

**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**

November 3, 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, November 3, 2015 at 5:00 P.M.

BOARD MEMBERS PRESENT:

Al P. Krippner
Joy L. Neugebauer
Tyler Diep (arrived at 5:04)
Margie L. Rice
Frank Cobo

OTHERS AT MEETING:

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

PLEDGE AND INVOCATION

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

PUBLIC COMMENTS

None

APPROVAL OF THE MINUTES OF THE SPECIAL MEETING OF OCT. 17, 2015

A motion was made by Director Neugebauer, seconded by Director Rice to approve the minutes of the special meeting of October 17, 2015, with the addition of "60 Junior Ambassador Students Representing Local High Schools" under Others at Meeting. The motion was approved by the following 4-0 vote:

AYES: Cobo, Krippner, Neugebauer, and Rice

NAYS:

ABSTAIN:

ABSENT: Diep

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF OCT. 20, 2015

A motion was made by Director Rice, seconded by Director Neugebauer to approve the minutes of the meeting of October 20, 2015. The motion was approved by the following 4-0 vote:

AYES: Cobo, Krippner, Neugebauer, and Rice
 NAYS:
 ABSTAIN:
 ABSENT: Diep

Director Diep arrived at 5:04 P.M.

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$ 2,763,737.45

#	CK #	Date	AMOUNT	VENDOR
1				HANDCUT CHECKS:
2	7965	10/22	209.00	World of Fax - Service for District Konjca Minolta Copier
3	7964	10/20	2,527,396.80	RWC Group - (8) 2015 CNG, Crone Carrier Side Loaders for District Fleet
4	7966	10/22	183.69	AT&T - Brookhurst Lift Station Service for October 2015
5	7967	10/22	42,154.08	CalPERS Health Premium - Healthcare Premium for November 2015
6	7968	10/22	24.79	The Gas Company - District Office Fees for October 2015
7	7969	10/28	16.36	Pitney Bowes - Annual Property Tax for District Postage Machine
8	7970	10/28	33.27	Pitney Bowes/Purchase Power - Late Fee
9	7971	10/28	3,014.26	SDRMA Delta Dental - Dental Insurance Premium for November 2015
10	7972	10/28	3,432.61	Southern California Edison - District Office \$2,407.82, Brookhurst Lift Station \$85.73, Westminster Lift Station \$348.83, Willow Lift Station \$146.95, Hammon Lift Station \$443.28.
12	7973	10/28	820.26	The Standard Life Insurance - Premium Coverage for November 2015
13	7974	10/28	158.70	First Bankcard (NC) - Restock District Kitchen Supplies for October 2015
14	7975	10/28	385.60	Vision Service Plan - Monthly Premium for November 2015.
15			2,577,829.42	HANDCUT CHECKS SUBTOTAL
16				
17				REGULAR CHECKS:
18	7976	11/1	146.90	Neugebauer, Joy - Health Insurance Reimbursement for November 2015
19	7977	11/1	104.90	Rice, Margie - Health Insurance Reimbursement for November 2015
20	7978	11/1	497.00	Advanced Workplace Strategies, Inc. - Annual Renewal AWSI DOT Federal Motor Carrier Membership, Random DOT Drug Test
21				
22	7979	11/1	437.50	Country City Towing - Tow of M63
23	7980	11/1	1,454.67	CR Transfer - Tonnage from 10/01/2015 through 10/15/2015
24	7981	11/1	585.00	Frog Environmental, Inc. - Storm Water Sample #1
25	7982	11/1	140.43	G & K Services - Uniform Services for October 2015
26	7983	11/1	7.00	Los Alamitos NAPA Auto Parts - Difference for Inv. #206777 Paid Short

27	7984	11/1	233.90	North American Safety - (30) T-Shirts for District Holiday Party
28	7985	11/1	16,687.50	OC Commercial Printing - 50% Deposit for 2016 District Calendars
29	7986	11/1	68,120.28	Rainbow Transfer Recycling - Tonnage from 10/01/2015 through 10/15/2015
30	7987	11/1	281.70	Shields Consulting Group - Professional Services for Balance Due of 2001/2002 Claims
31	7988	11/1	32,476.31	Toter LLC - (624) 96 Gallon Blue Containers for Restock
32	7989	11/1	27.00	Underground Service Alert - (18) New Tickets for September 2015
33	7990	11/1	120.00	Westminster Herald - Public Notice Publications for 09/10/2015, 09/17/2015, & 10/22/2015
34			\$ 121,320.09	REGULAR CHECKS SUBTOTAL
35				
36				PAYROLL
37	10/27		62,787.94	Payroll - Staff Checks Taxes & Direct Deposits
38	10/27		1,100.00	Payroll - Nationwide Deferred Compensation (100% Paid By Employees)
39	10/27		700.00	Payroll - Nationwide Deferred Compensation (100% Paid By Employees)
40			\$ 64,587.94	PAYROLL SUBTOTAL
41				
42			\$ 2,763,737.45	TOTAL EXPENDITURES (HANDCUT, REGULAR, PAYROLL)
43				

A motion was made by Director Neugebauer, seconded by Director Diep to approve the expenditures in the amount of \$ 2,763,737.45. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer, and Rice

NAYS:

ABSTAIN:

ABSENT:

REPORTS

Report of President

None

Report of General Manager (Acting GM R. Housley)

Acting GM Housley reported that the District would be providing regular residential service this year on Wednesday, November 11, 2015 (Veteran's Day). Next year, it will be an observed holiday for the District per the new MOU and will be clearly stated on the 2016 annual calendar.

Acting GM Housley reported that the District's annual audit is nearly complete and should be on the next regular Board meeting agenda for review and approval.

Acting GM Housley stated that payment in full had been sent out for the District's new CNG trucks.

Report from Orange County Sanitation District on October 21, 2015

Director Diep reported that he would be attending the November 9, 2015 Legislative Affair Committee meeting in order to plan and discuss the trip to Washington D.C. in 2016.

Director Rice stated that she read that OCSD makes a yearly donation of \$5,000 to CASA to go toward scholarships and asked if that wasn't a gift of taxpayer funds.

Director Diep stated that the law firm in attendance had no legal objections.

Discussion ensued on the legality of this subject.

Director Neugebauer asked Director Diep to relay the Board's concern to OCSD.

Board consensus was to have General Counsel look into the legality of the donation and report back to the Board at the next meeting.

Director Neugebauer reported that she attended the Strategic Plan Update Workshop on October 21, 2015. Nine of the twenty-five Board members were interviewed and their input was taken and summarized in a report. The Director of Engineering gave an issue paper on whether or not OCSD should capture storm water and reported that while it seems feasible to save all that water, the sewers are not designed to handle storm waters so the recommendation is to protect the infrastructure of OCSD and not to write it into their strategic plan. There was also a speaker on odor control and complaints.

Director Neugebauer stated that there was also a meeting on October 28, 2015 that should be reported on.

Report from the Independent Special Districts of Orange County (ISDOC) Quarterly Meeting on October 22, 2015

Director Diep reported that the guest speaker was from Orange County Waste and Recycling who spoke about the levels of the various landfills in Orange County.

Director Neugebauer reported that there was a report from CSDA president, Bill Nelson and that the turnout was the lowest it had ever been.

Director Krippner stated that it was because they moved the date of the meeting up a week.

Finance/HR Director Housley also attended the event.

Report from the Calendar Committee Meeting on October 28, 2015

Director Rice stated that she and Director Neugebauer made three important final changes to the calendar before sending it to print.

Director Neugebauer asked Finance/Hr Director Housley if there was a potential date for delivery.

Finance/HR Director Housley stated that the Calendar Committee recommended that they go out the first week of December.

Report from the Westminster Chamber of Commerce Legislative Forum on October 30, 2015

Director Rice reported that it was a very informative and interesting meeting with two Congressmen, one Assemblyman, one State Senator, Westminster's Mayor and a County Supervisor.

President Cobo stated that it was a good event and that he enjoyed hearing each person's bio from their own perspective.

CONSENT CALENDAR

None

OLD BUSINESS

None

NEW BUSINESS

A. California Association of Sanitation Agencies (CASA) 2016 Membership Dues

There was discussion regarding the lower rate which was due to the District's lower budget for 2016.

A motion was made by Director Diep, seconded by Director Neugebauer to approve renewal of the Districts membership dues for CASA. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

B. RESOLUTION NO. 2015-14

(Roll Call Vote)

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA COMMENDING MIDWAY CITY SANITARY DISTRICT FLEET MECHANIC RAUL MARTINEZ

A motion was made by Director Diep, seconded by Director Rice to adopt Resolution No. 2015-14. The motion was approved by the following 5-0 roll call vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

C. Fiscal Year 2015-2016 First Quarter Financial Reports and Budget Review for the Period of July 1, 2015 through September 30, 2015

Finance/HR Director Housley stated that the biggest expenses within the first three months of the fiscal budget were the new CNG trucks and the Certificates of Participation (COP) which were paid off for a total amount of roughly \$11 million. The District also prefunded its retirement fund and its unfunded liabilities.

Finance/HR Director Housley stated that assets have increased and liabilities have gone down which are all good for the District and everything looks to be on track.

A motion was made by Director Rice, seconded by Director Diep to receive and file. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

INFORMATIONAL ITEMS

None

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.

None

BOARD CONCERNS/COMMENTS

Director Krippner stated that in Article 8, page 15 (bereavement leave) of the final MOU provided it incorrectly states, "A full time employee may be allowed up to three days of bereavement leave with full pay when a death occurs in the employees immediate family subject to the approval of the manager" and stated that it should say, "Subject to prior approval of the manager a full time employee may be allowed up to three days..."

President Cobo asked General Counsel Eggart to comment on Director Krippner's concern. General Counsel James Eggart advised the Board that, although the sentence may not be grammatically correct as pointed out by Director Krippner, he did not believe this mistake in grammar had a material legal effect and that the parties' intent appeared clear. He further stated that because the contract had been fully approved and executed by both sides, in order to correct the sentence, the District may need to reopen the contract, which he did not recommend. Mr. Eggart indicated that staff would compare the sentence with the language in the prior contract and determine whether it was carried over from the prior contract or if this was new language. It was also indicated that the issued would be noted with respect to future contracts.

Director Neugebauer stated that upon reviewing the minutes of October 6, 2015, she had expected an item on tonight's agenda. On page 9 it states that President Cobo requested that GM Robbins put a list together and write a letter with questions to Rainbow and CR&R with a deadline for answers. GM Robbins stated he would bring it back to the first meeting in November. She asked if that was the letter that was already prepared and mailed and if so, who authorized it, and she would like to see it as an agenda item.

Finance/HR Director Housley stated that the District has not received a response to the letter at this time.

Director Neugebauer stated that she was not asking about a response from the franchisees but about the letter from the General Manager to them.

Director Rice stated that GM Robbins provided everyone with a copy of the letter and that was when she was stating that she thought the attorney should write it instead of the General Manager.

Director Neugebauer stated that she understood that the letter that President Cobo requested was to be put together for tonight's meeting and not to be mailed before the meeting of October 20, 2015.

Director Rice stated that GM Robbins had already come to the Board with the letter.

General Counsel James Eggart stated that it was staff's understanding that the action of the Board on October 6, 2015 was to direct the General Manager to write a letter to

Rainbow, not bring it back, and at that meeting the General Manager had anticipated bringing back responses to the letter at the first meeting in November.

Director Neugebauer asked if it was the same letter referred to in the minutes or if there were two different letters.

General Counsel James Eggart stated that he was not aware of two different letters and indicated that he couldn't say why nothing was brought back to tonight's meeting because the General Manager is not present.

Director Neugebauer stated that she had another point to make in that the attorney works for the Board and she expects him to review the minutes of the meetings in order to protect the Board. She stated that the letter that should have been brought back to the first meeting in November should not have been posted and dated and mailed prior to October 20, 2015.

General Counsel James Eggart stated that the minutes from the October 6, 2015 meeting should, and he thought they did, reflect that the Board directed the General Manager to prepare and send the letter, not that it was to come back to the Board.

President Cobo requested that Finance/HR Director Housley inform the General Manager of this issue upon his return from his vacation.

President Cobo stated that a resident named Peter Star contacted him regarding his property at 7561 23rd Street in Westminster. He has been requesting that Rainbow trade his 3-yard bins for 4-yard bins but cannot due to the District's franchise agreement. He was told by Rainbow to contact the District and it has been an ongoing issue for several months.

Director Rice stated that the attorney should look at the contract and determine whether Rainbow can provide a larger container for the resident.

General Counsel James Eggart stated the District's franchise agreement with Rainbow and CR&R does not offer a price for a 4-yard bin to commercial customers and states, "Rainbow and CR&R cannot charge customer's prices that exceed those set forth on Exhibit A on the franchise agreement." Exhibit A of the franchise agreement provides prices for various services, which include 3-yard bins, but there is no price for 4-yard bins.

President Cobo stated that the customer is paying his staff to clean up overflow trash.

General Counsel James Eggart stated that if Rainbow provides a 4-yard bin service, it is not reflected in the franchise agreement and if there is an amendment to the franchise agreement in the future, it should be corrected so it clearly addresses all services they provide.

Director Rice stated that someone from Rainbow should have contacted the Board regarding this.

President Cobo stated that is why he brought it up and that the General Manager should be made aware of it.

Finance/HR Director Housley stated that it is his understanding that the GM Robbins has spoken with this individual and that it has been ongoing and General Counsel is correct in that it is not a provision in the franchise agreement for a 4-yard bin.

GM/STAFF CONCERNS/COMMENTS

None

GENERAL COUNSEL CONCERNS/COMMENTS

General Counsel James Eggart asked for clarification and clear direction from the Board regarding their request for information on OCSD's yearly donation of \$5,000 to CASA for educational scholarships.

Director Rice stated that she received a notice informing her of the donation for educational scholarships because she is on the Board but that she had always been told that a Board such as OCSD's or City Council cannot give away tax payer money so she would like clarification as to whether it is legal or not.

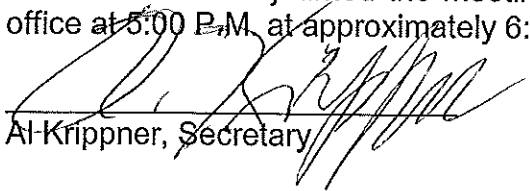
General Counsel James Eggart stated that he would be happy to give a general overview of the law of gift of public funds in the legal sense and report more specifically with regard to that gift.

Board consensus was to have General Counsel James Eggart look into the matter and report back to the Board at the next meeting.

Director Neugebauer stated that the Board received notice of the 2016 Waste Expo in Las Vegas and that there is a discount if you register before November 20th, so she asked that it be on the next agenda for approval.

ADJOURNMENT

President Cobo adjourned the meeting to Tuesday, November 17, 2015 at the District office at 5:00 P.M. at approximately 6:02 P.M.


Al-Krippner, Secretary