

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

January 3, 2012

CALL TO ORDER

President Rice called the regular meeting of the Governing Board of the Midway City Sanitary District to order at 14451 Cedarwood Avenue, Westminster, California on Tuesday, January 3, 2012 at 4:02 P.M.

BOARD MEMBERS PRESENT:

Al P. Krippner
Joy L. Neugebauer
Frank Cobo
Margie L. Rice
Tyler Diep (absent)

OTHERS AT MEETING:

Ken Robbins, General Manager
Robert Housley, Finance/HR Director
Tom Nixon, District Counsel
Danielle Gerardo, Board Secretary

PLEDGE AND INVOCATION

Director Krippner led the Pledge of Allegiance. Director Neugebauer gave the Invocation.

APPROVAL OF THE MINUTES OF THE MEETING OF DECEMBER 20, 2011

A motion was made by Director Neugebauer, seconded by Director Cobo to approve the minutes of the meeting of December 20, 2011, with changes. The motion was approved by a 4-0 vote.

PUBLIC COMMENTS

None

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$ 321,620.41

#	CK #	CK AMOUNT	VENDOR
1			
2	5048	142.70	Neugebauer, Joy - Insurance Reimbursement for January 2012
3	5049	443.93	Bodyworks Equipment, Inc. - Loader Harness for T61
4	5050	23,698.02	CalPERS Retirement - Retirement Contributions for December 2011
5	5051	562.50	Country City Towing - Towing Services for T60 on Dec. 12, 2011 & T53 on Dec. 15, 2011
6	5052	297.78	G & K Services - Uniform Services for December 2011
7	5053	1,016.55	Konecranes, Inc. - Annual Maintenance for Crane & Hoist in Shop (Labor & Parts)
8	5054	2,475.00	Leaf & Cole, LLP - Audit Services for November 2011 (Final Payment)
9	5055	VOID	Printer Malfunction
10	5056	629.55	Parkhouse Tire, Inc. - (3) Recaps
11	5057	1,498.03	Reyes Alternators - (2) New Starters for T59 & T53, (2) Alternators & (1) Starter for Restock
12	5058	2,811.86	Rosemead Oil Products, Inc. - Betalube ATF (15gal) for T65, SAE 15W-40 CJ-4 (160gal) &
13			ATF C4 10W (55gal) for Restock.
14	5059	690.19	The Standard Life Insurance - Premium Coverage for January 2012
15	5060	1,429.11	Tarulli Tire, Inc. - Retreads (8), Tire Disposal (3)
16	5061	204.17	Tec of California, Inc. - (3) Cap Inlet Hoods for T53, T56 & Restock
17	5062	164,142.01	Bank of New York Mellon, The - Certificates of Participation Interest Payment for February 2012
18	5063	492.00	TM Services Company - Fire Extinguisher Annual Maintenance & Inspections (District Offices, Fleet & Shop)
19	5064	710.72	Top Mobile Vision - (2) 7 Inch Color LCD Monitors for T55 & Restock
20	5065	240.34	Union Bank (N. Castro) - Restock Kitchen/Cleaning Supplies (\$170.34), Renew Sam's Club
21			Membership for 2012 (\$70)
22	5066	4,240.00	Woodruff, Spradlin & Smart - Legal Services Rendered through November 2011
23			
24		205,724.46	SUBTOTAL
25			
26			ADD HANDCUT CHECKS:
27			
28	5040	300.00	Benjamin Studio - MCSD Board Member Portraits (MR, JN, FC, TD)
29	5041	4,991.41	Santa Ana Diesel - Engine Repair for T60
30	5042	300.00	Theresa Kasprzyk - Replacement Check, Vendor Information Changed (Business Name)
31	5043	98.57	AT&T - Brookhurst Lift Station Service for December 2011
32	5044	46,539.66	CalPERS Health Premium - Health Premium for January 2012
33	5045	80.00	City of Westminster - Hydrant Meter Usage for October & November 2011
34	5046	151.74	The Gas Company - District Offices and Maintenance Yard Fees for December 2011

35	5047	2,060.07	Southern California Edison - Archives & Parking Garage \$57.16, District Office \$444.66,
36			Maintenance Shop \$219.01, Brookhurst Lift Station \$162.23, Westminster Lift Station \$468.48,
37			Willow Lift Station \$237.07, Hammon Lift Station \$471.46
38	5067	695.76	Los Alamitos Auto Parts - Restock Hose Fittings (10), Fuel & Oil Filters (6), Heat Hoses (37ft), Mother's
39			Polish (2), Gaskets (2), Battery Cable for M7 (15ft).
40			
41		260,941.67	SUBTOTAL PLUS HANDCUTS
42			
43			Payroll
44		55,317.07	Payroll Date 12/27/11 Staff Chk # 15203-15208 Taxes & Direct Deposits
45		1,579.10	Payroll Date 12/27/11 Nationwide Deferred Compensation
46		3,518.61	Board of Director's Payroll for the Month of December 2011 Chk # 15210-15212
47		263.96	Board of Director's Nationwide Deferred Compensation for the Month of December 2011
48		321,620.41	TOTAL EXPENDITURES W/PAYROLL

A motion was made by Director Neugebauer, seconded by Director Cobo to approve the expenditures, as presented, in the amount of \$ 321,620.41. The motion was approved by a 4-0 vote.

REPORTS

Report of President

President Rice stated that she received a December 2011 issue of California Water Reporter from Argent and asked staff to make copies for the other Board members.

Report of General Manager

GM Robbins reported on the recent Supreme Court decision to eliminate Redevelopment Agencies (RDA's). Tax increments will still be taken until pre-existing obligations are paid off. When all of those are met, the rest will be paid on a proportional basis. Ninety (90) % of the District is in Westminster so the District may receive up to \$600,000 in property tax for that portion alone.

GM Robbins stated he has been in touch with Costa Mesa Sanitary District (CMSD) and that the joint meeting is still in the works but no dates have been set as of yet.

Report from Orange County Sanitation District Meeting (OCSD)

Director Neugebauer reported that the Board of Directors of OCSD met on Wednesday, December 21, 2011. There was discussion regarding the Garden Grove property (North County yard) that was declared surplus and put up for sale. The

property has been taken off the market and the Board approved and entered into a five (5) year lease which should bring in over one million dollars in income over that period.

Director Neugebauer also reported that all four Steve Anderson lift station pumps are working again.

Director Neugebauer reported that the Operations Committee will be dark for the month of January.

CONSENT CALENDAR

- A. Approval of the request of Solid Waste Employee Robert Mayfield to receive 40 hours of vacation pay in lieu of time off.
- B. Approval of the request of Sewer Maintenance Employee Alejandro Gonzalez to receive 40 hours of vacation pay in lieu of time off.
- C. Approval of the request of Sewer Maintenance Employee Cody Ranslem to receive 40 hours of vacation pay in lieu of time off.

A motion was made by Director Neugebauer, seconded by Director Cobo to approve the consent calendar, as presented. The motion was approved by a 4-0 vote.

OLD BUSINESS

None

NEW BUSINESS

- A. Consider Independent Auditor's Leaf & Cole, LLP Management Letter for Fiscal Year 2010-11 (July 1, 2010 through June 30, 2011)

A motion was made by Director Neugebauer, seconded by Director Cobo to receive and file the management letter received from Leaf & Cole. The motion was approved by a 4-0 vote.

- B. Agreement with Washington D.C. Lobbyist James McConnell

A motion was made by Director Neugebauer, seconded by Director Cobo to approve staff's recommendation to end the District's agreement with Washington lobbyist, James McConnell. The motion was approved by a 4-0 vote.

- C. Consider proceeding with the development of a five (5) year District Strategic Plan

A motion was made by Director Neugebauer, seconded by Director Cobo to have the first study session for the five (5) year District Strategic Plan at 4 P.M. on February 28, 2012 at the District office. The motion was approved by a 4-0 vote.

President Rice excused herself from the meeting for Agenda Item 9D due to a conflict of interest as she was the subject of the proposed appointment and President Pro Tem Cobo took over the meeting at this time.

D. Consider appointment of President Rice as the District's Representative to the California Association of Sanitation Agencies (CASA)

A motion was made by Director Neugebauer, seconded by Director Cobo to appoint MCSD's Director and President Rice as the District's representative to CASA. The motion was approved by a 3-0 vote.

President Rice returned to the meeting, thanked the other Directors and took over the meeting.

E. Consider purchasing miniature replica Midway City Sanitary District solid waste recycling carts for outreach purposes

After some discussion, the Board agreed that the miniature carts were cost prohibitive for the targeted age group at over \$2 each.

Director Krippner stated that he objects to the purchase of the miniature recycling carts.

No action was taken and staff was instructed to bring back more ideas to the next meeting for ways to utilize the grant funds specified for outreach purposes.

Director Neugebauer asked what the Board would be considering in closed session.

Legal Counsel Nixon reported that the District had a very serious incident last week with the pedestrian/trash truck collision on the 9000 block of Madison Avenue which occurred on the 29th of December 2011, and that is the item scheduled to be discussed during closed session.

Director Neugebauer stated that she wanted to discuss the articles that have recently been in the Orange County Register regarding Rainbow and CR&R. She reported that Midway City Sanitary District has been mentioned numerous times and she has concerns related to that. She stated that her concern is that if it continues and there is any litigation, Midway City will be involved in it, and she had questions on that matter.

Legal Counsel Nixon stated that with regard to that particular matter, as and far as he knows, and from everything he has read, there is no threat of litigation vis-a-vis Midway City Sanitary District. The litigation is between Rainbow and CR&R and as of today the litigation has been resolved.

President Rice stated that they purposefully did not bring Midway City Sanitary District into the lawsuit.

Director Neugebauer asked why this did not need to be discussed in closed session because if this ever goes to court, the evidence would need to be drawn from MCSD because they purportedly misappropriated funds that MCSD paid to Rainbow and there can't be any court proceedings without evidence coming from here on what moved to Rainbow to be misappropriated.

Legal Counsel Nixon stated that this item is not on the agenda and therefore, cannot be acted on at the present meeting, but that he, along with staff, could look at possibilities for closed session items and see if there is a category for this to be discussed at a future closed session.

Director Neugebauer stated that she would just ask her questions under Board Concerns because she couldn't see postponing the questions that she has.

Director Krippner stated that he had a comment regarding Legal Counsel's comments about the first subject, and in the interest of being transparent, the Board should at least announce what it is the Board is talking about. Legal Counsel Nixon further clarified the subject of the closed session.

GM Robbins stated that the name of the pedestrian involved in the incident was Betty Dietz.

CLOSED SESSION

President Rice convened the meeting to closed session at 4:51 P.M. pursuant to Government Code Sections 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 LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(b) (One potential case)

The Board returned to open session at approximately 5:02 P.M.

Legal Counsel Nixon stated that there was no reportable action as a result of the closed session.

BOARD CONCERNS/COMMENTS

Director Neugebauer voiced her concern regarding the recent litigation between Rainbow and CR&R that has been written about in the newspapers, and requested that MCSD consider having an audit performed on Rainbow Environmental. The other Directors indicated that they were of like mind.

President Rice asked if Director Neugebauer would like staff to be instructed to put it on the next agenda.

Director Neugebauer asked if any of the District's staff had any knowledge of the interaction and dissention between Rainbow and CR&R before it broke in the newspaper.

GM Robbins stated that he knew nothing of it until it was in the paper.

Director Neugebauer stated that it seemed to her, that CR&R would have had to have had some information to make the determination that they were not receiving their full share and that part of that information would have needed to be verified through our District.

GM Robbins stated that from what he read in the paper, they did an audit of their books and came up with that.

General Counsel stated that according to what he read in the paper, CR&R obtained all the information that they used through an audit of Rainbow's books. They had a special master that reviewed that information and then came up with the particular amount owed.

Director Neugebauer reminded the Board that the District just entered into another agreement with Rainbow and that the 6 million dollars owed by Rainbow to CR&R is good reason to audit them, although she stated that she is unsure how that would be accomplished.

Finance/HR Director Housley stated that this is something that has been discussed for some time and it is in the franchise agreement (with Rainbow) that the District has the authority to have an audit done.

Director Neugebauer stated that as far as the Grand Jury request that the District has just recently received, she would like an opportunity to review it before it is returned.

Legal Counsel Nixon assured the Board that Staff would be contacting each of them individually before returning the finished questionnaire to the Grand Jury.

Director Neugebauer suggested that the construction in Midway City be added to the website. The Board agreed and staff was instructed to add it to the home page. Director Krippner stated that he felt that the Board ought to make it very clear that they are all in favor of transparency and intend to respond openly regarding the questionnaire.

Director Neugebauer stated that she, along with the rest of the Board wanted to wish President Rice a very Happy Birthday.

GM/STAFF CONCERNS/COMMENTS

Finance Director Housley pointed out to the Board that they should have all received their new dental insurance packets with their identification cards attached.

GENERAL COUNSEL CONCERNS/COMMENTS

None

INFORMATIONAL ITEMS

None

ADJOURNMENT

President Rice adjourned the meeting at approximately 5:18 P.M.

Joy Neugebauer, Secretary