

**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**

October 20, 2015

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, October 20, 2015 at 5:00 P.M.

BOARD MEMBERS PRESENT:

Al P. Krippner
Joy L. Neugebauer
Tyler Diep (arrived at 5:10 P.M.)
Margie L. Rice
Frank Cobo

OTHERS AT MEETING:

Robert Housley, Finance/HR Director (Acting GM)
James Eggart, General Counsel
Joseph Larsen, Labor Counsel
Danielle Gerardo, Board Secretary
Anita Spencer, Resident

PLEDGE AND INVOCATION

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

PUBLIC COMMENTS

None

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF OCT. 6, 2015

An updated copy of page 9 of the draft minutes with additions proposed by Staff highlighted was provided to the Board and made available to the public in attendance.

A motion was made by Director Neugebauer to defer the minutes of the meeting of October 6, 2015 until the next regular meeting. The motion died for lack of a second.

Director Rice stated that she thought she made a motion for legal counsel to write the letter to Rainbow Environmental and did not think she wanted to approve the minutes as presented.

Legal Counsel James Eggart stated that the direction given to GM Robbins from the Board was for him to write a letter demanding answers to questions by a deadline, bringing the results of that letter back to the Board. He stated that GM Robbins did send out the letter to Rainbow Environmental today, Tuesday, October 20, 2015 and the Board had been provided with a copy of that letter.

Director Neugebauer suggested that the minutes be revised at page 5 to add the date – “(September 23, 2015)” – following “Report from Orange County Sanitation District.”

A motion was made by Director Neugebauer, seconded by Director Rice to approve the minutes of the meeting of October 6, 2015, with corrections. The motion was approved by the following 4-0 vote:

AYES: Cobo, Krippner, Neugebauer, and Rice

NAYS:

ABSTAIN:

ABSENT: Diep

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$ 343,259.86

#	CK #	Date	AMOUNT	VENDOR
1				HANDCUT CHECKS:
2	7934	10/14	341.91	AT&T Mobility - Service for September 2015: (KR) 714-310-2313, (NC) 714-310-8653, (DGr) 714-325-3606,
3				Sewer 714-310-8654, Emergency 714-310-9004.
4	7935	10/14	40.00	City of Westminster - Hydrant Meter Water Usage for August 2015
5	7936	10/14	110.98	DirectTV - Service for October 2015
6	7937	10/14	4,307.08	The Gas Company - Maintenance Yard Fees for September 2015; CNG Fuel for August & September 2015
7	7938	10/14	19,642.33	SDRMA Property/Liability - Remove (5) Volvo Trucks & Add (8) Crane Carriers to Insurance
8	7939	10/14	443.42	Verizon Business - Internet Connection for SCADA System for October 2015
9	7940	10/14	10,908.19	CalPERS Retirement - Retirement Contributions for October 2015
10			35,793.91	HANDCUT CHECKS SUBTOTAL
11				
12				REGULAR CHECKS:
13	7941	10/14	62.00	Advanced Gas Products - Cylinder Rental for September 2015
14	7942	10/14	1,127.00	CRC Cloud - Maintenance & Support for October 2015; Anti-Virus Annual Renewal (District Offices)
15	7943	10/14	2,579.10	CR Transfer - Tonnage from 09/16/2015 through 09/30/2015
16	7944	10/14	1,061.20	Cummins Cal Pacific - (2) Spark Plug Kits & Labor for NG-1 & NG-2; (1) Temperature Sensor for NG-2
17	7945	10/14	151,879.72	DPSI - CNG Fueling Station Project
18	7946	10/14	8,375.00	ECIS - Fog Inspections for September 2015
19	7947	10/14	337.86	G & K Services - Uniform Services for October 2015

20	7948	10/14	312.00	Konecranes - Inspection & Preventative Maintenance for September 2015
21	7949	10/14	606.86	Los Alamitos Napa Auto Parts - Restock (1) Air Dryer, (2) Class 2 Strobe Beacons; (1) Fitting for T61; (4) Gallc
22				Power Steering Fluid for T65.
23	7950	10/14	95.93	Los Angeles Freightliner - (1) Battery Connector for Restock
24	7951	10/14	353.36	Proforma Solutions - (100) Royal Blue Lunch bag Coolers
25	7952	10/14	65618.67	Rainbow Transfer/Recycling - Tonnage from 09/16/2015 through 09/30/2015
26	7953	10/14	1,809.15	Rainbow Transfer Recycling - Diesel Purchases for September 2015
27	7954	10/14	345.60	Reyes Alternators - (1) Rebuilt Power Steering Pump for T65
28	7955	10/14	1980.59	Rosemead Oil Products - (1) Drum of CNG Natural Gas 15W-40 Oil for Restock
29	7956	10/14	2,355.30	Rush Truck Center - (1) Cylinder for T65
30	7957	10/14	3,885.27	Rutan & Tucker, LLP - Legal Services for September 2015
31	7958	10/14	2,425.00	Stater Bros Market #27 - (25) Stater Brothers Gift Cards
32	7959	10/14	102.78	TEC of California - (1) Level Sensor for NG-2
33	7960	10/14	139.65	Top Mobile Vision - Labor & Installation (25ft) Cable for NG-1
34	7961	10/14	1,250.00	White Nelson Diehl Evans - Second Billing on Audit of the District's Financial Statements FYE June 30, 2015
35	7962	10/14	325.00	White Nelson Diehl Evans - Registration Fees for 2015 Government Tax Seminar 12/10/2015 (RH)
36	7963	10/14	2,300.50	Woodruff, Spradlin & Smart - Legal Services for September 2015
37			\$ 249,327.54	REGULAR CHECKS SUBTOTAL
38				
39				PAYROLL
40		10/13	56,338.41	Payroll - Staff Checks Taxes & Direct Deposits
41		10/13	1,100.00	Payroll - Nationwide Deferred Compensation (100% Paid By Employees)
42		10/13	700.00	Payroll - Nationwide Deferred Compensation (100% Paid By Employees)
43			\$ 58,138.41	PAYROLL SUBTOTAL
44				
45			\$ 343,259.86	TOTAL EXPENDITURES (HANDCUT, REGULAR, PAYROLL)
46				
47				BANK TRANSFERS
48		10/6	500,000.00	Transfer Funds from LAIF to Checking Account
49		10/12	2,528,000.00	Transfer Funds from LAIF to Checking Account

A motion was made by Director Rice, seconded by Director Neugebauer to approve the expenditures in the amount of \$ 343,259.86. The motion was approved by the following 4-0 vote:

AYES: Cobo, Krippner, Neugebauer, and Rice

NAYS:

ABSTAIN:

ABSENT: Diep

REPORTS

Report of President

None

Report of General Manager

Finance/HR Director Housley reported that GM Robbins stopped by the office today and will be taking his vacation as planned and asked that he thank the Board for the flowers and well wishes which were sent to him.

Finance/HR Director Housley reminded the Board of the Independent Special Districts of Orange County (ISDOC) quarterly meeting on Thursday, October 22, 2015 at 11:30 A.M. and asked that anyone wanting to carpool arrive at the District by 11AM.

Finance/HR Director Housley reported that OCC Printing had dropped off the proofs for the 2016 MCSD calendar so he needed to schedule a calendar committee meeting with Directors Neugebauer and Rice in order to do the final approval prior to printing.

There was discussion as to whether the Calendar Committee meetings need to be posted and whether it is a standing or ad hoc committee.

General Counsel James Eggart clarified that it is a standing committee due to the way it was created because it is a continuing committee established by formal action of the Board and subject to the Brown Act.

Wednesday, October 28, 2015 at 10 A.M. was agreed upon in order for the meeting to be posted in time.

Finance/HR Director Housley stated that the Board was provided with a copy of the letter written by GM Robbins to Rainbow Environmental and CR&R per their direction.

Director Rice stated that she had wanted the attorney to write and sign the letter because GM Robbins had already written and emailed numerous times and had not received answers.

General Counsel James Eggart stated that at the October 6, 2015 meeting, it was his and GM Robbins' recollection that, from the direction of the Board, based on consensus and his suggestion, GM Robbins was to prepare a letter to Rainbow and have General Counsel review it. That letter was sent on Tuesday, October 20, 2015 and the Board was provided with a copy of it so it was not before the Board for approval. He stated that if there is no follow up, the Board can agendize it for further action by Legal Counsel.

Director Diep stated that the letter had today's date on it and that the District is asking for a lot of information.

Director Neugebauer stated that she thought that the consensus was to wait until after the audit was done, that some of the items on the letter are addressed in the audit and that there were directions not suggestions to be added to the audit per the Board's direction.

There was discussion as to whether or not GM Robbins had given Rainbow Environmental a deadline or not.

Finance/HR Director Housley clarified that GM Robbins gave a November 10, 2015 deadline to respond and he thought GM Robbins would have it on the agenda promptly thereafter.

Finance/HR Director Housley reported that the District received a check from RWC for about \$10,808 today and that the payment is reimbursement to the District for the cost of wear and tear of tires and caps on the new CNG trucks that GM Robbins had mentioned previously. It was the final payment the District was waiting for and RWC has now been cut a check for the \$2,527,327.80 balance for the CNG trucks which will be on the next list of expenditures.

Director Neugebauer asked if this money was for the transportation of the trucks to the facility for repairs, or if it included parts.

Finance/HR Director Housley stated that it was for both – for the cost of the replacement parts and the transportation to and from their facility.

Report from Orange County Sanitation District on October 14, 2015

Director Diep reported that he attended the Administrative Committee Meeting on Wednesday, October 14, 2015. A Memorandum of Understanding (MOU) with the County of Orange Clerk-Recorder's Office was voted on and approved in order to share documents and information electronically instead of archiving boxes of paper documents. This will save OCSD staff time, money and paperwork.

Director Diep reported that the Committee also received a presentation on the bio-solid program which converts sewage solid waste to fertilizer.

Report from the Franchise Committee Meeting on October 13, 2015

Directors Neugebauer and Rice met with Finance/HR Director Housley and discussed the draft letter from Rainbow to MCSD commercial customers.

Director Rice stated that the draft letter makes it sound as though Rainbow did more for their customers out of the good of their heart, instead of saying they screwed up and broke and violated their contract with the District, and that she and Director Neugebauer strongly oppose the letter.

Director Neugebauer stated that the draft letter from Rainbow implies that the District should start paying higher rates because they are giving a higher level of service. They took no action but disagree with the letter.

Director Rice stated that the District should prepare its own letter stating that Rainbow is doing things that are out of the scope of the contract.

Director Neugebauer stated that the franchisee was made very aware during previous Franchise Committee meetings that their lack of transparency with the District was unsatisfactory, and she feels that is why the audit is needed.

Finance/HR Director Housley confirmed that that letter had not been sent out yet and that there was also discussion regarding the upcoming audit of Rainbow Environmental.

Report from the Calendar Committee Meeting on October 13, 2015

Directors Neugebauer and Rice met with Finance/HR Director Housley to make final changes to the calendar, including several suggestions from Director Krippner.

Director Neugebauer stated that they added the Veteran's Day holiday closure to next year's calendar due to the new Memorandum of Understanding (MOU) being passed tonight and she asked that it be added to the website.

Report from the Orange County Sanitation District (OCSD) State of the District Breakfast on October 16, 2015

All Board members and Finance/HR Director Housley attended the State of the District breakfast.

Director Neugebauer stated that it was well attended and that the speakers were well informed.

Director Rice stated that it was interesting and nice to see a lot of people she used to work with.

President Cobo stated that they were having technical difficulties and couldn't show the slides that they meant to share but that it was an interesting meeting.

Report from the Junior Ambassador Environment Awareness Session Hosted by Midway City Sanitary District on Saturday, October 17, 2015

President Cobo stated that it was a good turnout and a successful event and that the kids, mostly from Westminster High School asked really good questions.

Director Rice stated that the food was good, the kids asked a lot of intelligent questions and took notes and are the future of the City of Westminster.

President Cobo stated that the kids were really organized and that they are the future of the community and he was really impressed by them.

Director Neugebauer stated that it could not have been a more outstanding program but she thinks that it was approved for ten (10) people attending and that staff became aware of the actual number (60+) later and that it put staff in an untenable position in order to provide for the number of people who actually came. She stated that she feels that the Board needs to put a policy in place so that it never happens again because the District's General Manager was on sick leave but was in attendance as well as lead staff to provide help. She stated that the event was a success due to staff's effort on short notice and made it a memorable event.

Finance/HR Director Housley stated that it was a good team effort.

Director Neugebauer stated that the District should not be put in that position again and should be better prepared without burdening staff.

President Cobo stated that it was a very successful event and sometimes the number of people can't be controlled.

Director Neugebauer stated that is why the District needs a policy so that there is control.

President Cobo stated that he did not agree and was opposed to the District needing a policy for this but that Director Neugebauer was entitled to her opinion. He stated that this was a successful, educational event for the kids that came because they are the future.

Director Neugebauer stated that she agreed but that it could be done in a more organized way.

President Cobo gave kudos to staff for helping the event to be a success.

CONSENT CALENDAR

A. Investment Report for September 2015

B. Approval of Attendance to the Westminster Chamber of Commerce Special Legislative Forum on Friday, October 30, 2015

C. Approval of Attendance to the Westminster Chamber of Commerce Legislation Meeting on Friday, November 13, 2015

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

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

OLD BUSINESS

None

NEW BUSINESS

Director Neugebauer asked why the Board would have the Closed Session after making the decision and if it would be more prudent to have the Closed Session first in order to have the discussion regarding the MOU.

A motion was made by Director Rice, seconded by Director Neugebauer to move New Business Items A, B and C to after the Closed Session. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

D. Update on Engagement of White Nelson Diehl Evans LLP to Perform Audit of Midway City Sanitary District's Exclusive Franchise Agreement

Finance/HR Director Housley stated that the Board was provided with an informational report with some of the items which came out of the Franchise Committee meeting on October 13, 2015 and for the audit to include in their scope of work. The audit will be for a period of three (3) fiscal years in order to align it with the District's books as well as the way the rate structure works. The attachments are for Board review and input into the scope of work to be done. Once there is a response to the letter written by GM Robbins, there may be additional items that go into the scope of work. At this point it was the Franchise Committee's recommendation that the information be provided to the Board as a whole for further discussion if needed. Rainbow and CR&R have not had the opportunity to speak to the Franchise Committee about these reports.

Director Neugebauer asked if the auditor had received the three (3) reports.

Finance/HR Director Housley stated that they had not and that they were waiting to get a full scope and better direction as a whole and that the District would give it to them all at once.

Director Neugebauer stated that a copy of the letter that GM Robbins wrote with all the salient points that the Board is concerned about should be included to the auditors for their review even though it will cost more.

Finance/HR Director Housley reminded the Board that Rainbow Environmental and CR&R both agreed to reimburse the District for the cost of the audit in writing with a letter to the District.

A motion was made by Director Neugebauer, seconded by Director Diep to receive and file Staff's report and to direct staff to include the letter to Rainbow and other backup from the Franchise Committee meeting agenda on October 13, 2015 in the audit request. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

E. Consider Approval of Employee Ten (10) Year Safety Award for Midway City Sanitary District Fleet Mechanic, Raul Martinez

A motion was made by Director Rice, seconded by Director Neugebauer to approve the employee ten year safety award for MCSD Fleet Mechanic, Raul Martinez. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

F. Consider Participation in the La Pat Place Cleanup Event on Saturday, November 21, 2015

A motion was made by Director Neugebauer, seconded by Director Diep to approve participation as recommended by staff. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

INFORMATIONAL ITEMS

A. Midway City Sanitary District Annual Holiday Dinner Invitation

No motion was made and Board consensus was to approve the sample invitation proposed, with a minor change to how the names are listed, dividing up the Directors' names with President Cobo at the top.

General Counsel Eggart announced that the Board would be convening to Closed Session to confer with its designated labor negotiators pursuant to Government Code Section 54957.6 in reference to pending negotiations with the American Federation of State, County and Municipal Employees, Local 1734-01, and that the District's Labor Negotiators are identified on Item 14 of the Agenda.

President Cobo convened the meeting to closed session at 6:00 P.M. pursuant to Government Code Sections 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 Director Housley and Labor Counsel Joseph Larsen, Employee Organization: American Federation of State, County and Municipal Employees, LOCAL 1734-01

President Cobo reconvened the meeting at 6:21 P.M.

General Counsel James Eggart stated that the Board met in Closed Session to confer with its designated labor negotiators pursuant to Government Code Section 54957.6 in reference to the employees and employee organizations noted on Items 14.A of the Agenda that there was no reportable action as a result of the closed session.

NEW BUSINESS CONTINUED

A. Approval of Memorandum of Understanding (MOU) with American Federation of State, County and Municipal Employees, AFL-CIO Local 1734-01 ("AFSCME Local 1734")

A copy of the executed clean and signed version of the MOU was presented to the Board at the meeting and made available to the public in attendance for review.

A motion was made by Director Rice, seconded by Director Diep to approve the Memorandum of Understanding (MOU) with American Federation of State, County and Municipal Employees, AFL-CIO Local 1734-01. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

9B. RESOLUTION NO. 2015-12

(Roll Call Vote)

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA EXTENDING CERTAIN EMPLOYMENT BENEFITS TO NON-REPRESENTED EMPLOYEES

Director Neugebauer stated that she had some reservation in that Resolution No. 2015-12 appears to also include Directors which would just make a difference with Item 1 which is group insurance.

Labor Counsel Joseph Larsen clarified that the Resolution applies only to non-represented employees and as Directors that would require another agenda item which would have to come back to the Board at a future date.

Director Neugebauer stated that she would question that definition of employee in that each person on the Board pays federal taxes so could be considered employees.

Director Rice stated that the Board is considered employees of the District.

General Counsel James Eggart stated that it depends on the context and, that for federal tax purposes, Directors may be considered employees, but in other contexts they may not.

Director Neugebauer stated that it is always better to err on the side of caution and to approve this one and bring another one back separately and asked if the Board agreed.

General Counsel James Eggart stated that he understood her concern and, if the Board agreed, thought it would be sufficient that the record be made to reflect that the Resolution adopted pursuant to Item 9B is not intended by the Board to apply to the Board, and if the Board desired, something could be brought back to the Board concerning the benefits applicable to Directors.

Director Neugebauer stated that her question had been answered and another Resolution would need to be brought to the Board that specifies Directors.

Labor Counsel Joseph Larsen stated that it is his understanding that Resolution No. 2015-12 is intended to apply only to non-represented employees, excluding the General Manager.

Further discussion took place between the Directors regarding the effect, if any, employee benefit changes made pursuant to approval of the MOU had on the health benefits available to Directors.

General Counsel James Eggart stated that staff would research the issue, determine whether any further action is necessary, and report back to the Board at a subsequent meeting.

A motion was made by Director Neugebauer, seconded by Director Rice to adopt Resolution No. 2015-12 as proposed, with the clarification that it is not intended to apply to Board Members. The motion was approved by the following 5-0 roll call vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

C. RESOLUTION NO. 2015-13

(Roll Call Vote)

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA FOR EMPLOYER PAID MEMBER CONTRIBUTIONS AND RESCINDING RESOLUTION NO. 2014-07

A motion was made by Director Rice, seconded by Director Diep to adopt Resolution No. 2015-13. The motion was approved by the following 5-0 roll call vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

BOARD CONCERNS/COMMENTS

Director Neugebauer commended staff for the efforts to facilitate the Junior Ambassadors Special meeting on Saturday, October 17, 2015 which was hosted by the District.

Director Rice thanked staff for their work with the Special Meeting on Saturday, October 17, 2015.

President Cobo stated that he thought the Junior Ambassador event was exciting and he enjoyed visiting with the kids who want to learn about the District and interact with the Directors and that he was very impressed with the group of students.

Director Neugebauer stated that she believed that the Board should direct staff to write a letter to be signed by the Board President and the acting General Manager to the leadership of the youth ambassadors, stating that the Board was impressed in a very positive manner at the interest shown in the operation of our sanitary district and wish them the best in each of their individual endeavors.

GM/STAFF CONCERNS/COMMENTS

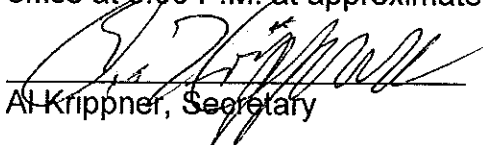
None

GENERAL COUNSEL CONCERNS/COMMENTS

None

ADJOURNMENT

President Cobo adjourned the meeting to Tuesday, November 3, 2015 at the District office at 5:00 P.M. at approximately 6:37 P.M.


Al Krippner, Secretary