

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

October 19, 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, October 19, 2010 at 3:00 p.m.

BOARD MEMBERS PRESENT:

Tyler Diep (arrived at 3:14P.M.)
Grace P. Epperson
Joy L. Neugebauer
Margie L. Rice
Al P. Krippner

OTHERS AT MEETING:

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

PLEDGE AND INVOCATION

Director Epperson led the Pledge of Allegiance. Director Rice gave the Invocation.

APPROVAL OF THE MINUTES OF THE MEETING OF OCTOBER 5, 2010

A motion was made by Director Rice, seconded by Director Krippner to approve the Minutes of the Meeting of October 5, 2010. The motion was approved by the following vote:

AYES: Directors Epperson, Krippner, Neugebauer, and Rice.
NOES: None

APPROVAL OF THE MINUTES OF THE MEETING OF OCTOBER 12, 2010

A motion was made by Director Rice, seconded by Director Epperson to approve the Minutes of the Meeting of October 12, 2010. The motion was approved by the following vote:

AYES: Directors Epperson, Krippner, Neugebauer, and Rice.
 NOES: None

PUBLIC COMMENTS

None

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$ 246,260.83

#	CK #	CK AMOUNT	VENDOR
1	4017	58.73	Advanced Gas - Cylinder Rental for September 2010
2	4018	56.00	Advanced Workplace Strategies - Random Drug Testing (RG)
3	4019	74.22	Alamitos Auto Parts - Restock Headlight
4	4020	1,631.21	Bodyworks - Restock Parts
5	4021	2,910.87	California Suspension - T-55 and T-53 Replace Suspension
6	4022	5,366.32	CalPERS - Retirement for Service Period 10-2010-3
7	4023	982.56	Computer Research Center - Maintenance & Support for November 2010
8	4024	7,913.25	CR Transfer, Inc. - Tonnage for September 2010
9	4025	2,253.15	Daniels Tire Services - Restock Tires and Replace T-56, T-54
10	4026	523.49	Fleet Services - Restock Parts in Shop, Filter Wrench, Fitting Hoses'
11	4027	289.70	G & K Services - Uniform Rental Services for September 2010
12	4028	55.85	Granger - Restock Gloves, and PVC Piping
13	4029	8,651.19	Haaker Equipment - M-63 Repair Front End Hose Reel
14	4030	181.71	HillCo - Restock Nuts and Bolts
15	4031	4,182.51	Hydraforce - Complete Packers Paddle Kit for T-53
16	4032	1,682.25	Interstate Billing Service - Replace Front Dumper on T-56
17	4033	6.46	Krippner, Allan - Mileage Reimbursement for September 2010
18	4034	105.00	Memorial Prompt Care - Random Drug & Alcohol (DH, RM, RG)
19	4035	3,240.51	OCSA - Permit Fees for September 2010
20	4036	42.57	Petty Cash- Ken Robbins - Passport Picture for Notary Class, Laminated Pouches for Emergency Card
21			(DG) Binder Packets, Postage for CSDA Award, C&C Cap for Sewer Department, Tabs for Binders (JS)
22	4037	119,083.82	Rainbow Recycling - Tonnage Fees September 2010
23	4038	728.63	TSP Printing - Vehicle Inspection Books (Refuse)
24	4039	96.66	Tyler Diep - Mileage & Travel Expense Reimbursement for September 2010
25	4040	6.00	Underground Service Alert - September 2010 Services

26	4041	3,241.90	Woodruff, Spradlin & Smart - Legal Services for July 2010
27			
28		163,364.56	SUBTOTAL
29			
30			ADD HANDCUT CHECKS:
31	4005	140.70	Joy Neugebauer - Insurance Reimbursement October 2010
32	4006	635.71	AT&T Mobility - (714) 310-2313 (KR) / 310-4406 (AC) / 310-8653 (NC)
33			310-8654 (Sewer Department) / 310-9004 (Emergency Phone)/
34			325-3035 (DH)/325-3606 (DG)/ 350-0402 (JS) 917-7887 August 2010
35	4007	83.99	DirecTV - Monthly Service September 2010
36	4008	100.00	Ron Ruano -Deposit for Mariachi Band for Founder's Day Parade
37	CK #	CK AMOUNT	VENDOR
38			
39	4009	1,776.40	US Bank - (NC) - Parts for Refuse Trucks, Parts for Shop, Replace Light Bulb's Drivers Room & Shop
40			Seminar K. Robbins, Seminar N. Castro, Alignment & Balance M-2 District Van
41			Supplies (AC) - Sewer Maintenance, Sewer Supplies, Operating Supplies
42			Returned Vinyl Tubing, Trash bags, Utility Knives, Trimmer, Sewer Yard Repair, Repair to Garage
43			Restock Operating Supplies for Yard (GN) - Flowers for Al Krippner, Water Filter Services
44			(KR) - Board Meeting Food & Refreshments, Office Supplies (RH) - Notary Class for D. Gerardo
45			Binding of Budget Document
46	4010	492.14	Verizon Business - Internet Connection for Scada System October 2010
47	4011	17,177.00	Zenith Insurance Company - Policy Premium October 01, 2010 thru October 01, 2011
48	4012	462.09	City of Westminster Water Dept. - District Office, Wash Rack, and Maintenance 08/11-10/05/2010
49	4013	218.43	Office Max - Office Supplies
50	4014	2,751.84	The Standard Dental Insurance - Premiums for November 2010
51	4015	1,290.00	Terrastar Media - Midway City Sanitary Website Designer Final Payment
52	4016	37.45	Verizon - Internet Access District Offices October 2010
53			
54		188,530.31	SUBTOTAL PLUS HANDCUTS
55			
56		56,141.60	Payroll Date 10/05/10 Staff (Checks # 14839-14848 Tax & Direct Deposits)
57		1,588.92	Payroll Date 10/05/10 Nationwide Deferred Compensation Contributions
58			
59		246,260.83	TOTAL EXPENDITURES W/PAYROLL

A motion was made by Director Epperson, seconded by Director Krippner to approve the expenditures in the amount of \$ 246,260.83. The motion was approved by the following vote:

AYES: Directors Epperson, Krippner, Neugebauer, and Rice.
NOES: None

REPORTS

GM Nordbak informed the Board that Director Diep just sent him a message saying that he was going to be late due to the rain and traffic.

REPORT OF PRESIDENT

President Neugebauer received the Compilation Report on the Special Districts Financial Transactions Report from Leaf & Cole and copies were provided to the rest of the Board and Staff. According to the letter, the completed output file has been electronically transmitted to the State Controller's Office. After the audited financial statements have been approved by the Board of Directors, they will forward a copy to the State Controller's office. Staff will contact Leaf & Cole to find out when the independent audit will be presented to the Board. The Board will be notified of the response at the next meeting.

REPORT OF GENERAL MANAGER

GM Nordbak reminded the Board that the Founder's Day Parade is this Saturday, October 23. Everyone attending needs to meet there between 8:30 A.M. and 8:45 A.M. The Mariachi Band has been sent a deposit and will be there as well. President Neugebauer asked if the truck tailgate could be modified to make it easier to access for safety reasons since the elder member of the Mariachi Band had trouble getting aboard last year. GM Nordbak said they would add something that you could hold onto as the lift gate was being operated and assured President Neugebauer they would make it as safe to access as possible.

REPORT FROM ORANGE COUNTY SANITATION DISTRICT MEETING (OCSD)

The Orange County Sanitation District met on Wednesday, October 6. They are adopting the OCSD procedures for implementing the California Environmental Quality Act. They adopted a new resolution and repealed the former one.

Nick Arhontes of OCSD approached President Neugebauer after the meeting regarding the delivery of the odor control chemicals. He told her that his staff is working on the entrance after-hours problem. He also stated that he would like to come to the District offices sometime soon to meet the General Manager.

There is a workshop tomorrow, Wednesday, October 20, to update the strategic plan for OCSD.

Director Diep arrived at 3:14 P.M. to the meeting. President Neugebauer reminded him of the Founder's Day Parade.

CONSENT CALENDAR

A. Investment Report for September 2010

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

AYES: Directors Diep, Epperson, Krippner, Rice and Neugebauer
NOES: None

OLD BUSINESS

A. Review request of General Manager Nordbak to receive 40 hours of vacation pay in lieu of time off.

It was decided that the Board would address this item after the Closed Session.

A motion was made by Director Krippner, seconded by Director Epperson to continue this Item to after the Closed Session. The motion was approved by the following vote:

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

NEW BUSINESS

A. Assistant General Manager's Employment Agreement.

As requested by the Board, General Counsel Tom Nixon prepared the Agenda Report, and was asked to outline the changes.

President Neugebauer asked him to explain the terminology "classified" versus "unclassified". General Counsel Tom Nixon explained that classified employees are represented, unclassified employees are unrepresented.

A motion was made by Director Rice, seconded by Director Epperson to approve the final draft of Assistant General Manager Ken Robbins' Employment Agreement. The motion was approved by the following vote:

AYES: Directors Diep, Epperson, Neugebauer, and Rice
NOES: None
ABSTAIN: Director Krippner

- B. Confirm attendance to the annual Chamber Holiday Luncheon on Thursday, November 18, 2010.

After a motion was made to approve attendance to this event President Neugebauer confirmed her attendance and let the Board know that she would be providing a door prize to be donated on behalf of the District. Directors Epperson and Krippner also said that they would be attending, and Director Diep said that he will not be able to go. Director Rice said that she will be attending, but as the mayor of the City of Westminster.

A motion was made by Director Rice, seconded by Director Krippner to approve for the Board and Management to attend the Chamber Holiday Luncheon. The motion was approved by the following vote:

AYES: Directors Diep, Epperson, Krippner, Neugebauer, and Rice
NOES: None

- C. Discuss and award a contract with CleanFleet LLC for air quality compliance study.

This study will provide the Directors compliance information needed for the District's diesel vehicles. The cost of the study is \$4,860.00 and is budgeted.

A motion was made by Director Diep, seconded by Director Epperson to approve the contract with CleanFleet LLC for an air quality compliance study.

AYES: Directors Diep, Epperson, Krippner, Neugebauer, and Rice
NOES: None

BOARD CONCERNS/COMMENTS

Director Rice asked that staff request a Bio for the web site for her from her secretary, Johanna. Director Diep also made the same request.

Director Krippner asked that staff make the same request from his wife, Loretta.

GENERAL COUNSEL CONCERNS/COMMENTS

None

GM/STAFF CONCERNS/COMMENTS

GM Nordbak reported the District received a reimbursement check in the amount of \$1,682.25 for the damaged bumper on the truck involved in an accident on September 28, 2010. Allstate is the insurer of Mr. Tuyet Ngo, who was responsible for the accident.

Toshia Kudlak, District employee, is being released to return to work on Wednesday October 20, 2010 after having surgery last Friday, October 15. The District sent flowers to Toshia on behalf of the Board, Staff and Employees.

GM Nordbak let the Board know that Zenith Insurance will be at the District offices at 10:30 A.M. on Wednesday, October 20, 2010 to perform a payroll audit for our Worker's Compensation policy.

AGM Robbins thanked the Board for renewing his contract.

CLOSED SESSION

President Neugebauer convened the meeting to closed session at 3:31 P.M. pursuant to subdivision (b) Government Code Section 54957.6.

CLOSED SESSION: During the course of conducting the business set forth on this agenda as a regular meeting of the Board, the Chair may convene the Board in closed session to consider matters of pending real estate negotiations, pending or potential litigation, or personnel matters, pursuant to Government Code Sections 54956.8, 54956.9, 54957 or 54957.6, as noted.

Reports relating to (a) purchase and sale of property; (b) matters of pending or potential litigation; (c) employment actions or negotiations with employee representatives; or which are exempt from public disclosure under the California Public Records Act, may be reviewed by the Board during a permitted closed session and are not available for public inspection. At such time as the Board takes final action on any of these subjects, the minutes will reflect all required disclosures of information.

- A. CONFERENCE WITH LABOR NEGOTIATORS (Govt. Code 54957.6)
Agency Designated Representative: Thomas F. Nixon
Unrepresented Employee: General Manager Greg Nordbak

- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: Claim of Jacob Watson
Agency Designated Representative: Thomas F. Nixon, General Manager Greg Nordbak, and Assistant General Manager Ken Robbins

President Neugebauer reconvened the meeting to open session at 4:00 P.M.

General Counsel Tom Nixon reported that on Item 13B there was no reportable action, and 13A has been deferred to a later unspecified date.

Agenda Item 8A regarding 40 hours of vacation for GM Nordbak was brought back for discussion since it was deferred to after the Closed Session.

President Neugebauer spoke against the disbursing of funds without a District policy in place, and asked that an Agenda Item be added to the next Board meeting in order to set a policy for management. She feels that there needs to be a policy before acting on this.

Director Rice stated that she felt that GM Nordbak had earned the 40 hours of vacation, that it was his money, and that he had a right to ask for it. She also stated that she would rather pay it now than have it accrue for payment at a later date.

A motion was made by Director Epperson, seconded by Director Rice to approve 40 hours of vacation pay for GM Nordbak in lieu of time off. The motion was approved by the following vote:

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

President Neugebauer stated again for the record that she feels that without a policy to guide this, that it is a very short sighted action by the Board. She requested that we have an Agenda Item to set a policy for salaried management regarding this issue.

Director Rice also stated again for the record that GM Nordbak had earned the two weeks, that he has a right to ask for it, and that it is up to the majority of the Board to decide.

Director Diep agreed with Director Rice and stated he also felt it should be up to the employee on using their vacation time and said it will not be available at a later date by using it now if needed in an emergency.

President Neugebauer stated that her objection is not to the General Manager receiving the vacation pay, but to disbursing it without a policy in place.

Director Krippner said that he feels this is all highly irregular, that the District should have all salaried employees be accountable of when they are in or away from the office, and asked if this was a performance evaluation.

Legal Counsel Tom Nixon let the Board know that if they would like to agendize this, they could.

GM Nordbak asked if there was a date certain that his review had been put off to.

President Neugebauer responded that there was not.

INFORMATIONAL ITEMS

None

ADJOURNMENT

President Neugebauer adjourned the meeting at 4:07 P.M.

Al P. Krippner, Secretary