

**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**

July 2, 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, July 2, 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
Tom Nixon, District Counsel
Joseph Larsen, Rutan & Tucker, Labor Counsel
Danielle Gerardo, Board Secretary

PLEDGE AND INVOCATION

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

PUBLIC COMMENTS

None

APPROVAL OF THE MINUTES OF THE BUDGET MEETING OF JUNE 13, 2013

A motion was made by Director Rice, seconded by Director Neugebauer to approve the minutes of the meeting of June 13, 2013. The motion was approved by a 5-0 vote.

APPROVAL OF THE MINUTES OF THE MEETING OF JUNE 18, 2013

A motion was made by Director Neugebauer, seconded by Director Rice to approve the minutes of the meeting of June 18, 2013, with a change. The motion was approved by a 5-0 vote.

APPROVAL OF THE MINUTES OF THE ADJOURNED MEETING OF JUNE 25, 2013

A motion was made by Director Neugebauer, seconded by Director Diep to approve the minutes of the meeting of June 25, 2013, with a change. The motion was approved by a 5-0 vote.

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$ 965,945.69

#	CK #	Date	AMOUNT	VENDOR
1	6154	7/1	190.22	Advanced Gas Products -(7.5)Gallons of Liquefied Propane&(1)Cylinder of Compressed Oxygen for Restock
2	6155	7/1	1,355.76	Computer Research Center - Maintenance & Support for July 2013, Backup for Dossier Software
3	6156	7/1	1,378.56	Daniel's Tire Service - (6) Recaps & (7) Repaired Tires for Restock
4	6157	7/1	40.00	David Hernandez - DMV Drivers License Renewal for 2013
5	6158	7/1	274.96	G & K Services - Uniform Services for June 2013
6	6159	7/1	841.34	Los Alamitos Napa Auto Parts - (4) Exhaust Clamps & (3) Sensors for Restock; (2) Batteries for M64
7	6160	7/1	700.00	Maxx Air - Filter Cleaning for T52 (Twice)
8	6161	7/1	105.00	Memorial Care Medical - Drug Screenings (SG, MH)
9	6162	7/1	146.90	Neugebauer, Joy - Health Insurance Reimbursement for July 2013
10	6163	7/1	125.76	Petty Cash (Ken Robbins) -Donuts for Safety Meeting 3/13[\$14.98];Key for T55[\$4.00];I.D. Tags for Knox Box
11				(Per Fire Inspection)[\$4.19];Donuts for Safety Meeting 4/10[\$7.49];Notarized Documents[\$20.00];Donuts
12				for Budget Meeting 4/18 [\$7.49]; Battery Boxes for Control Arm [\$67.61].
13	6164	7/1	1,668.15	Powertrain Industries - Labor & Parts to Repair T57
14	6165	7/1	367.10	Reyes Alternators - (2) Alternators for Restock
15	6166	7/1	437.00	Rutan & Tucker, LLP - Legal Services for May 2013
16	6167	7/1	510.00	SARBS-CWEA - 23rd Collections Training Seminar 2013 (NC, DG, AG, RG, MJ, CR)
17	6168	7/1	2,442.58	Tec of California - (4) Brakes, (4) Drums for Restock; (1) Reinforced Cross Member for T55; (1) Exhaust Pipe
18				for T62.
19	6169	7/1	836,983.76	The Bank of New York Mellon - Semi-Annual COP Principle & Interest Payment
20	6170	7/1	77.62	Westminster Herald - Public Notice Publications for 06/06 & 06/13
21	6171	7/1	4,716.00	Woodruff, Spradlin & Smart - Legal Services for May 2013
22				
23			852,360.71	SUBTOTAL
24				
25				ADD HANDCUT CHECKS:
26	6146	6/19	70.33	The Gas Company - District Office & Maintenance Yard Fees for May 2013
27	6147	6/19	463.20	Verizon Business - Internet Connection for SCADA System for May 2013

28	6148	6/25	117.73	AT&T - Brookhurst Lift Station Service for June 2013
29	6149	6/25	2,644.38	Southern California Edison - Archives & Parking Garage \$, District Office \$625.71,
30				Maintenance Shop \$218.07, Brookhurst Lift Station \$158.50, Westminster Lift Station \$457.77,
31				Willow Lift Station \$295.35, Hammon Lift Station \$513.97 .
32	6150	6/25	242.91	First Bankcard (NC) - Restock District Office Kitchen Supplies
33	6151	7/1	45,604.29	CalPERS Health Premium - Healthcare Premium for July 2013
34	6152	7/1	3,569.81	MetLife - Monthly Dental Premium for July 2013
35	6153	7/1	736.01	The Standard Life Insurance - Premium Coverage for July 2013
36				
37			905,809.37	SUBTOTAL PLUS HANDCUTS
38				
39				PAYROLL
40		6/25	52,992.07	Payroll - Staff Check # 15505 - 15507 Taxes & Direct Deposits
41		6/25	1,238.00	Payroll - Nationwide Deferred Compensation (100% Paid By Employees)
42		6/25	225.00	Payroll - Nationwide Deferred Compensation (100% Paid By Employees)
43		6/28	5,261.13	Board of Director's Payroll for the Month of June 2013 Chk # 15509 - 15512
44		6/28	420.12	Board of Director's Nationwide Deferred Compensation for June 2013 (100% Paid By Directors)
45			965,945.69	TOTAL EXPENDITURES W/PAYROLL

A motion was made by Director Rice, seconded by Director Diep to approve the expenditures in the amount of \$965,945.69. The motion was approved by a 5-0 vote.

REPORTS

Report of President

None

Report of General Manager

GM Robbins reported that the District's new solid waste driver, Juan Contreras, would start on Wednesday, July 3, 2013.

GM Robbins stated that the California Special Districts Association (CSDA) conference in Monterey in September has a Special Districts Risk Management Authority (SDRMA) workshop on that Monday, September 16, 2013, so a Sunday departure will be necessary for those planning to attend.

GM Robbins reported that the District had a power outage last week, and that the new backup generator started up and worked perfectly per design.

GM Robbins reported that the District received a check for \$54,630 from Orange County Sanitation District (OCSD) for their portion of the District's facility improvement project.

Report from Orange County Sanitation District Meeting (OCSD)

Director Diep reported that there was a meeting last Wednesday, June 26, 2013, at which the Board reorganized its leadership structure, and Troy Edgar and John Anderson were both reelected to another term as Chair and Co-Chair. Labor negotiations continued in closed session, with Jim Ruth acting as chief labor negotiator.

Report from the Westminster Chamber of Commerce Installation & Awards Luncheon

President Cobo reported that Mr. Syed Shah from the Best Western Westminster Inn is the new Chamber President, and everyone agreed that he is knowledgeable and will bring a lot of positive ideas and motivation to the City of Westminster.

Director Neugebauer stated that she liked the new business card drawing, which gives you the opportunity, if chosen, to get up and speak about your business.

Director Diep, Krippner, and Rice also attended the event.

CONSENT CALENDAR

- A. Approval of the Request of Solid Waste Department Employee Phillip Mariscal to Receive 40 Hours of Vacation Pay in Lieu of Time Off
- B. Approval of the Request of Solid Waste Department Employee Robert Mayfield to Receive 40 Hours of Vacation Pay in Lieu of Time Off
- C. General Manager Vacation Request – March 6th through March 26th, 2014, for a Total of Fifteen (15) Days
- D. Authorization to Purchase New Fuel Pump and Other Needed Repairs for T-60 Side Loader Solid Waste Truck
- E. Consider Applying for a 2013 California Special Districts Association (CSDA) Award for Exceptional Public Outreach & Advocacy
- F. Approval of the Request of Sewer Maintenance Department Employee Cody Ranslem to Receive 8 Hours of Vacation Pay in Lieu of Time Off

A motion was made by Director Neugebauer, seconded by Director Diep to pull items C and E off of the consent calendar. The motion was approved by a 5-0 vote.

A motion was made by Director Rice, seconded by Director Diep to approve only items A, B, D and F on the consent calendar. The motion was approved by a 5-0 vote.

Director Krippner stated that he appreciated that the General Manager was taking his vacation at a time that was convenient for the District.

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

Director Neugebauer asked if, regarding item E on the consent calendar, this is the same award that the District applied for with California Association of Sanitation Agencies (CASA), and if so, to make that correction.

A motion was made by Director Neugebauer, seconded by Director Diep to approve item E on the consent calendar, with a change. The motion was approved by a 5-0 vote.

OLD BUSINESS

None

NEW BUSINESS

A. RESOLUTION NO. 2013-19

(Roll Call Vote)

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, COMMENDING RETIRING EMPLOYEE, RAFAEL GONZALEZ

A motion was made by Director Rice, seconded by Director Neugebauer to adopt Resolution No. 2013-19, with a change. The motion was approved by a 5-0 roll call vote.

B. Consider Approving the 2013-2014 Annual Salaries and Step Ranges for Management and Administrative Employees

Director Neugebauer stated that this item appears to address two issues – first, authorizing the General Manager to increase the step salaries for administrative employees by one step and second, to approve the new step salaries chart.

GM Robbins clarified by stating that this is the step chart that the Board adopted in September of 2011 and that it will not be updated until the after negotiations are finished with the represented employees.

Director Krippner stated his opposition to step raises, as opposed to step ranges or raises which are a set amount and are not flexible.

Director Rice stated that she disagreed with Director Krippner and that the employees earn their increases, if they receive one.

Director Neugebauer stated her concern for automatic steps and asked if the Board should delay making a decision until after the represented employees' contract is finalized.

Director Cobo stated that he feels that employees need something to work toward and that it is healthy for employees to work toward earning an increase in pay.

Director Diep asked GM Robbins if the three administrative employees could be asked about slowly picking up a larger portion of their retirement costs.

GM Robbins stated that it will automatically adjust per the MOU with the 3% @ 60 plan and whatever is negotiated in the MOU will apply, but that the step ranges would be revisited in December of 2013 by the Board.

A motion was made by Director Rice, seconded by Director Neugebauer to approve of the 2013-2014 annual salary and step ranges for management and administrative employees. The motion was approved by a 4-1 vote, with Director Krippner voting no.

C. General Manager's Employment Agreement

Director Neugebauer asked if, during negotiations, legal counsel had reviewed the performance evaluations which were done by the Board, with the General Manager to review his areas of strengths and weaknesses or areas of Board concern.

Legal Counsel Nixon stated that he did not do a performance review of the General Manager and that he acted solely as a labor negotiator for the Board.

President Cobo and Directors Rice and Neugebauer stated that they gave GM Robbins their written evaluations.

Legal Counsel Nixon stated that if the Board would like to go over those matters with the General Manager, a closed session item for a performance evaluation of the General Manager could be added to the next agenda so that the Board can have that opportunity.

President Cobo requested that staff put a closed session item for a performance evaluation of the General Manager on the next agenda.

Director Neugebauer asked GM Robbins if he was able to review the performance evaluations from herself and the Board.

GM Robbins stated that he did not and that he only received one performance review from Director Rice.

Director Neugebauer asked legal counsel if the Board could add the evaluation of the General Manager to the closed session today.

Legal Counsel Nixon stated that today's closed session was not for a performance evaluation of the General Manager and it would not be appropriate to do it today, but if the Board chose they could add a closed session to the next regular agenda in order to go over those areas of strengths and weakness.

Director Neugebauer stated that she was not prepared to vote on it until the Board was able to have a thorough discussion with the General Manager, so she would therefore abstain.

Director Neugebauer stated that Legal Counsel did not discuss the performance reviews with the General Manager.

Director Rice stated that the Board did not ask Legal Counsel to do the performance reviews.

Director Neugebauer stated that it was an oversight of the Board, is only fair to the General Manager since he did not receive the evaluations, that there is no urgency and it should be done properly. She suggested that this item be postponed until after the performance evaluations were reviewed by the General Manager and the Board.

Director Diep stated that he was able to have a discussion with the General Manager regarding his future plans for the District, that he is satisfied, and suggested that the Board approve the General Manager's agreement today, and at a later date, have a performance evaluation.

President Cobo stated that the Board already agreed on the General Manager's renewed agreement.

Director Neugebauer asked that there be a closed session added to the next regular agenda in order that the General Manager receive a performance evaluation from all the Directors.

A motion was made by Director Rice, seconded by Director Diep to approve the General Manager's employment agreement. The motion was approved by a 4-1 vote, with Director Krippner voting no.

D. Consider Approval of Updating the District's Mobile Radio System to Narrowband Requirements by the Federal Communications Commission

A motion was made by Director Neugebauer, seconded by Director Rice to approve updating the District's mobile radio system. The motion was approved by a 5-0 vote.

INFORMATIONAL ITEMS

None

BOARD CONCERNS/COMMENTS

Director Diep stated that he noticed that the recycling bins provided by Rainbow Environmental at the firework stands seemed to be working well, as they are already full on the second day of sales.

GM/STAFF CONCERNS/COMMENTS

GM Robbins reminded the Board that the District is a sponsor for the Concerts in the Park series which begins on Thursday, July 11, 2013 at 6PM.

GM Robbins thanked the Board for renewing his agreement and extending it for two years.

GM Robbins asked the Board if the District should offer help to the Westminster City Yard from the District's Fleet Maintenance department if they find they are shorthanded due to the accident that claimed former Westminster City Manager, Mitch Waller's life and critically injured Westminster City Yard Mechanic, Kevin Beach.

There was discussion by the Board and President Cobo clarified that there is still one full time and 2 part time mechanics at the Westminster City Yard.

Director Neugebauer stated that she feels that the District should send an expression of sympathy to the services for Mitch Waller, former Chief of Police and City Manager of Westminster, who passed away from a fatal bicycle accident on Friday, June 28, 2013.

GENERAL COUNSEL CONCERNS/COMMENTS

None

President Cobo called a recess of the meeting at 5:04 P.M.

President Cobo called the meeting to order at 5:16 P.M., and then immediately convened the meeting to closed session.

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 Director Housley and Labor Counsel Joseph Larsen, Employee Organization: American Federation of State, County, and Municipal Employees, LOCAL 1734-01

B. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Pursuant to Government Code Section 54956.9(d)(1).)

Name of Case: Irvin v. Midway City Sanitary District et al.

President Cobo reconvened the meeting to open session at 6:01 P.M.

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

Director Neugebauer stated that in the most recent issue of California Special District Association (CSDA) Connections magazine there is an interesting article called “What is a “prudent reserve” for a District?”, and she suggested a study session for the Board and staff to discuss that issue in the future.

ADJOURNMENT

President Cobo adjourned the meeting at approximately 6:03 P.M.

Margie L. Rice, Secretary