

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

**June 4, 2013**

**CALL TO ORDER**

President Cobo called the regular meeting of the Governing Board of the Midway City Sanitary District to order at 14451 Cedarwood Avenue, Westminster, California on Tuesday, June 4, 2013 at 4:00 P.M.

**BOARD MEMBERS PRESENT:**

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

**OTHERS AT MEETING:**

Ken Robbins, General Manager  
Robert Housley, Finance/HR Director  
Tom Nixon, District Counsel  
Danielle Gerardo, Board Secretary  
Ron Shenkman, Rainbow Env., Chairman Emeritus  
Jeff Snow, Rainbow Env., President  
Bruce Atwell, Rainbow Env., Board Member  
Dean Ruffridge, CR&R Env., Senior Vice President  
Joseph Larsen, Rutan & Tucker, Labor Counsel  
Bill Nelson, Member CSDA, Board of Directors

**PLEDGE AND INVOCATION**

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

**PUBLIC COMMENTS**

Mr. Bill Nelson, a Trustee with the Orange County Cemetery District, and a Director of the California Special Districts Association (CSDA), Region 6, is seeking re-election and asked the Board for their support. He explained that CSDA is divided into regions - Region 6 being made up of Orange, San Diego, Riverside and Imperial Counties, and each Region is represented by three Directors who serve for three year staggered terms. His term is up for reelection. Ballots will be going out on June 7 and will be due back to CSDA around

August 7, 2013. He requested that the Board put it on their next agenda and thanked the Board for their continued support.

## APPROVAL OF THE MINUTES OF THE MEETING OF MAY 28, 2013

A motion was made by Director Neugebauer, seconded by Director Diep to approve the minutes of the meeting of May 28, 2013, as amended. The motion was approved by a 4-1 vote, with Director Rice abstaining.

## APPROVAL OF EXPENDITURES

### A. Demands in the amount of \$ 114,483.36

#	CK #	Date	AMOUNT	VENDOR
1	6108	6/3	45.00	<b>Advanced Workplace Strategies</b> - Drug Screenings (SG)
2	6109	6/3	353.99	<b>Bodyworks</b> - (1) Wire Harness, (1) Chain-Cable Carrier for Restock
3	6110	6/3	172.80	<b>D J Printing</b> - Business Cards for District Board Members & Employees (JN, AK, JS, CE)
4	6111	6/3	38.85	<b>Huntington Beach Ford</b> - (3) Relays for M63
5	6112	6/3	371.21	<b>I D Industries</b> - (1) Grip Gear for Restock
6	6113	6/3	146.90	<b>Neugebauer, Joy</b> - Health Insurance Reimbursement for June 2013
7	6114	6/3	1,272.16	<b>Proforma Solutions</b> - (1,050) Coloring Books & (1,440) Crayons for Public Outreach
8	6115	6/3	6.95	<b>Robbins, Ken</b> - Reimbursement for Waste Expo New Orleans 05/19-05/22/2013
9	6116	6/3	233.22	<b>South Coast AQMD</b> -Hot Spots Program Fee for Hammon&Westminster Lift Stations July2012-June2013
10	6117	6/3	185.97	<b>TEC of California</b> - (6) Hose Clamps, (3) Hoses, (14) L.E.D. Lamps for Restock
11				
12			<b>2,827.05</b>	<b>SUBTOTAL</b>
13				
14				<b>ADD HANDCUT CHECKS:</b>
15	6103	5/29	166.11	<b>First Bankcard(NC)</b> -District Office Kitchen Supplies,Parking-Distracted Driving Policy Seminar04/25/13
16	6104	5/29	858.69	<b>Verizon California</b> - District Office Phones & Lift Stations for May 2013; \$424.00 District Office,
17				\$135.65 Willow Lift, \$149.52 Westminster Lift, \$149.52 Hammon Lift.
18	6105	6/3	46,773.77	<b>CalPERS Health Premium</b> - Healthcare Premium for June 2013
19	6106	6/3	3,569.81	<b>MetLife</b> - Monthly Dental Premium for June 2013
20	6107	6/3	729.45	<b>The Standard Life Insurance</b> - Premium Coverage for June 2013
21				
22			<b>54,924.88</b>	<b>SUBTOTAL PLUS HANDCUTS</b>
23				
24				<b>PAYROLL</b>
25		5/28	51,822.69	Payroll - Staff Check # 15493 - 15495 Taxes & Direct Deposits
26		5/28	1,213.00	Payroll - Nationwide Deferred Compensation (100% Paid By Employees)
27		5/28	125.00	Payroll - Nationwide Deferred Compensation (100% Paid By Employees)
28		5/31	5,930.99	Board of Director's Payroll for the Month of May 2013 Chk # 15497 - 15500
29		5/31	466.80	Board of Director's Nationwide Deferred Compensation for May 2013 (100% Paid By Directors)
30			<b>114,483.36</b>	<b>TOTAL EXPENDITURES W/PAYROLL</b>
31				
32				<b>BANK TRANSFERS</b>
33			1,240,000.00	Transfer Funds from Money Market to Checking Account

A motion was made by Director Neugebauer, seconded by Director Rice to approve the expenditures in the amount of \$114,483.36. The motion was approved by a 5-0 vote.

## **REPORTS**

### **Report of President**

President Cobo reported that, while attending the Independent Special District of Orange County (ISDOC), he was informed that Cheryl Brothers was elected to the Local Agency Formation Commission of Orange County (LAFCO) Board.

### **Report of General Manager**

GM Robbins reported that the Van Buren parallel sewer line is set to begin construction, either at the end of this week or early next week, at the latest. GM Robbins will be taking Lead Sewer Maintenance Worker/Construction Inspector Darrell Grimes and Director of Operations/Safety Nick Castro to the site to show them what to look for during an inspection. They will see an open trench and a full line segment being installed, so in the future they can cover for GM Robbins if necessary.

GM Robbins reported that the Proposition 1 securitization loan to the State of California in 2010 has a total interest accrued of \$7,565 for a total due to the District of \$121,354, and that the funds should be received prior to June 30, 2013.

### **Report from Orange County Sanitation District Meeting (OCSD)**

Director Diep reported that there would be an Administrative Committee meeting next Wednesday, June 12, 2013 and that the Staff and Chair called a special meeting that will immediately follow in order to continue to discuss labor negotiations.

### **Report from Rainbow Environmental – Financial Report & Update on Commercial Recycling Program**

Jeff Snow was joined by Ron Shenkman and Bruce Atwell, as well as Rainbow's partner, Dean Ruffridge from CR&R. He stated that he hoped to focus on the mandatory commercial recycling that the Board approved last February 2013, but also wanted to bring the Board up to date on the changes within the organization, as well as present the quarterly audit.

The Board at Rainbow Environmental for the last ten years has been made up of Ron Shenkman, Jerry Moffatt, and Bruce Shuman. Ron Shenkman, now Chairman Emeritus, is transitioning into retirement and is being replaced by three people, to make a Board of five instead of three. Jerry Moffatt, Chairman, Bruce Shuman, CEO, and Jeff Snow, President are internal while Greg Range and Bruce Atwell are external.

He stated that they are committed to excellent service to the Midway City Sanitary District and focused on being the best in service and diversion.

The Board was provided with a quarterly report. Jeff Snow reported that during their normal internal audit procedures, as well as the audit performed by the District, an error was found due to the conversion in accounting software in 2010, and a coding error. Immediately upon finding the error, calculations were made, interest was assessed and full remittance was made to Finance/HR Director Housley. He offered his honest and professional apology to the Board, and guaranteed that it would not happen again.

Director Neugebauer asked Jeff Snow who the Board should communicate with, if needed.

Jeff Snow stated that anyone of the Rainbow Board members could assist them, but that he would be their primary contact.

Jeff Snow then gave a comprehensive presentation in order to update the Board on the mandatory commercial recycling program, and the new source separating options. The new food waste program that Rainbow now offers as an option is helping to mitigate the methane emission problem. Theresa James, the Midway City Environmental Sustainability Representative, calls on businesses and helps them to decide which method of recycling is the best option for them. Since February of 2013, when the MCSD Board reviewed and approved the program, of the 1,146 current commercial accounts, 572 were eligible for the program and that number is growing. Of the eligible accounts, to date, 127 consultations have occurred. Large self haulers such as Target, Walmart and Albertsons are legally recycling within their own companies, which is to the overall benefit of the planet, but if the District could obtain the numbers, it would greatly help the District's overall commercial recycling numbers. 51% of the accounts consulted reported scavenging within the District which is also lowering the numbers reported. In Westminster alone, food waste recycling is near ¼ million pounds, which is being turned into organic potting soil and diverted from the landfill. Rick Crandall, Director of Sustainability for Supervalu (who is the parent of Albertson's) would like to meet with the MCSD Board, do a press release and photo opportunity at the local Westminster Albertson's, at the Board's convenience in order to promote the program due to its uniqueness. The program may be available for California Association of Sanitation Agencies (CASA) or California Special Districts Association (CSDA) awards or recognition as well.

Director Neugebauer suggested to the Board that it might be wise to put some of the information provided by Rainbow on next year's calendar.

Ron Shenkman stated that he would not be attending many future meetings, but wanted to point out that in all endeavors, there are risks, and that the program is not perfect and will probably develop issues, such as the contamination issue they are

presently dealing with. He encouraged the District to monitor the issues and stated that Rainbow would be diligent in its help as well.

Director Neugebauer stated her appreciation of the due diligence from Rainbow regarding the accounting mistake that was made and the manner in which it was reimbursed and explained.

### **Report from Independent Special Districts of Orange County (ISDOC) Quarterly Meeting**

Director Neugebauer reported that she enjoyed Nick Berardino, the union speaker from the Orange County Employees Association and General Manager of The Liberal OC.

President Cobo and Director Krippner also enjoyed the speaker.

Director Diep, GM Robbins and Finance/HR Director Housley also attended the event.

### **CONSENT CALENDAR**

A. Approval to Purchase Rebuilt Transmission for T57, District Side Loader Solid Waste Truck

A motion was made by Director Diep, seconded by Director Rice to approve the consent calendar. The motion was approved by a 5-0 vote.

### **OLD BUSINESS**

A. RESOLUTION NO. 2013-08

*(Roll Call Vote)*

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, MODIFYING THE POLICIES AND PROCEDURES OF THE BOARD OF DIRECTORS

A motion was made by Director Rice, seconded by Director Neugebauer to adopt Resolution No. 2013-08, as amended. The motion was approved by a 4-1 roll call vote, with Director Krippner voting no.

B. Proposed Amendments to Independent Special Districts of Orange County (ISDOC) Bylaws

A motion was made by Director Diep, seconded by Director Rice to table this item and direct staff to communicate the Board's opposition to Section "H". The motion was approved by a 5-0 vote.

## **NEW BUSINESS**

A. Consider Scheduling the Third Public Budget Workshop/Study Session for Fiscal Year 2013-2014 (July 1, 2013 through June 30, 2014)

A motion was made by Director Neugebauer, seconded by Director Rice to schedule the budget workshop for Thursday, June 13, 2013 at 4 P.M. at the District office. The motion was approved by a 5-0 vote.

Director Diep left the meeting at 5:11 P.M.

B. RESOLUTION NO. 2013-12

*(Roll Call Vote)*

A RESOLUTION NO. 2013-12 OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, ESTABLISHING THE APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2013-2014 FOR THE DISTRICT IN ACCORDANCE WITH THE PROVISIONS OF DIVISION 9 OF TITLE 1 OF THE CALIFORNIA GOVERNMENT CODE

A motion was made by Director Rice, seconded by Director Neugebauer to adopt Resolution No. 2013-12. The motion was approved by a 4-0-1 roll call vote, with Director Diep absent.

C. RESOLUTION NO. 2013-13

*(Roll Call Vote)*

A RESOLUTION NO. 2013-13 OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, ESTABLISHING A POLICY APPLICABLE TO DISTRICT DEPOSITS AND INVESTED FUNDS

A motion was made by Director Neugebauer, seconded by Director Rice to adopt Resolution No. 2013-13 and waive further reading. The motion was approved by a 4-0-1 roll call vote, with Director Diep absent.

Director Krippner left the meeting at 5:19 P.M.

D. RESOLUTION NO. 2013-14

*(Roll Call Vote)*

A RESOLUTION NO. 2013-14 OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, APPROVING THE ANNUAL STATEMENT OF INVESTMENT POLICY FOR FISCAL YEAR 2013-2014 (JULY 1, 2013 THROUGH JUNE 30, 2014)

A motion was made by Director Neugebauer, seconded by Director Rice to adopt Resolution No, 2013-14. The motion was approved by a 3-0-2 roll call vote, with Directors Diep and Krippner absent.

E. Approval of Amendment No. 1 to Construction Agreement with the Orange County Flood Control District (OCFCD) for the Relocation of the Midway City Sanitary District (MCSD) Sewer Siphon at Newland Avenue and Oberlin Street

A motion was made by Director Rice, seconded by Director Neugebauer to approve the amendment. The motion was approved by a 3-0-2 vote, with Directors Diep and Krippner absent.

F. Approve Opposition Letter to Assembly Bill 1333 (Hernandez) With Regard to Local Government, Contracts

A motion was made by Director Neugebauer, seconded by Director Rice to approve the letter of opposition to AB1333. The motion was approved by a 3-0-2 vote, with Directors Diep and Krippner absent.

G. Approval of Agreement for Legal Services Rate Adjustment

A motion was made by Director Rice, but died for lack of a second. Director Neugebauer and President Cobo suggested that this item be postponed until later in the meeting when a full Board is present.

## **INFORMATIONAL ITEMS**

None

Director Krippner returned to the meeting at 5:24 P.M.

## **BOARD CONCERNS/COMMENTS**

Director Rice stated that she enjoyed being able to see the CNG trucks firsthand at the Waste Expo in New Orleans, and that she brought a lot of information back to share with Board members and staff who did not attend the event.

Director Neugebauer suggested that staff update the information on the District website by removing the District's facility improvement project and adding the Van Buren project that the Board just voted on.

## **GM/STAFF CONCERNS/COMMENTS**

GM Robbins stated that District staff does go out on calls regarding issues such as contamination which Ron Shenkman brought up. The District makes numerous attempts to educate the public on the proper methods of recycling by informing all callers to the

District office, going out in person when necessary, red tagging wrongly used containers, and putting out information in the yearly calendar and newsletters.

GM Robbins stated that the Commercial Recycling project has a 1% gap, with the District at 49%, and we are working hard to bridge that gap.

Jeff Snow stated that once the District obtained the numbers from the self haulers like Walmart, those numbers would help the District to do just that.

GM Robbins asked Rainbow to please give him notice the next time Rainbow plans to do a waste characterization study as he would like to be present.

Director Rice asked that the next time she has a meeting with Rainbow and they plan to have the County present, she would like to be informed in advance.

Director Neugebauer stated that in this week's newsletter, in the sewer crew section, GM Robbins did not give the details regarding the area of the City that they were working on, and could he please go back to his past method since it gave a clearer picture of the area of concentration.

Director Rice stated that a woman came up to her in the market and stated that she sent a letter to the District asking about the street sweeping and cars parked on the street. GM Robbins stated that the District did receive the letter, but there was nothing the District could do besides forward it to the City Corporate Yard.

## **GENERAL COUNSEL CONCERNS/COMMENTS**

General Counsel had no comments.

President Cobo called a recess of the meeting at 5:43 P.M.

President Cobo reconvened the meeting at 5:48 P.M.

Director Diep returned to the meeting at 5:48 P.M.

### **G. Approval of Agreement for Legal Services Rate Adjustment**

A motion was made by Director Rice, seconded by Director Diep to approve the agreement for legal services. The motion was approved by a 4-1 vote, with Director Krippner voting no.

Director Neugebauer stated that she felt that at some time, the Board as a whole should review the tasks that are being assigned to General Counsel on a regular basis.



President Cobo thanked General Counsel for his service, expertise, and his advice to the Board.

General Counsel Nixon thanked President Cobo, the Board and Staff.

President Cobo convened the meeting to a closed session at 5:52 P.M. pursuant to Government Code Section 54957.6.

## **CLOSED SESSION**

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 (Government Code Section 54957.6) Agency Designated Representatives: General Manager Robbins, Finance/HR Director Housley and Labor Counsel Joseph Larson, Employee Organization: American Federation of State, County and Municipal Employees, LOCAL 1734-01

B. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6) Agency Designated Representative: Thomas F. Nixon, Unrepresented Employee: General Manager

Director Krippner left the closed session portion of the meeting at 5:55 P.M. and returned at 6:38 P.M.

President Cobo recessed the closed session and resumed the open session meeting as Director Krippner attempted to record the closed session.

General Counsel advised that the closed session should not be recorded.

Director Krippner stated that he was previously advised that he could tape the closed session portions of meetings.

President Cobo stated that while in meetings, he should be in the meeting and not out in the hall.

Director Krippner stated that Director Diep was able to leave the meeting.

President Cobo stated that Director Diep gave him a note saying that he needed to leave the meeting for approximately ten minutes, but would be returning.

Director Krippner stated that he did not want to argue with someone who is not an expert regarding the Brown Act.

President Cobo stated that Director Krippner should have been physically present - helping the Board to make decisions instead of recording the meeting.

Director Krippner stated that he was acting on the District's General Counsel's advice and that he would not deny that.

Director Rice stated that General Counsel has since reviewed it since she argued the point.

Director Krippner stated that it was never discussed.

Director Krippner asked General Counsel Nixon if he could tape the closed session.

General Counsel Nixon stated that there should be no taping during closed session without Board direction to do so.

Director Neugebauer asked General Counsel what recourse the Board has in order to control and conduct an orderly meeting when there is one Director who persists in wanting to tape closed sessions. She stated that the Board cannot continue to impede the progress of the District.

Director Krippner stated, "Go to the State".

General Counsel stated that now that Director Krippner has received advice that it is not legal to record closed sessions, he will no longer attempt to do so.

Director Neugebauer asked, "Beyond that what recourse do we have?"

General Counsel stated that he would look at options for the Board at that point.

Director Neugebauer stated that if the Board feels that they need a resolution to this or continue to walk away from their elected responsibilities because of a tape recorder.

General Counsel stated that he agreed completely.

Director Rice stated, "Take it to the State".

President Cobo attempted to continue the meeting and go back into closed session to conclude discussion of the first item on that portion of the agenda.

President Cobo called a recess to the closed session due to continued taping by Director Krippner.

President Cobo reconvened the open session meeting at 6:43 P.M.

General Counsel Nixon stated that there was no reportable action taken due to the closed session.

## **ADJOURNMENT**

President Cobo adjourned the meeting to Thursday, June 13, 2013 at 4 P.M. at the District office at approximately 6:51 P.M.

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Margie L. Rice, Secretary