

**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**

**EVERYONE WHO ATTENDED THIS HYBRID/TELECONFERENCE MEETING
ATTENDED IN PERSON; HOWEVER, PARTICIPANTS WERE ELIGIBLE TO
ATTEND FROM VARIOUS LOCATIONS PURSUANT TO THE PROVISION OF THE
GOVERNOR'S EXECUTIVE ORDER WHICH SUSPENDS CERTAIN
REQUIREMENTS OF THE RALPH M. BROWN ACT. AGENDA PACKETS WERE
MADE AVAILABLE AT THE DISTRICT OFFICE AND A LINK, PHONE NUMBER AND
ACCESS NUMBER WERE MADE AVAILABLE TO ANYONE WISHING TO ATTEND.
PER STATE OF CALIFORNIA EXECUTIVE ORDER NO. N-29-20, AND IN THE
INTEREST OF PUBLIC HEALTH AND SAFETY, THE DISTRICT STRONGLY
ENCOURAGED MEMBERS OF THE PUBLIC TO PARTICIPATE IN THIS MEETING
TELEPHONICALLY RATHER THAN ATTENDING IN PERSON.**

September 7, 2021

CALL TO ORDER

President A. Nguyen called the regular in-person hybrid/teleconference meeting of the Governing Board of the Midway City Sanitary District to order at 14451 Cedarwood Avenue, Westminster, California on Tuesday, September 7, 2021 at 5:32 P.M.

BOARD MEMBERS PRESENT:

Tyler Diep
Sergio Contreras
Chi Charlie Nguyen
Andrew Nguyen
Mark Nguyen (newly appointed Board member)

OTHERS AT MEETING:

Ken Robbins, General Manager
Robert Housley, Finance/HR Director
James Eggart, General Counsel
Danielle Gerardo, Executive Board Secretary
Ashton Kauwe, Resident & Applicant for BOD Vacancy

PLEDGE AND INVOCATION

Director S. Contreras led the Pledge of Allegiance. GM K. Robbins gave the Invocation.

PUBLIC COMMENTS

General Counsel, James Eggart stated that this would be the time for anyone with an interest in agenda item 9A regarding the Board vacancy to speak unless the Board wished to do so at the time of the item's discussion.

Ashton Kauwe introduced himself to the Board as one of the applicants for the vacancy on the Board of Directors.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF AUG. 17, 2021 (Roll Call Vote)

A motion was made by Director T. Diep, seconded by Director C. Nguyen, to approve the minutes of the regular meeting of August 17, 2021. The motion was approved by the following 4-0 roll call vote:

AYES: S. Contreras, T. Diep, A. Nguyen, C. Nguyen

NAYS:

ABSTAIN:

ABSENT:

APPROVAL OF EXPENDITURES

A. Demands in the amount of \$ 358,600.44 (Roll Call Vote)

#	CK #	Date	AMOUNT	VENDOR	
				CHECKS:	MEMO:
1	13025	8/17	\$ 116.53	AT&T Mobility	Cell Phone Service
2	13026	8/17	\$ 225.00	Ayala's Car Wash	Fleet vehicle wash 8/10/21
3	13027	8/17	\$ 1,558.53	Wex Bank (Chevron)	Fuel Credit Card for August 2021
4	13028	8/17	\$ 526.56	Cintas	Employee uniform services for 08/05/21
5	13029	8/17	\$ 84.94	City of Westminster	Hydrant Water Service 07/15/2021-08/13/2021
6	13030	8/17	\$ 1,897.00	Haaker Equipment Company	CNG Station Site Inspection
7	13031	8/17	\$ 363.00	Orange County Health Care Agency	Annual Hazardous Materials Fee 07/01/21-06/30/22
8	13032	8/17	\$ 68.91	Clean Energy	Clear tubing for NG-12 for Sewer Maintenance
9	13033	8/17	\$ 1,612.00	HB Staffing	08/02/21-08/08/21 for temp services
10	13034	8/17	\$ 30.00	Memorial Care Medical Foundation	Visit for Dennis Solano 07-30-21
11	13035	8/17	\$ 3,000.00	Saigon Capital Restaurant	MCSD Open House catering 08/29/21
12	13036	8/17	\$ 4,126.48	SDRMA - Employee Benefits	Dental and Vision benefits August-2021
13	13037	8/17	\$ 56.28	Snap-on Tools	Tools to remove the filter from cummings engine
14	13038	8/17	\$ 231.77	SoCal Auto & Truck Parts, Inc.	Paste for tires for solid waste trucks
15	13039	8/17	\$ 58.28	SoCal Gas	CNG Station from 07/09/2021 through 08/09/2021
16	13040	8/17	\$ 1,349.00	Time Warner Cable	Television service
17	13041	8/17	\$ 1,576.52	TrucPar Company	Restock miscellaneous parts for shop use
18	13042	8/17	\$ 5,964.50	Woodruff, Spradlin & Smart	Legal Services August-2021
19	13043	8/17	\$ 750.00	Wow Special Events, Inc.	Open House/Groundbreaking Event Aug 28th&29th-Portable Restrooms
20	13044	8/17	\$ 6,353.65	US Bank Corporate Payment Systems	District Credit Cards
21	13045	8/19	\$ 91,850.95	CR Transfer Incorporated	Tonnage from 07/16/21 through 07/29/21
22	13046	8/24	\$ 341.43	AT&T	Brookhurst Lift Station Phone & Internet
23	13047	8/24	\$ 490.00	Ayala's Car Wash	Fleet vehicle wash 8/16/21
24	13048	8/24	\$ 1,715.03	Bodyworks Equipment, Inc.	Restock Heil parts for solid waste trucks
25	13049	8/24	\$ 263.28	Cintas	Employee uniform services for 08/19/21
26	13050	8/24	\$ 3,950.02	Daniel's Tire Service	Restock recap tires for solid waste trucks
27	13051	8/24	\$ 1,612.00	HB Staffing	08/09/21-08/15/21 for temp services
28	13052	8/24	\$ 29.69	Hose-Man	Restock hydraulic fittings for solid waste trucks
29	13053	8/24	\$ 150.00	Purchase Power	Postage-August 2021
30	13054	8/24	\$ 1,838.10	Safety-Kleen Systems, Inc.	Restock antifreeze for Refuse Trucks
31	13055	8/24	\$ 222.94	Snap-on Tools	Restock tools for shop use
32	13056	8/24	\$ 144.08	SoCal Auto & Truck Parts, Inc.	Replacement battery for NG-11 solid waste truck
33	13057	8/24	\$ 7,511.87	Southern California Edison	District Offices, CNG Station and Lift Stations

34	13058	8/24	\$ 79.86	Time Warner Cable	Television service
35	13059	8/24	\$ 222.93	TrucPar Company	Restock tire parts for Shop use
36	13060	8/26	\$ 33.90	LegalShield	Prepaid legal & theft svcs. August 2021
37	13061	8/26	\$ 1,396.50	Rutan & Tucker, LLP	Legal Services August-2021
38	13062	8/26	\$ 1,950.00	MacLeod Watts Inc.	Prepare GASB 75 Actuarial Report for Fiscal Year End June 30 2021
39	13063	8/26	\$ 750.00	Chris Anderson Group	Live Music for Open House event 08/28/21
40	13064	8/26	\$ 600.00	Dan T. Pham	Balloon artist for Open House events 08/28-08/29/21
41	13065	8/26	\$ 600.00	Michele Milan Lu	Balloon artist for Open House events 08/28-08/29/21
42	13066	8/26	\$ 2,327.60	Void Check - Harbor Party Rentals, Inc	Voided Check - Vendor paid by credit card
43	13067	8/26	\$ 6,000.00	Maxime Live	Balance Due for 08/29 entertainment for Open House
44	13068	8/26	\$ 1,000.00	MTTN Studio	Open House Photography 08/28-08/29/21
45	13069	8/26	\$ 600.00	Mustache Mike's Italian Ice	Service for Open House 08/28
46	13070	8/26	\$ 3,525.00	Saigon Capital Restaurant	MCSD Open House catering 08/29/21
47	13071	8/26	\$ 6,253.13	Sweet Lou's BBQ Catering	Catering for Open House Event 08/28/21
48	13072	8/26	\$ 1,244.50	Twist and Shout Events, Inc.	Face painters for Open House events 08/28-08/29/21
49	13073	8/26	\$ 11,300.00	Clifton Larson Allen, LLP	Billing for Audit of financial statements yr. ended 06.30.2021
50	13074	8/27	\$ 225.00	Ayala's Car Wash	Fleet vehicle wash 8/24/21
51	13075	8/27	\$ 263.28	Cintas	Employee uniform services for 08/26/21
52	13076	8/27	\$ 210.10	City of Westminster	District Offices & wash Rack 06/30/2021-08/24/2021
53	13077	8/27	\$ 836.00	CRC Cloud	Maintenance & Support Sept-2021
54	13078	8/27	\$ 1,185.25	Frontier Communications	District Office Phones & Lift Stations
55	13079	8/27	\$ 1,612.00	HB Staffing	08/16/21-08/22/21 for temp services
56	13080	8/27	\$ 119.00	Remington Pure	Water Filtration Service
57	13081	8/27	\$ 535.00	Snap-on Tools	Grinder kit for shop use
58	13082	8/27	\$ 900.00	SoCal Arborists	Tree trimming
59	13083	8/27	\$ 823.75	SoCal Auto & Truck Parts, Inc.	Re-stock hydraulic hose for solid waste trucks
60	13084	8/27	\$ 92.18	TrucPar Company	Restock brake cleaner for solid waste trucks
61	13085	8/27	\$ 95,604.85	CR Transfer Incorporated	Tonnage from 07/30/21 through 08/13/21
62	13086	8/29	\$ 600.00	Mustache Mike's Italian Ice	Service for Open House 08/29
63			\$ 280,841.64	CHECKS SUBTOTAL	
64					
65				PAYROLL:	MEMO
66	ACH	8/24	\$ 74,218.85	Paychex	Employee Payroll - Checks, Taxes, & Direct Deposits
67	ACH	8/25	\$ 4,669.81	Nationwide Retirement Solutions	457 Deferred Compensation (100% paid by employees)
68	ACH	8/25	\$ 835.00	Nationwide Retirement Solutions	457 Roth (100% paid by employees)
69	ACH	9/3	\$ 711.00	Nationwide Retirement Solutions	457 Deferred Compensation (100% Paid By Board of Directors)
70			\$ 74,218.85	ACH TRANSFERS SUBTOTAL	
71					
72				ACH PAYMENTS:	MEMO
73	ACH	8/20	\$ 285.79	Paychex	Time & Attendance August-2021
74	ACH	8/27	\$ 15,841.52	CalPERS	Retirement Contributions for 08/09/2021-08/22/2021
75	ACH	9/1	\$ 52,754.21	CalPERS	Active Employee and Retiree Health Ins Premiums September 2021
76	ACH	9/1	\$ 4,936.82	CalPERS	Board of Directors Health Insurance Premiums for September 2021
77			\$ 4,936.82	ACH TRANSFERS SUBTOTAL	
78					
79			\$ 359,997.31	TOTAL EXPENDITURES (ACCOUNTS PAYABLE CHECKS, PAYROLL, ACH TRANSFERS)	
80					
81				BANK TRANSFERS:	
82	UB	8/25	\$ 244,000.00	Transfer Funds from UB Money Market to UB	Checking Account
83			\$ 244,000.00	BANK TRANSFERS	

A motion was made by Director T. Diep, seconded by President A. Nguyen to approve the expenditures in the amount of \$ 358,600.44. The motion was approved by the following 4-0 roll call vote:

AYES: S. Contreras, T. Diep, A. Nguyen, C. Nguyen

NAYS:

ABSTAIN:

ABSENT:

REPORTS

Report of President

President A. Nguyen stated that he hoped everyone had a nice Labor Day weekend.

Report of General Manager

GM K. Robbins reported that both days of the Open House were a great success. He was asked by a councilmember from the City about the District tagging abandoned items within the District for the City and he explained that the District cannot do that but that MCSD drivers do tell people who to call for help with those items.

GM K. Robbins reported that the District would be receiving bids for the remodel project so there would be an agenda item for that at the October 5, 2021 meeting. Eleven (11) contractors showed up to the pre-bid walk thru.

GM K. Robbins stated that he would not be at the next regular Board meeting on September 21, 2021 because he would be attending the Garbage Man's Invitational Golf Tournament.

GM K. Robbins stated that the District would be offering Harassment Training at the District on Saturday, October 2, 2021 from 8AM-10AM for anyone needing it.

Report from the Orange County Sanitation Meeting on Aug. 25, 2021

President A. Nguyen reported that OCSD is receiving 13% returns from OCERS, that they are making changes to the collection for sewer service charges by eliminating the need for invoicing, their manager got a new contract and the Westminster project is complete but that there is still cleanup to do.

Report from the Clean-Up Event on August 21, 2021

All of the Directors said that it was a worthwhile and well attended event but that it was a little hard to find.

Report from the Open House/Groundbreaking Events on Aug. 28 & 29, 2021

All of the Directors agreed that it was well organized and well attended, and that Director Margie Rice was recognized at the event. They all received a lot of positive comments from attendees and look forward to hosting other events.

Report from the California Special Districts Association (CSDA) Conference Aug. 30-Sept. 2, 2021

President A. Nguyen and Director C. Nguyen agreed that it was a great conference with a lot of information.

Director C. Nguyen reported that he attended several breakout sessions including harassment training, two very inspiring motivational keynote speakers and another regarding financial Covid relief and he questioned whether the District could tap into some of the funds from the County for COVID relief to put toward the extra money spent for recycling that went to CR&R.

Finance/HR Director R. Housley stated that it was a great conference with a good educational forum and that there were 600-700 people in attendance.

GM K. Robbins stated that he did his ethics training and spoke to several of the new attorneys.

CONSENT CALENDAR

None

OLD BUSINESS

None

NEW BUSINESS

A. Consideration of Appointment of Qualified Individual to Fill Vacancy on Board of Directors (Roll Call Vote)

General Counsel, James Eggart stated that this item is to fill the vacancy on the Board of Directors left by Director Margie Rice through her remaining term until November 2022. The Board chose the appointment process so a Notice of Vacancy was posted for fifteen (15) days in three places throughout the District, in addition to the District's Facebook page. There were six (6) applicants for the vacancy on the Board of Directors, with one (1) withdrawing (Tri Ta). Their names are Richie Kerwin Lim, Anh Viet Pham, Ashton Kauwe, Daniel Alexis Garcia, and Mark Nguyen. He stated that there is no special process in the law as to how to go about the appointment, that the Board could follow whatever process they wanted and that it just requires a motion, a second and three (3) affirmative votes. He stated that Staff did confirm with the Registrar of Voters that all of the applicants are qualified registered voters.

The Board discussed each individual applicant and the importance of having someone for the position who was respectful, did not bring any conflict and who would work well with the current Board members.

There was discussion regarding Mark Nguyen whose application states that he is on the City of Westminster Planning Commission.

General Counsel, James Eggart, stated that the offices are incompatible and if Mark Nguyen is appointed, he will need to forfeit his position on the Planning Commission.

A motion was made by Director T. Diep, seconded by President A. Nguyen, to appoint Mark Nguyen to the vacancy on the Board of Directors.

A substitute motion was made by Director S. Contreras to appoint Ashton Kauwe to the vacancy on the Board of Directors. The motion died due to the lack of a second.

A second substitute motion was made by Director S. Contreras to appoint Daniel Alexis Garcia to the vacancy on the Board of Directors. The motion died due to the lack of a second.

The original motion made by Director T. Diep, seconded by President A. Nguyen, to appoint Mark Nguyen to the vacancy on the Board of Directors was approved by the following 4-0 roll call vote:

AYES: S. Contreras, T. Diep, A. Nguyen, C. Nguyen

NAYS:

ABSTAIN:

ABSENT:

Mark Nguyen was sworn in and given the Oath of Office by General Counsel, James Eggart. The Board congratulated and welcomed Mark Nguyen and he took his seat at the podium for the remainder of the meeting.

B. Discussion Regarding Service Being Provided by CR&R Pursuant to Exclusive Franchise Agreement **(Roll Call Vote)**

GM K. Robbins stated that Director C. Nguyen asked for this item to be on the agenda for discussion due to complaints he received. GM K. Robbins stated that he needed to be made aware of any complaints made to the Board members within the District immediately in order to document and take photographs in case they were needed in the future.

Director C. Nguyen stated that he expected someone from CR&R to be present at the meeting for this discussion. He stated that he and Director S. Contreras are on the Franchise Committee and that at the last meeting with CR&R, the CR&R representatives told them to call them directly instead of going through MCSD staff if there was ever an issue, so that is why he contacted them.

Director S. Contreras stated that the representatives from CR&R made a commitment to service the District but that they were not providing the level of service promised.

There was discussion by the Board and staff regarding the level of service being provided and their plans for public outreach to the District by CR&R for the next few months.

Director C. Nguyen stated that he is not looking to call the contract and that it looks like things are getting better.

GM K. Robbins stated that, if necessary, he could call the contract as well, but that he needed solid backup like photos and documentation in order to do so.

Director C. Nguyen stated that he agrees that staff needs to be made aware of any contact with CR&R regarding complaints in order to have documentation.

Director T. Diep stated that, back in 2000, CR&R and Rainbow both serviced the District and the level of service was higher. During the last fifteen years though, the District is serviced solely by CR&R and has become one of many areas that they service and the level of service has dropped. He stated that he feels that a letter letting CR&R know that they are on two-year notice and that the District is contemplating ending the evergreen contract would send a message.

No action was taken on this item.

INFORMATIONAL ITEMS

None

BOARD CONCERNS/COMMENTS

Newly elected Board member Director Mark Nguyen thanked the Board for their votes and stated that he hopes he can bring some value to the Board. He stated that he has been a data base manager for the Orange County Civic Center for fifteen years and an IT consultant for the County of Orange for ten years. He stated that he understands the politics at the County level and at the City level due to being on the Planning Commission.

Director S. Contreras congratulated and welcomed Director Mark Nguyen. He reiterated how outstanding the Open House was and that it was a good commemoration to Director Margie Rice. He suggested possibly having several events each year – one during the Lunar New Year, one during the holidays and one in the summer due to the success.

Director C. Nguyen congratulated Director mark Nguyen and stated that he had a concern. The Vietnamese newspaper came out with a story regarding odors within the District and asked where they got their information. He stated that he felt that the Board should be made aware first of any issues regarding the District and CR&R service.

Director T. Diep stated he would be bringing ideas for future events to the Board for consideration. He congratulated Mark Nguyen and acknowledged Director C. Nguyen for being diligent about the services of CR&R to the District.

GM/STAFF CONCERNS/COMMENT

GM K. Robbins and Finance/HR Director R. Housley both congratulated and welcomed Mark Nguyen to the Midway City Sanitary District Board of Directors. They both stated

that he would be provided with the necessary paperwork for his position and would be in touch with him.

GENERAL COUNSEL CONCERNS/COMMENTS

General Counsel, James Eggart congratulated Mark Nguyen and stated that he would send him an introductory letter regarding the laws and that he would need to receive ethics training.

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 A. Nguyen adjourned the meeting to Tuesday, September 21, 2021 at 5:30 P.M. at the District office at approximately 7:05 P.M.

Sergio Contreras
Sergio Contreras, Secretary