

**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**

December 21, 2021

CALL TO ORDER

President A. 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, December 21, 2021 at 5:31 P.M.

BOARD MEMBERS PRESENT:

Tyler Diep
Sergio Contreras (absent)
Chi Charlie Nguyen (arrived @ 5:37 P.M.)
Andrew Nguyen
Mark Nguyen

OTHERS AT MEETING:

Ken Robbins, General Manager
Robert Housley, Finance/HR Director
James Eggart, General Counsel
Danielle Gerardo, Executive Board Secretary
Richard Rengel, Rengel Architects
Ashton Kauwe, Resident

PLEDGE AND INVOCATION

Director M. Nguyen led the Pledge of Allegiance. GM K. Robbins gave the Invocation.

PUBLIC COMMENTS

None

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF DEC. 7, 2021

(Roll Call vote)

A motion was made by President A. Nguyen, seconded by Director T. Diep, to approve the minutes of the regular meeting of December 4, 2021. The motion was approved by the following 3-0 roll call vote:

AYES: T. Diep, A. Nguyen, M. Nguyen
 NAYS:
 ABSTAIN:
 ABSENT: S. Contreras, C. Nguyen

APPROVAL OF EXPENDITURES

(Roll Call vote)

A. Demands in the amount of \$ 255,817.10

#	CK #	Date	AMOUNT	VENDOR	MEMO:
				CHECKS:	
1	13341	12/8	\$ 750.00	Chris Anderson Group	2021 MCSD holiday party entertainment
2	13342	12/8	\$ 4,318.55	The SmoKING Ribs, LLC	2021 MCSD holiday party food
3	13343	12/10	\$ 750.00	Ayala's Car Wash	Fleet vehicle wash 11/29 and 12/07/21
4	13344	12/10	\$ 266.25	Cameron Welding Supplies	Welding supplies for shop
5	13345	12/10	\$ 1,512.66	Wex Bank (Chevron)	Fuel credit card for Nov 2021
6	13346	12/10	\$ 720.80	Cintas	Employee uniform services for 12/02 - 12/09/21
7	13347	12/10	\$ 180.00	Costco Wholesale	Annual membership for 2022
8	13348	12/10	\$ 82.04	Cummins Sales and Service	Cap filler for solid waste trucks
9	13349	12/10	\$ 4,728.01	Daniel's Tire Service	Restock tires for solid waste
10	13350	12/10	\$ 821.46	Dartco Transmission Sales & Svcs.	Restock transmission filter for NG-13 solid waste trucks
11	13351	12/10	\$ 1,674.00	HB Staffing	11/29 - 12/05/21 for temp services
12	13352	12/10	\$ 4,680.00	IB Consulting, LLC	Updating budget, CIP edits, financial plan adjustments, conference call
13	13353	12/10	\$ 804.23	Merchants Building Maintenance, LLC	Monthly janitorial services Dec 2021
14	13354	12/10	\$ 2,900.00	MTTN Studio	Facebook mgmt. for Aug and Nov
15	13355	12/10	\$ 31,494.78	Orange County Sanitation District	Permit fees Nov-2021
16	13356	12/10	\$ 23,920.73	Otto Environmental Systems	(184) 95 gallon blue carts and (189) 65 gallon black carts for restock
17	13357	12/10	\$ 1,274.00	Rutan & Tucker, LLP	Legal services Oct-2021
18	13358	12/10	\$ 1,968.27	Safety-Kleen Systems, Inc.	Restock oil for refuse trucks
19	13359	12/10	\$ 2,175.00	Safety Research Consultants, Inc.	4-Hour training on 11/13/2021
20	13360	12/10	\$ 278.05	SoCal Auto & Truck Parts, Inc.	Restock oil for solid waste trucks
21	13361	12/10	\$ 10,504.11	SoCal Gas	CNG station from 11/01 - 12/01/21
22	13362	12/10	\$ 314.15	Staples Business Credit	Restock office supplies Dec-2021
23	13363	12/10	\$ 300.00	Streamline	Website monthly member fee 12/01/21-01/01/22
24	13364	12/10	\$ 1,891.65	TEC of California, Inc.	Restock parts for solid waste trucks
25	13365	12/10	\$ 391.23	Tell Steel	Flooring material for solid waste trucks
26	13366	12/10	\$ 31.45	Underground Service Alert	(14) New tickets for Oct-2021
27	13367	12/10	\$ 1,928.44	Verizon	SCADA for Oct and Nov 2021
28	13368	12/10	\$ 441.00	Wespac Security Services, Inc.	Alarm monitoring services Oct-Dec 2021
29			\$ 101,100.86	CHECKS SUBTOTAL	
30					
31				PAYROLL:	MEMO
32	ACH	12/3	\$ 733.50	Nationwide Retirement Solutions	457 Deferred Compensation (100% Paid By Board of Directors)
33	ACH	12/14	\$ 131,070.22	Paychex	Employee Payroll - Checks, Taxes, & Direct Deposits
34	ACH	12/14	\$ 4,940.99	Nationwide Retirement Solutions	457 Deferred Compensation (100% paid by employees)
35	ACH	12/14	\$ 1,426.77	Nationwide Retirement Solutions	457 Roth (100% paid by employees)
36			\$ 138,171.48	ACH TRANSFERS SUBTOTAL	
37					
38				ACH PAYMENTS:	MEMO
39	ACH	11/16	\$ 16,544.76	CalPERS	Retirement Contributions for 11/29/21-12/12/21
40			\$ 16,544.76	ACH TRANSFERS SUBTOTAL	
41					
42			\$ 255,817.10	TOTAL EXPENDITURES (ACCOUNTS PAYABLE CHECKS, PAYROLL, ACH TRANSFERS)	

A motion was made by President A. Nguyen, seconded by Director T. Diep, to approve the expenditures in the amount of \$255,817.10. The motion was approved by the following 3-0 roll call vote:

AYES: T. Diep, A. Nguyen, M. Nguyen
 NAYS:
 ABSTAIN:
 ABSENT: S. Contreras, C. Nguyen

REPORTS

Report of President

President A. Nguyen wished everyone a happy holiday, thanked everyone for the gifts and welcomed Ashton Kauwe to the meeting.

Director C. Nguyen arrived at 5:37 P.M.

Report of General Manager

GM K. Robbins reported that Armando Anthony Torres, the District's new driver, started on Monday, December 20, 2021.

GM K. Robbins reported that the District now has more employees with less than ten years of service than more which is a good position for the District.

GM K. Robbins reported that Richard Rengel from Rengel Architects was participating via video conference because GM Robbins would be asking the Board to walk an item onto the agenda for approval of a change order to the contract with Rengel Architects for engineering and architectural services because the City was now requiring the District to put in ground filtration in the front of the building.

GM K. Robbins reported that Tesco Controls was doing an assessment on the electrical component of the lift stations and would come back with recommendations for changes or updates. The District ordered four sonic transducers that measure the flow of the wet wells at a cost of approximately \$8,000.00.

Report from the Orange County Sanitation District (OC San) Meetings on Dec. 15, 2021

President A. Nguyen reported that OC San would be receiving a transparency certificate of excellence again this year, would be getting a large amount of funding for its infrastructure investments, and honored, Joseph Forbath of Woodruff, Spradlin & Smart, who recently passed away.

Report from the MCSD Holiday Luncheon on Dec. 11, 2021

All of the Directors attended. Director T. Diep reported that it was a great event for the District's employees and their families.

Report from the Administrative Luncheon on Dec. 16, 2021

Director T. Diep reported that it was a nice way to say goodbye to District employee Julia Book who is retiring.

Report from the Franchise Committee Meeting on Dec. 20, 2021

Director M. Nguyen reported that he met with Mike from CR&R and GM K. Robbins. CR&R provided a sample letter that will be going out with their January billing to blanket all the commercial customers within the District and explaining all the service issues they have been having. He stated that they would not be doing the second letter with service credits as he was actually planning to personally email, phone or visit those customers instead.

Director C. Nguyen stated that he noticed that Director S. Contreras was not at the meeting and as he is the alternate, he would have liked to attend the meeting.

GM K. Robbins informed Director C. Nguyen that Staff did not have advance notice Director S. Contreras would not be able to attend.

CONSENT CALENDAR

(Roll Call vote)

- A. Approve and File the Treasurer's Investment Report for November 2021

A motion was made by Director T. Diep, seconded by President A. Nguyen, to approve the Consent Calendar. The motion was approved by the following 4-0 roll call vote:

AYES: T. Diep, A. Nguyen, C. Nguyen, M. Nguyen

NAYS:

ABSTAIN:

ABSENT: S. Contreras

OLD BUSINESS

- A. Consider Amendment to Legal Agreement with Rutan & Tucker, LLP Providing for Increased Hourly Billing Rates for Legal Counsel services Commencing on January 1, 2022
(Roll Call Vote)

A motion was made by President A. Nguyen, seconded by Director C. Nguyen, to move this item until after the closed session. The motion was approved by the following 4-0 roll call vote:

AYES: T. Diep, A. Nguyen, C. Nguyen, M. Nguyen

NAYS:

ABSTAIN:

ABSENT: S. Contreras

NEW BUSINESS

- A. A RESOLUTION NO. 2021-14 OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, ADOPTING THE 2022-2023 SALARY SCHEDULE FOR NON-REPRESENTED EMPLOYEES
(Roll Call vote)

A motion was made by President A. Nguyen, seconded by Director M. Nguyen to adopt Resolution No. 2021-14, adopting the 2022-2023 salary schedule for non-represented employees. The motion was approved by the following 4-0 roll call vote:

AYES: T. Diep, A. Nguyen, C. Nguyen, M. Nguyen

NAYS:

ABSTAIN:

ABSENT: S. Contreras

B. A RESOLUTION NO. 2021-15 OF THE BOARD OF DIRECTORS OF THE MIDWAY CITY SANITARY DISTRICT OF ORANGE COUNTY, CALIFORNIA, ADOPTING THE 2022-2023 SALARY SCHEDULE FOR REPRESENTED EMPLOYEES

(Roll Call vote)

A motion was made by Director C. Nguyen, seconded by President A. Nguyen, to adopt Resolution No. 2021-15, adopting the 2022-2023 salary schedule for represented employees. The motion was approved by the following 4-0 roll call vote:

AYES: T. Diep, A. Nguyen, C. Nguyen, M. Nguyen

NAYS:

ABSTAIN:

ABSENT: S. Contreras

C. Discussion and Consideration of Resolution Supporting Federal Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) PFAS Legislation that Protects Ratepayers and Water/Wastewater Agencies

(Roll Call vote)

A report of a summary of Staff's recommendation was provided and considered by the Board.

A motion was made by Director C. Nguyen, seconded by President A. Nguyen, to adopt Resolution No. 2021-16, supporting Federal perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) PFAS legislation that protects ratepayers and water/wastewater agencies. The motion was approved by the following 4-0 roll call vote:

AYES: T. Diep, A. Nguyen, C. Nguyen, M. Nguyen

NAYS:

ABSTAIN:

ABSENT: S. Contreras

Consideration of adding item to the Agenda.

General Counsel, J. Eggart stated that the General Manager is asking the Board to walk an item onto the agenda that wasn't agendaized. The item proposed for consideration is a change order from Rengel and Company Architects for some additional work that the City is asking for in conjunction with the District headquarters remodel project.

General Counsel Eggart advised the Board that, in order to add a non-agenda item to the agenda, at least two-thirds of the Board Members must determine that there is a need for immediate action and the need to take action came to the attention of the District subsequent to the agenda being posted.

GM Robbins stated that there is a need for immediate action because Rengel and Company Architects needs to get started on the work before the next regularly scheduled Board meeting in order to keep the current deadlines and that he found out about the need for the additional services and proposed change order on Monday, December 20, 2021, after the Agenda had been posted.

A motion was made by Director T. Diep, seconded by President A. Nguyen, to find that there was a need to take immediate action and the need for action came to the attention of the District subsequent to the Agenda being posted and to therefore add to the Agenda an item for consideration of a proposed change order to the agreement for professional services with Rengel and Company Architects for additional services required in conjunction with the District headquarters remodel project. The motion was approved by the following 4-0 roll call vote:

AYES: T. Diep, A. Nguyen, C. Nguyen, M. Nguyen

NAYS:

ABSTAIN:

ABSENT: S. Contreras

Consideration of proposed change order to professional services agreement with Rengel and Company Architects.

GM K. Robbins stated that the District was not going to do anything to the front of the building, but the City is requiring the District to have proper drainage, which will require some new work and landscaping.

Richard Rengel from Rengel and Company Architects stated that the City was now requiring that the District have ground filtration in the form of a dry creek in the front of the building. He stated that the cost of the change order included the civil engineer, reworking the grading plans, a soils engineer to do a percolation analysis, and a landscape architect to do a design on the front, all at a cost of approximately \$26,000.

A motion was made by Director T. Diep, seconded by President A. Nguyen, to approve the proposed change order from Rengel Architects and authorize the General manager to enter into an amendment to the existing agreement with Rengel and Co. Architects for the additional required services in an amount not to exceed \$26,635.00. The motion was approved by the following 4-0 roll call vote:

AYES: T. Diep, A. Nguyen, C. Nguyen, M. Nguyen

NAYS:

ABSTAIN:

ABSENT: S. Contreras

INFORMATIONAL ITEMS

None

BOARD CONCERNS/COMMENTS

Director M. Nguyen thanked everyone for his appointment to the Board and wished everyone a safe and happy holiday.

Director C. Nguyen thanked staff and wished everyone a happy holiday with their families.

Director T. Diep wished everyone a Merry Christmas.

GM/STAFF CONCERNS/COMMENT

GM K. Robbins wished everyone a Merry Christmas and Happy New Year and thanked the Board for their support and stated that the Board's actions were having positive effects on the District.

Finance/HR Director R. Housley stated that the District was awarded approximately \$258,000 in relief funding from the State and would receive those funds from the County Auditor sometime in January. He also stated that Cynthia Olsder, who is replacing Julia Book as the District's new receptionist, officially started on Monday, December 20, 2021, and that it was Julia Book's last week at the District.

He also stated that there is new information regarding the vaccine and federal regulation requirements for larger businesses with 100 or more employees and he would keep the Board up to date. He also stated that a former employee of the District, Ronny Liddell, who had started as secretary and worked her way up to General Manager, had recently passed away.

GENERAL COUNSEL CONCERNS/COMMENTS

General Counsel, J. Eggart, stated that he would prepare a legislative update memo for the General Manager to provide the Board and he wished everyone a happy holiday.

General Counsel, J. Eggart convened the meeting into a closed session at 6:07 P.M. in order to conduct a public employee performance evaluation of Special Labor Counsel pursuant to Government Code Section 54957(b)(1).

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.

President A. Nguyen reconvened the open session portion of the meeting at 6:55 P.M. General Counsel, J. Eggart stated that the Board met in closed session in order to do a public employee performance evaluation and that there was no reportable action taken. He stated that the Board was now back to Old Business Item 8A- consideration of the amendment to the agreement with Rutan & Tucker.

A motion was made by Director C. Nguyen, seconded by President A. Nguyen, to table Item 8A to the January 4, 2022 regular meeting. The motion was approved by the following 4-0 roll call vote:

AYES: T. Diep, A. Nguyen, C. Nguyen, M. Nguyen

NAYS:

ABSTAIN:

ABSENT: S. Contreras

ADJOURNMENT

President A. Nguyen adjourned the meeting to Tuesday, January 4, 2022 at 5:30 P.M. at the District office at approximately 6:55 P.M.

Sergio Contreras
Sergio Contreras, Secretary