

**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**

March 3, 2020

CALL TO ORDER

President C. Nguyen called the regular meeting of the Governing Board of the Midway City Sanitary District to order at 14451 Cedarwood Avenue, Westminster, California on Tuesday, March 3, 2020 at 5:30 P.M.

BOARD MEMBERS PRESENT:

Al P. Krippner (absent)
Margie L. Rice
Andrew Nguyen
Sergio Contreras (absent)
Chi Charlie Nguyen

OTHERS AT MEETING:

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

PLEDGE AND INVOCATION

President C. Nguyen led the Pledge of Allegiance. GM K. Robbins gave the Invocation.

PUBLIC COMMENTS

None

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 18, 2020

A motion was made by Director A. Nguyen, seconded by Director M. Rice, to approve the minutes of the regular meeting of February 4, 2020. The motion was approved by the following 3-0 vote:

AYES: A. Nguyen, C. Nguyen and M. Rice

NAYS:

ABSTAIN:

ABSENT: S. Contreras, A. Krippner

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$ 293,813.22

#	CK #	Date	AMOUNT	VENDOR	MEMO
1				CHECKS:	
2	11208	2/12	\$ 851.62	Felicia Garcia-Camarena	Claim Incident 1/20/20
3	11209	2/18	\$ 218.34	AT&T Mobility	Cell Phone Service for January 2020
4	11210	2/18	\$ 750.00	Ayala's Car Wash	Fleet Truck Washes on 2/10, 2/17
5	11211	2/18	\$ 1,560.45	Bodyworks Equipment	Cylinder for NG-7 and re-stock hydraulic hoses and springs
6	11212	2/18	\$ 263.45	Cintas	Uniform Services for 2/13/2020
7	11213	2/18	\$ 38,600.00	City of Westminster	Adjust Manholes FY 2018-2019
8	11214	2/18	\$ 171.01	City of Westminster	Water Service for January 2020 (District Offices, Maint. Shop, Wash Rack)
9	11215	2/18	\$ 15.00	County of Orange Auditor-Control	Parcel Correction Fee (APN #099-554-23 Refund)
10	11216	2/18	\$ 93,963.53	CR Transfer Inc	Solid Waste and Organics Tonnage Fees 1/16/2020 through 1/31/2020
11	11217	2/18	\$ 2,646.06	Cummins Sales & Service	In-Site Renewal, Restock (13) Kit, Spark Plug (11) Ext, Ignition Coil (10) engine rocker seal
12	11218	2/18	\$ 1,202.25	Dntech	Public Outreach-MCSD Door hangers for clean-up events
13	11219	2/18	\$ 138.25	SoCal Gas	District Offices, Maintenance Shop, & Wash Rack Usage Fees for January 2020
14	11220	2/18	\$ 1,612.00	HB Staffing	Temporary Employee Services Week Ending 02/09/2020
15	11221	2/18	\$ 20.84	Hillco Fastener Warehouse Inc	Restock (90) Washers, nuts & rivets
16	11222	2/18	\$ 964.46	Los Angeles Freightliner	NG-4 right side driver mirror, NG-3 turn signal
17	11223	2/18	\$ 150.00	Pitney Bowes/Purchase Power	Postage for Postage Machine January 2019
18	11224	2/18	\$ 61.68	RAYCOM	Re-stock 2 way radio antenna
19	11225	2/18	\$ 4,048.14	Reliable Monitoring Services	Yard gas detection system and repairs
20	11226	2/18	\$ 710.50	Rutan & Tucker, LLP	Personnel Legal Services for January 2020
21	11227	2/18	\$ 1,053.99	TEC of California	Re-stock brake pads & hose clamps
2	11228	2/18	\$ 1,900.00	VNCR	Talkshow: 20 minutes (3) 1/17/20-1/25/20
22			\$ 150,901.57	CHECKS SUBTOTAL	
23				PAYROLL	
24					
25	ACH	2/25	\$ 64,936.75	Paychex	Employee Payroll - Checks, Taxes, & Direct Deposits
26	ACH	2/25	\$ 3,524.76	Nationwide Retirement Solutions	457 Deferred Compensation (100% Paid By Employees)
27	ACH	2/25	\$ 560.00	Nationwide Retirement Solutions	457 Roth (100% Paid By Employees)
28			\$ 69,021.51	PAYROLL SUBTOTAL	
30					

30					
31					ACH PAYMENTS
32	ACH	2/26	\$ 14,188.26	CalPERS	Retirement Contributions for 2/10/2020-02/23/2020
	ACH	3/1	\$ 54,116.49	CalPERS	Active Employee and Retiree Health Insurance Premiums for March 2020
	ACH	3/1	\$ 5,585.39	CalPERS	Board of Directors Health Insurance Premiums for March 2020
33			\$ 73,890.14	ACH TRANSFERS SUBTOTAL	
34					
35			\$ 293,813.22	TOTAL EXPENDITURES (HANDCUT, REGULAR, PAYROLL, ACH TRANSFERS)	
36					
37					BANK TRANSFERS
38			\$ 159,000.00	LAIF	Transfer Funds from LAIF to Union Bank Checking Account

A motion was made by Director M. Rice, seconded by Director A. Nguyen, to approve the expenditures in the amount of \$ 293,813.22. The motion was approved by the following 3-0 vote:

AYES: A. Nguyen, C. Nguyen and M. Rice

NAYS:

ABSTAIN:

ABSENT: S. Contreras, A. Krippner

REPORTS

Report of President

President C. Nguyen reported that he was concerned about Director A. Krippner's health, but that he spoke with his wife Loretta, who said that she is hoping he will be able to return in April.

Finance/HR Director R. Housley confirmed that he received the same information from Director A. Krippner's wife.

Report of General Manager

GM K. Robbins reported that staff is looking into a pilot program for a fire suppression system that would be installed inside one of the District's trucks. This is due to all the recent fires due to batteries and should cost roughly \$6,500.

GM K. Robbins reported that the bulky item program is booked out three weeks at this time and that the District has already taken in over 500 mattresses for the year. He stated that the District may need to consider charging for this service and/or hire additional employees to help with the program.

Report from the Orange County Sanitation District (OCSD) Meetings on February 19 and 26, 2020

Director A. Nguyen reported that at the February 19 meeting, the new 2020-2021 budget and purchase orders were discussed and at the February 26 meeting, there was recognition of employees and discussion of two lawsuits during a closed session.

CONSENT CALENDAR

None

OLD BUSINESS

None

NEW BUSINESS

A. Discussion and Consideration to Approve Purchase of New Tire Mounting Machine for Fleet Maintenance Department

A report of a summary of Staff's recommendation was provided and considered by the Board. A motion was made by President C. Nguyen, seconded by Director A. Nguyen, to approve the purchase of a new tire mounting machine for the fleet maintenance department from Daniel's Tires in the amount of \$17,194.75. The motion was approved by the following 3-0 vote:

AYES: A. Nguyen, C. Nguyen and M. Rice

NAYS:

ABSTAIN:

ABSENT: S. Contreras, A. Krippner

B. Consider Approval of Fiscal Year 2019-2020 Budget Adjustments No. 1

Finance/HR Director R. Housley reviewed the proposed budget adjustments.

A report of a summary of Staff's recommendation was provided and considered by the Board. A motion was made by President C. Nguyen, seconded by Director M. Rice, to approve the Fiscal Year 2019-2020 Budget Adjustments No. 1. The motion was approved by the following 3-0 vote:

AYES: A. Nguyen, C. Nguyen and M. Rice

NAYS:

ABSTAIN:

ABSENT: S. Contreras, A. Krippner

C. Consider Establishing a Policy Regarding Board of Director Absences and Attendance at Meetings

General Counsel James Eggart stated that at the last few meetings, there were questions and concerns expressed by Directors relating to meeting attendance and absences and that he was directed at the last meeting to bring something back for discussion in response to questions raised about obligations of Directors and the District. He stated that in researching State laws, there are very few rules that govern these things and it is left to the local agency Boards to establish policies. Government Code section 1770 is the only State law that talks about what happens if a Director is absent for a long period of time. Under some circumstances that could result in the Director vacating his/her elected office and that the District does not have a policy regarding this issue.

General Counsel James Eggart explained that in order to spur a discussion regarding this issue, he put together some language that could go into a policy if the Board was inclined to adopt one. The draft policy addresses attendance at Board meetings, Directors' attendance at other meetings (as in appointees to other Boards), the use of teleconferencing for Board and subcommittee meetings, prolonged absences, and Government Code section 1770's provisions regarding vacation of office. He stated that with regard to the teleconferencing, the draft policy provides that an individual Director is entitled to two teleconference meetings per year at the Director's request and after that it requires Board approval. As to absences, the draft policy states that Directors have an obligation to keep the District informed if they believe that they are going to be absent for an extended period of time.

Director M. Rice stated that she was concerned about Director S. Contreras as well because he had missed a few meetings. She stated that this is supposed to be a five member Board and that it is her opinion that if people cannot attend they need to get off the Board unless they have a really good reason such as a death in the family or they are ill.

President C. Nguyen asked whether Director S. Contreras called in to let the General Manager know that he would be out for tonight's meeting.

GM K. Robbins stated that he did not call in today but that he mentioned last week that he might not make it to tonight's meeting.

Director M. Rice asked how many meetings he has missed. She stated that it was too many, that she really likes Director S. Contreras but that he was elected and it's not fair to the rest of the Board. She stated that she feels the same about Director A. Krippner

and that if he cannot be in attendance at Board meetings they should let the General Manager know because they were elected to office and it is their responsibility to be at the meetings, or give a good reason why they were not.

General Counsel James Eggart stated that the draft policy that he drafted for review reads so that there is an expectation for the Directors to attend meetings and they would need to give advance notice if they would not be at a meeting and to provide a reason, and that the reason would be noted and reported in the minutes. He stated that if the reason was not acceptable to the Board, it would also be noted in the minutes.

Director M. Rice stated that the reason needs to be acceptable. She stated that being out campaigning somewhere else was not acceptable to her.

General Counsel James Eggart stated that the draft policy would state that an absent Director should provide the reason for the absence to the General Manager, who would report it out in at the meeting, which would go into the minutes of the meeting.

Director A. Nguyen stated that he feels that any absence needs to be reported to the General Manager.

General Counsel James Eggart stated that the Board can adopt a policy if desired, but needs to do it by resolution, and that if they wanted to adopt this policy, he would need to bring back a resolution for adoption at the next meeting. Regarding teleconferencing, the draft states that a Director can participate in a Board meeting by teleconference twice a year without prior approval by the Board and it would require them to notify the General Manager five days in advance in order to arrange it. It also states that the Director cannot Chair a meeting via teleconference and there is language that states that if either party cannot hear, the Chair can terminate the teleconference meeting. General Counsel James Eggart stated that there is also language regarding if you are the primary appointee at a subcommittee meeting, to let the General Manager know in advance so that he can notify the Alternate. The final item is regarding prolonged absences and states if the Director will be out for an extended length of time (more than 30 days) that he/she has an obligation to notify the Board through the General Manager of the length they anticipate to be out and the reasons and circumstances.

Discussion ensued regarding the draft policy and the consensus was to move forward.

A report of a summary of Staff's recommendation was provided and considered by the Board. A motion was made by Director M. Rice, seconded by Director A. Nguyen, to direct General Counsel James Eggart to prepare a resolution for adoption of a policy consistent with the draft that was reviewed by the Board. The motion was approved by the following 3-0 vote:

AYES: A. Nguyen, C. Nguyen and M. Rice
NAYS:
ABSTAIN:
ABSENT: S. Contreras, A. Krippner

INFORMATIONAL ITEMS

None

BOARD CONCERNS/COMMENTS

Director M. Rice stated that she needed help getting transportation to and from LAX for the Waste Expo in May.

Director M. Rice stated that OCSD sent her a really beautiful and interesting book and she was enjoying reading it.

GM/STAFF CONCERNS/COMMENT

Director R. Housley reminded everyone that there was a budget meeting/workshop next Tuesday, March 10, 2020 at 5:30 P.M.

GENERAL COUNSEL CONCERNS/COMMENTS

General Counsel James Eggart requested direction from the Board regarding whether it wished to agendize for future discussion consideration of a policy related to payment of health benefits for Directors during periods of absence. Director Rice was in favor of doing so. Directors A. Nguyen and President C. Nguyen were not in favor of doing so. As a majority of Directors present were not in favor of agendizing this matter for discussion, there was not Board direction to do so.

General Counsel James Eggart stated that he was available to attend next Tuesday's budget meeting if needed.

The Board consensus was that it was not necessary for General Counsel to attend as no decisions would be made.

CLOSED EXECUTIVE 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 C. Nguyen adjourned the meeting to Tuesday, March 10, 2020 at 5:30 P.M. at the District office at approximately 6:27 P.M.

Sergio Contreras
Sergio Contreras, Secretary