of Solid Waste Employee Jesus Quintero to receive 40 hours of vacation pay in lieu of time off.
- C. Investment Report for April 2010.

A motion was made by Director Rice seconded by Director Krippner to approve all Items on the Consent Calendar. The motion was approved by the following vote:

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

OLD BUSINESS

No discussion.

NEW BUSINESS

- A. Consider adopting a hiring policy

Discussion ensued.

A motion was made by Director Rice seconded by Director Epperson to direct Legal Counsel Tom Nixon to prepare a policy for hiring employees. The motion was approved by the following vote:

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

- B. Lift Station Maintenance Agreement

President Neugebauer summarized the Agreement and asked if MCSD Crew would be present when a contractor is onsite.

GM Nordbak reported that 99% of the time there would be MCSD onsite with the contractor.

President Neugebauer asked for in house verses outsourcing costs.

GM Nordbak explained that it is cost effective to outsource servicing for the Lift Stations. Not only does the Contractor do the service but they assume the liability of their work.

Discussion ensued.

A motion was made by Director Rice seconded by Director Krippner to approve the Lift Station Maintenance Agreement. The motion was approved by the following vote:

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

C. Discussion on the regular meeting time of the Board of Directors

Discussion ensued.

Director Krippner suggested that the time of the meeting be omitted on the next calendar.

Director Rice suggested that there be a news article to notify the public that the meetings are at 3 p.m.

President Neugebauer asked if the new meeting time of 3:00 p.m. was on MCSD's web page. Discussion of the webpage ensued.

A motion was made by Director Krippner seconded by Director Epperson to set the meetings at 3 p.m. from this day forward: motion withdrawn by Director Krippner.

A motion was made by Director Epperson seconded by Director Rice to approve to continue to meet at 3 p.m. The motion was approved by the following vote:

AYES: Directors Diep, Epperson, Rice and Neugebauer

ABSTAIN: Director Krippner

President Neugebauer asked Legal Counsel Tom Nixon to explain what it means to abstain.

Legal Counsel Tom Nixon stated that to abstain is an agreement to allow the other members to make the decision.

The Board directed staff to have a press release stating that the meetings will continue at 3:00 p.m.

D. Sub-Committee for this year's Calendar

Discussion ensued.

A motion was made by Director Diep seconded by Director Epperson to approve to have Director Rice and Director Epperson serve as the 2011 Calendar Committee. The motion was approved by the following vote:

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

President Neugebauer reported that she received a call from a resident and that the resident could have only gotten her phone number from the Calendar.

President Neugebauer expressed concern that there is no Grant money to help pay for the calendar.

GM Nordbak explained that it was a State funded source and all money was pulled, OCSD also did not get any Grant money.

Director Rice suggested asking Rainbow Disposal for money.

E. Consider Implementation of authorized Residential User Fee Rates for FY 2010-2011 for Sanitary Sewer and Solid Waste Services / Notice of Public Hearing.

President Neugebauer asked "How did this get on this Agenda?"

Legal Counsel Tom Nixon explained that it arose out of prior discussions on the process for implementing the rates that are authorized under Ordinance 64, and as a result, if there was to be an implementation of those rates, because of notice requirements, this was the time to put this before the Board.

President Neugebauer finds it premature to make this decision prior to the Budget Committee Hearing.

Legal Counsel Tom Nixon explained that the time line is a 30 day written notice that is to be provided to the rate payers in advance of the implementation of whatever rate is authorized.

GM Nordbak asked about the notice in the paper and the individual mailing.

Legal Counsel Tom Nixon stated that the District will have to do a notice in the paper, regardless of a rate increase or not, in order to place the fee on the tax roll: it has always been done on an annual basis and will need to be done this year in order to provide the information to the Assessor's office for collection on the tax roll. The 30 day notice to the rate payers is what is being required pursuant to the recently authorized legislation by the State on Proposition 218 increases that are implemented over time.

Director Rice confirmed that a notice is to go to all of the people that the rate increase affects.

Legal Counsel Tom Nixon agreed that if there is an increase, the notice is to go the billing addresses of all of the rate payers.

President Neugebauer expressed that she is not convinced at this point in time that she would support a rate increase. She would need to take a closer look at the budget and

what the total revenues have been for this year. Since the District has not received the final installment of the property tax and fees, and for herself she cannot make a decision until she has that information.

Director Krippner commented on the suggested rate increase and how it is too high.

Director Rice agreed, but that is because the Board has not approved increases in smaller increments yearly, now it is too high.

Discussion ensued.

Public Speaker and resident of MCSD, Mr. Phil Anthony discussed a study done 3 years ago and how MCSD has not increased the user fees regularly as it was understood, and suggested the District vote for residential sewer user fee increase this year, otherwise it will cost the District even more next year to go through the Proposition 218 process again.

Public Speaker and resident of MCSD, BJ Savage reminded the Board that no one is asking the Board to make a definitive decision whether to raise the rates or not, but to consider scheduling the 30 day notice today. Next week when the decision is to not make a rate increase, then don't do the 30 day notice, but don't pass up the opportunity to be prepared if there is a rate increase. He gave history of examples of when it was cost effective to be prepared.

President Neugebauer made her point that MCSD does have two years of operating expenses by Standard and Poor, and she sees no advantage to act on this today and no disadvantage to continue this item until next week. She referred to the CASA Spring Conference in Newport Beach, two attorneys disagreed whether or not that the Proposition 218 does expire and this implementation can wait.

President Neugebauer suggested another rate study; last rate study is five years old.

A motion was made by Director Rice seconded by Director Krippner to approve to consider implementation of authorized Residential User Fee Rates for FY 2010-2011 for Sanitary Sewer and Solid Waste Services/Notice of Public Hearing on June 22, 2010. The motion was approved by the following vote:

President Neugebauer expressed her concern for generating money from this source; there are alternatives that are in place 1) increased commercial business sewer rates 2) increase in sewer connection fees.

Discussion ensued.

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

President Neugebauer thanked the public for their input.

President Neugebauer announced that she is inviting the news media next meeting.

F. District Website

GM Nordbak explained his research created a lot of questions and more information is needed from the Board.

Discussion ensued.

A motion was made by Director Krippner seconded by President Neugebauer to approve to remove the website until further notice. The motion was approved by the following vote:

AYES: Directors Epperson, Krippner, and Neugebauer

ABSTAIN: Directors Diep and Rice

BOARD CONCERNS/COMMENTS

President Neugebauer asked what happened to the project for the wall hanging "In God We Trust".

GM Nordbak explained that he is pending quotes and will bring to the Board at the second meeting in June.

Discussion ensued.

GM/STAFF CONCERNS/COMMENTS

GM Nordbak summarized the Board's yellow folder: invitation to CASA day, June 4, 2010: Invitation to sponsor the new Chamber of Commerce building: Rainbow Disposal quarterly report: City of Westminster "Over the Top" quarterly report: Invitation to sponsor the All American Football.

AGM Robbins reported that he is participating in the Orange County Golden Guardian Drill on May 19, 2010.

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 4:46 p.m. to 10:00 a.m. on May 25, 2010, Budget meeting.

Al P. Krippner, Secretary