

**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 1, 2016

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, November 1, 2016 at 5:00 P.M.

BOARD MEMBERS PRESENT:

Al P. Krippner
Joy L. Neugebauer
Tyler Diep
Frank A. Cobo
Margie L. Rice
Jeff Snow, Rainbow Environmental Services
Dean Ruffridge, CR&R Inc.
Matt Munch, Haaker Equipment
Anita Rice, Resident

OTHERS AT MEETING:

Ken Robbins, General Manager
Robert Housley, Finance/HR Director
James Eggart, General Counsel
Danielle Gerardo, Board Secretary

PLEDGE AND INVOCATION

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

PUBLIC COMMENTS

None

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF OCTOBER 18, 2016

A motion was made by Director Neugebauer, seconded by Director Krippner, to approve the minutes of the regular meeting of October 18, 2016, as presented. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$ 147,352.20

#	CK #	Date	AMOUNT	VENDOR
1				HANDCUT CHECKS:
2	8701	10/14	4,143.54	The Gas Company - District Office, Maintenance Shop, & Wash Rack Usage Fees for October 2016;
3				CNG Fuel for September 2016
4	8702	10/14	450.01	Verizon Business - Internet Connection for SCADA System for October 2016
5	8704	10/19	40.00	City of Westminster - Hydrant Meter Water Usage for September 2016
6	8705	10/19	158.51	Pfney Bowes - Postage for October 2016 and Leasing Payment
7	8706	10/19		VOID Printing Error
8	8722	10/20	56,889.19	Rainbow - Tonnage from 07/16/2016 through 07/31/2016
9			61,681.25	HANDCUT CHECKS SUBTOTAL
10				
11				REGULAR CHECKS:
12	8707	10/20	60.00	Advanced Gas Products - (1) Cylinder Rental for September 2016
13	8708	10/20	340.00	Advanced Workplace Strategies - Annual Renewal of Federal Motor Carrier Membership
14	8709	10/20	583.20	Agility Fuel Systems - (4) Kill Caps for Restock
15	8710	10/20	1,774.90	Daniel's Tire Service - (9) Recaps for Restock
16	8711	10/20	8,525.00	ECIS - FOG Inspections for September 2016
17	8712	10/20	141.28	G & K Services - Uniform Services for October 2016
18	8713	10/20	518.84	Hunfington Beach Ford - Parts & Labor to Replace AB Sensor Assembly & EGR Valve for T9
19	8714	10/20	799.96	Los Alamitos NAPA Auto Parts - (16) Hose Ends, (6) Halogen Lamps for Restock; (5) Fittings for M63;
20				(3) Batteries for NG7
21	8715	10/20	481.40	North American Safety - (60) Caps with MCSD Logo for Restock
22	8716	10/20	1,023.23	Mobile Relay Associates - Install (1) 2-way Radio into NGT-11; (1) New 2-way Radio for Restock
23	8717	10/20	299.00	Rutan & Tucker - Legal Services for September 2016
24	8718	10/20	923.43	TEC of California - (12) Studs for NG10; (4) Air Disc Brake Pads for Restock
25	8719	10/20	249.00	Westminster Chamber of Commerce - Annual Membership Dues for 12/01/2016 through 12/01/2017
26	8720	10/20	4,500.00	White Nelson Diehl Evans - Second Interim Billing On Audit for FY 2015-2016;
27	8721	10/20	8,448.95	Woodruff, Spradlin & Smart - Legal Services for September 2016

28	8723	10/20	57,002.76	Rainbow - Tonnage from 10/01/2016 through 10/15/2016
29			85,670.95	REGULAR CHECKS SUBTOTAL
30				
31				PAYROLL
32				No Payroll to Report for This Period
33			0.00	PAYROLL SUBTOTAL
34				
35			147,352.20	TOTAL EXPENDITURES (HANDCUT, REGULAR, PAYROLL)
36				
37				BANK TRANSFERS
38		10/14	350,000.00	Transfer Funds from LAIF to Checking Account

A motion was made by Director Krippner, seconded by Director Cobo, to approve the expenditures in the amount of \$147,352.20. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

REPORTS

Report of President

President Rice shared a thank you card that was received from a young man who received an informational care package from the District with the other Directors.

Report of General Manager

GM Robbins reported that the District purchased and installed a new ice machine.

GM Robbins reminded the Board that the District would be closed on Friday, November 11, 2016 in observance of Veteran's Day this year, with mechanics and solid waste employees working on Saturday, November 12, 2016.

GM Robbins reported that the District has saved approximately \$728,880 each year from 2010 through 2015 due to the reductions in staff salaries and benefits since the reorganization in 2011.

Report from the Franchise Committee Meeting on October 20, 2016

President Rice reported that GM Robbins, HR/Finance Director Housley as well as General Counsel James Eggart were there to assist her and Director Neugebauer. Jeff Snow from Rainbow Environmental and Dean Ruffridge from CR&R were also at the meeting and she stated that Jeff Snow came up with good questions.

Director Neugebauer stated that the committee reviewed very carefully, and in depth, each of the charges and percentages that are commercially handled by both franchisees. She was impressed with the work done by both staff and the franchisees to come up with the numbers.

Report from the Orange County Sanitation District (OCSD) Meeting on October 26, 2016

Director Neugebauer reported that the Board approved a three year Memorandum of Understanding (MOU) for the Supervisor and Professional Groups with a 2.5% increase. They also approved a successor MOU for the Employees Association with a 2.5% increase, and a successor MOU for the International Union of Operating Engineers Local 501 with a 3% increase. The Board appointed a group that will be discussing any possible increase for Management Employees and the General Manager, and they amended and approved the contract for security services which now includes an armed guard. OCSD's General Manager gave several reports, showed the video seen at the State of the District breakfast, reviewed the Utility of the Future and the capital improvement program and projects for the Sanitation District. Director Neugebauer added that OCSD is streamlining and learning to operate more efficiently with management positions and appointments down from 19 to 12 and supervisor positions down 6 positions.

Report from the Westminster Chamber of Commerce Legislative Forum on October 28, 2016

Director Diep reported that, for the second year, there was a decent turnout and he was impressed with the participation level of federal, state and county leaders.

Director Cobo agreed with Director Diep and was happy that all the dignitaries were there and was impressed with some issues that were discussed.

Director Neugebauer reported that she was impressed with Congressmen Rohrbacher and Lowenthal and especially took from their remarks that, although they are from different parties, they cross the aisle and work together on many projects. She enjoyed Assemblyman Travis Allen who "told it as he saw it".

President Rice was disappointed in Assemblyman Travis Allen's speech but enjoyed Congressmen Lowenthal, Rohrbacher and Senator Janet Nguyen.

CONSENT CALENDAR

None

OLD BUSINESS

None

NEW BUSINESS

A. Approval of Purchase of a New Compressed Natural Gas (CNG) Combination Sewer Vactor Truck from Haaker Equipment Company

A motion was made by Director Neugebauer, seconded by Director Cobo, to waive all irregularities, determine the bids of ERS and MME to be nonresponsive, and authorize the purchase of one new compressed natural gas (CNG) combination sewer Vactor truck from Haaker Equipment Company at a total cost not to exceed \$446,462.91, as recommended by staff. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

B. Consider Approval of the Fiscal Year 2016-2017 First Quarter Financial Reports and Budget Review for the period of July 1, 2016 through September 30, 2016

A motion was made by Director Diep, seconded by Director Cobo, to receive and file the fiscal year 2016-2017 first quarter reports and budget review for the period of July 1, 2016 through September 30, 2016. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

C. Consider to Approve Removal of 1,000 Fully Depreciated Refuse Containers/Carts from the District's Assets List in the Amount of \$45,400.94

A motion was made by Director Diep, seconded by Director Krippner, to move staff's recommendation to remove 1,000 fully depreciated refuse containers/carts from the District's assets list in the amount of \$45,400.94. The motion was approved by the following 5-0 vote:

AYES: Cobo, Diep, Krippner, Neugebauer and Rice

NAYS:

ABSTAIN:

ABSENT:

D. Consider Request of Fleet Maintenance Lead Worker Juan Salce to Receive 80 Hours of Vacation Pay in Lieu of Time Off

A motion was made by Director Diep, seconded by Director Cobo to approve the request of fleet maintenance lead worker, Juan Salce, to receive 80 hours of vacation pay in lieu of time off. The motion was approved by the following 4-0-1-0 vote:

AYES: Cobo, Diep, Neugebauer and Rice

NAYS:

ABSTAIN: Krippner

ABSENT:

Director Diep stepped out of the meeting at 5:31 P.M.

E. Consideration of Request by CR&R Incorporated and Rainbow Disposal Co. Inc. to Transfer Rainbow Disposal's Interest in Exclusive Franchise Agreement to CR&R Incorporated

GM Robbins stated that the District received the letter from Rainbow Environmental Services and CR&R on Wednesday, October 26, 2016 requesting Board approval for Rainbow to transfer and assign its interest in the Franchise Agreement to CR&R pursuant to Section 8.A. of the Franchise Agreement and that both Jeff Snow from Rainbow Environmental Services and Dean Ruffridge from CR&R were at the meeting to explain and answer any questions the Board may have. GM Robbins handed out a map prepared by staff showing the relative locations and driving distance to both the existing Rainbow and CR&R MRF facilities and explained that the average distance to either facility for District drivers was almost the same.

General Counsel Eggart stated that, for expediency, the franchisees were asking for approval of an assignment pursuant to Section 8.A. of the Franchise Agreement and explained that Section 8.A. provides that, notwithstanding approval of any assignment by District given in accordance with Section 8.A., the assigning contractor (Rainbow Environmental Services) shall remain responsible for the full performance of the Franchise Agreement in accordance with its terms, and District may seek any damages for failure in performance or breach of the Franchise Agreement by the assignee (in this case, CR&R) directly from assigning contractor (Rainbow Environmental Services). He further stated that, CR&R and Rainbow would presumably allocate risk and responsibilities between themselves in their own separate agreement, but that under Section 8.A., until and unless the District approves the Franchise Agreement amendment to eliminate Rainbow as a party, Rainbow would continue to be a party to the Franchise Agreement, and the District could still look to Rainbow if necessary, in the event of a default by CR&R. General Counsel Eggart further advised the Board that the District had not been provided a copy of the proposed agreement terms between CR&R and Rainbow and that he therefore did not know exactly what the substance of their agreement would be. He stated that approving the proposed assignment would give permission for CR&R and Rainbow to enter into an agreement between each other.

Director Neugebauer stated that she had concerns about liability insurance coverage and performance bonds.

GM Robbins asked the contractors if the District could take solid waste to Rainbow should anything happen at CR&R.

Dean Ruffridge from CR&R stated that it is time to consolidate and have a sole contractor for the District. He stated that the rates and customer service will stay the same and that the insurance will come from CR&R in full as of November 30, 2016, and that the current \$50,000 performance bond from Rainbow will be cancelled and a new one provided by CR&R. He stated that they were requesting the Board's approval at tonight's meeting in order to proceed to finalize their agreement in a timely manner. He stated that there would be a smooth transition with all new trucks for the District and was hoping to start December 1, 2016. He stated that approval of the transfer based on section 8 is necessary tonight because CR&R and Rainbow need to proceed and finalize their agreement, for which they need Board approval.

Director Diep returned to the meeting at 5:49 P.M.

Jeff Snow of Rainbow Environmental Services indicated that he concurred with General Counsel Eggart's description of the assignment pursuant to Section 8.A., stated that Rainbow endorsed the capabilities of CR&R, and stated that CR&R has ample infrastructure to handle the District. He further stated that Rainbow would remain available as a resource to the District and asked for the Board's vote tonight to assign the contract so that the District can continue to move forward and Rainbow and CR&R can continue to finish their agreements in a timely manner.

Director Krippner asked why this was taking place now.

Jeff Snow stated that all the new state laws are dramatic and managing those with a single contractor will be advantageous to the Districts customers.

President Rice read the following staff recommendation into the minutes:

"Staff recommends the Board discuss the request by CR&R and Rainbow for approval of a transfer and assignment of Rainbow's interest in the Exclusive Franchise Agreement to CR&R and provide Staff with direction. If the Board desires to approve the requested transfer and assignment, with or without conditions, Staff recommends that the Board direct Staff to prepare a formal Resolution setting forth the terms of such approval for Board consideration and action at the November 15, 2016 meeting."

General Counsel Eggart stated that Staff's recommendation was crafted the way it was because Staff did not know how the full Board would feel about the request and there are a lot of conditions the Board could impose upon the assignment if desired. He explained that this is why there was no Resolution on this agenda - and the approval,

with or without conditions, should be in writing. He stated that the contractor is indicating that they want some action by the Board tonight so that they can comfortably move forward and get the agreement going. In other words they are asking for Board approval subject to ratification by written Resolution at the next meeting. He suggested any terms and conditions the Board wished to impose in conjunction with approval be put on the record and suggested that potential conditions may include that CR&R expressly assume in writing all of Rainbow's obligations under the Exclusive Franchise Agreement, and that the assignment does not become effective until all obligations of the contractor, not currently being fulfilled by CR&R, be fulfilled to the General Manager's satisfaction, including, but not limited to, providing evidence of necessary insurance coverage and all required additional insured endorsements and providing a performance bond.

GM Robbins asked for further clarification from the contractors as to whether the District could take refuse to Rainbow in the case of an emergency at CR&R.

Dean Ruffridge of CR&R stated that the contract specifically states that the contractor (which is now 2 separate corporations) fully guarantees and indemnifies that there is a facility available for you. He stated that they will be, as they are now, held responsible and guarantee that there is a facility for the District and fully intend (in the next 3 weeks) to work out a deal with a Plan B. As far as the risk and obligations, CR&R is currently paying for half of the bond and insurance now and are the contractor for the District. He stated that he didn't feel that the obligations going forward for CR&R would be any different than they are now, with no further risk.

A motion was made by Director Neugebauer, seconded by Director Cobo to follow staff's recommendation and to direct staff to prepare a formal Resolution of approval setting forth the terms of such approval for Board consideration and action at the November 15, 2016 meeting.

Dean Ruffridge stated that they wanted to comply with section 8A of the agreement which requires Board approval before they negotiate out a transfer.

A substitute motion was made by Director Diep, seconded by Director Cobo to approve the request for transfer and assignment of Rainbow Environmental Services' interest in the Exclusive Franchise Agreement to CR&R Incorporated subject to approval of a formal Resolution, which the Board is requesting Staff to bring back on November 15, 2016, containing conditions acceptable to the Board and compliance with those conditions by the contractors. The motion was approved by the following 3-2 vote:

AYES: Cobo, Diep, and Rice

NAYS: Krippner and Neugebauer

ABSTAIN:

ABSENT:

INFORMATIONAL ITEMS

None

BOARD CONCERNS/COMMENTS

Director Neugebauer stated that the District should consider putting the solar panels on the rooftops of the buildings like the police parking building.

GM Robbins stated that the Board's direction was to look into solar panels like the School District which provide covered parking.

Director Neugebauer stated that she feels the District should consider both. She learned recently that the new thing in solar technology now are shingles which provide solar energy and that since the District is having the solar study done it should look into them prior to making a decision.

GM Robbins stated that he would look into the most cost effective way.

Director Krippner stated that the Board needs to do good by the rate payers and that the Board needs more details in order to keep rates down.

President Rice stated that she may call a special meeting prior to November 15, 2016 if necessary to discuss the Resolution needed for that meeting.

GM/STAFF CONCERNS/COMMENTS

GM Robbins wished good luck to everyone with the elections.

President Rice asked for the numbers that GM Robbins provided from the reorganization in writing.

GENERAL COUNSEL CONCERNS/COMMENTS

General Counsel Eggart reminded the Board that Omar Sandoval would take his place at the next meeting because he would be recovering from surgery.

CLOSED SESSION

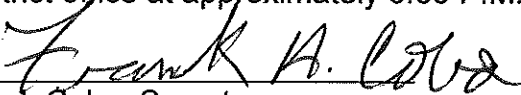
CLOSED SESSION: During the course of conducting the business set forth on this agenda as a regular meeting of the Board, the Chair may convene the Board in closed session to consider matters of pending real estate negotiations, pending or potential litigation, or personnel matters, pursuant to Government 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

ADJOURNMENT

President Rice adjourned the meeting to Tuesday, November 15, 2016 at 5 P.M. at the District office at approximately 6:33 P.M.


Frank Cobo, Secretary