

**EMERALD BAY SERVICE DISTRICT**  
**REGULAR BOARD OF DIRECTORS MEETING**  
Wednesday, February 21, 2018

**PRESENT:** John Marconi, President  
John McDermott, Vice President  
James Flynn, Treasurer  
Susan Thomas, Secretary  
Philip deCarion, Director

**ALSO PRESENT:** Michael Dunbar, General Manager  
Allison Burns, Attorney, Stradling Yocca Carlson & Rauth  
Jill Chambers, EBCA Director of Architecture and Compliance  
Susan Olmstead-Bowen, Director of Finance  
Cathy Lovitt, Recording Secretary, Member Services Administrator

**CALL TO ORDER and PLEDGE OF ALLEGIANCE**

The meeting was called to order at 5:30 p.m. by President John Marconi and the pledge of allegiance was recited.

**CERTIFICATION OF POSTING**

Recording Secretary, Cathy Lovitt, stated the agenda for this meeting was posted on the community bulletin board, at the Main Gate Guardhouse, on the District's website and the media was notified by 5:00 p.m. on Friday, February 16, 2018.

**PUBLIC COMMENT**

None

**MINUTES**

The Board discussed the minutes of the Regular Meeting of the Board of Directors of January 17, 2018 and the minutes were approved as written.

*James Flynn made a motion to approve the minutes as written. The motion was seconded by Susan Thomas and passed unanimously.*

**REVIEW OF FINANCIAL MATTERS**

The Board discussed the financial reports as presented

**DEPOSITS**

Total deposits for January were \$172,542.07.

**INVOICES FOR PAYMENT**

Invoices for payment totaled \$67,867.41 for the period ending February 14, 2018.

*Susan Thomas made a motion to approve the invoices for payment for the period ending February 14, 2018 totaling \$67,867.41. The motion was seconded by John McDermott and unanimously approved.*

## **ACTION ITEMS**

**1. Consideration and possible action to award a construction contract for the Full-Length Sewer Lining Repairs based upon the responsive and responsible bidder.** Michael Dunbar reported that the District recently completed a sewer collection system assessment video of all the sewer pipeline segments within Emerald Bay. He explained that 5 pipeline segments had been identified that should be lined as soon as possible and an additional 8 segments that should be lined in the future. Mr. Dunbar indicated that \$140,000 has been budgeted for this project. The bid was sent to 9 potential sewer lining contractors. Four contractors were present at the pre-bid meeting on February 8, 2018. Mr. Dunbar reported that he received 4 sealed bids with the Base Bid ranging from \$64,675 to \$83,287 and the alternative bids ranging from \$29,220 to \$44,670.

*John McDermott made a motion to award the construction contract for the sewer lining repairs to Sancon Engineering, Inc. as the lowest responsible, responsive bidder in the amount of \$149,000 to include all 13 pipeline segments. The motion was seconded by Philip deCarion and unanimously approved.*

**2. Approve Mid-Year Budget Adjustments for Fiscal Year 2017/18.** Michael Dunbar reported that the District has conducted a mid-year budget review with adjustments during the last several years to allow both the staff and Board to have better knowledge of where the funds are being spent.

*The Board Members requested that this agenda item be deferred and discussed at the March Board meeting.*

**3. Adopt Resolution No. 18-02-21-01 Authorizing the transfer of funds for the Local Agency Investment Fund (LAIF).** Michael Dunbar reported that the Service District is a member of the Local Agency Investment Fund (LAIF) and invests the majority of its investment funds with LAIF. LAIF requires a resolution for the Authorization for the Transfer of Funds with each change of Board Members.

*John McDermott made a motion to adopt Resolution No. 18-02-21-01 Authorizing the Transfer of funds for LAIF. The motion was seconded by Susan Thomas and unanimously approved.*

**4. Filing of the Notice of Completion for the Main Gate Safety Improvement Project.** Michael Dunbar reported that the District and Community Association staff have met with the contractor of the Main Gate Safety Improvement project to review the final items that need to be completed. These included the lights at the entrance planter and the Guard House planter, some of which are on back order. Mr. Dunbar reported that all of the permits have been issued from the County and Caltrans and the District has received various owner's manuals and list of subcontractors. Mr. Dunbar also informed the Board that the District's proposed Notice of Completion would begin the one (1) year warranty period upon it being recorded by the County. Mr. Dunbar recommended the filing of the Notice with the County of Orange and the release of the retention funds. However, due to the incomplete order for the lights, he recommended that \$25,000 be withheld from the release of the retention funds until the lights have been installed.

*Susan Thomas made a motion to file the Notice of Completion of the Main Gate Safety Improvement Project withholding the \$25,000 from the release of retention funds until the lights have been installed. The motion was seconded by John McDermott and unanimously approved.*

**5. Consideration for one-time funding for Orange County Sheriff services (for Memorial Day and July 4) in the amount of \$30,000 and one-time funding for pool lifeguard services in the amount of \$75,000.**

*The Board Members requested that this agenda item be deferred and discussed at the next Board meeting.*

**6. Adopt Resolution No. 18-02-21-02 Adopting an Electronic Mail Policy.** Michael Dunbar reported that the proposed district-wide electronic mail policy clarifies the applicability of law to electronic mail and also sets forth new policies uniquely applicable to e-mail. Mr. Dunbar stated that it is important for all District officials, employees, and staff to be aware that an email message may be a public record and that the adoption of this policy will familiarize employees with the California Public Records Act (CPRA) as it relates to both access and retention of an official District record. This policy will define what appropriate use is, what types of messages should not be sent over the email system and the consequences if an employee violates the District's written policy. Mr. Dunbar reported that each Board member has been set up with a Service District email address which he will provide to them.

*John McDermott made a motion to adopt Resolution No. 18-02-21-02 Adopting an Electronic Mail Policy. The motion was seconded by Susan Thomas and unanimously approved.*

**7. Adopt Resolution No. 18-02-21-03 Declaring that Directors and Volunteers Shall be Deemed to be Employees of the District for the Purpose of Providing Worker's Compensation Coverage for Said Certain Individuals While Providing Their Services.** Michael Dunbar reported that periodically, the District uses volunteers and Board members to provide a variety of services ranging from CERT training to attending events. Except for certain statutory exceptions, such as disaster service workers, volunteers are not, by Labor Code, automatically covered by the District's Workers' Compensation insurance coverage if they are injured while providing volunteer services. Resolution 18-02-21-03 updates the District's definition for non-statutory volunteers by deeming them to be an employee of the Emerald Bay Service District for Worker's Compensation purposes only. This resolution complies with Labor Code Section 3363.5.

*John McDermott made a motion to adopt Resolution No. 18-02-21-03 Declaring Directors and Volunteers shall be deemed Employees of the District for the purpose of Providing Worker's Compensation Coverage for said Certain Individuals while providing their services. The motion was seconded by Susan Thomas and unanimously approved.*

**8. Authorize the General Manager to purchase our emergency generator to provide standby power during emergencies to the Community Center at a cost not-to-exceed \$17,000.**

*The Board Members requested that this agenda item be deferred and discussed at the next Board meeting.*

**OLD BUSINESS**

**1. Storm Water Run-off.** Michael Dunbar reported that Security has been doing an excellent job in reporting water run-off incidents. Mr. Dunbar will be meeting with legal counsel to write a letter to those who have several offenses.

**NEW BUSINESS**

Nothing to report.

## **CORRESPONDENCE**

Nothing to report.

## **BOARD REPORTS**

Treasurer Report. Nothing to report.

General Manager's Report. Michael Dunbar reported his January 2018 activities to the Board of Directors.

## **DIRECTOR'S COMMENTS**

Michael Dunbar reported that he will be scheduling a meeting with the various directors regarding the different ad hoc committee meetings (CERT, Firehouse, etc.) in the near future.

## **CLOSED SESSION**

Under provisions of Government Code Section 54956.9(d) (2), the Board entered closed session at 6:33 p.m. to discuss anticipated litigation

1. Conference with Legal Counsel – Existing Litigation: Pursuant to Government Code Section 54956.9 (a) – South Orange County Wastewater Authority et al v. Moulton Niguel Water District, OCSC Case No. 30-2017-00923143.
2. Conference with Legal Counsel – Anticipated Litigation: Pursuant to Government Code Section 54956.9 (d) (2) – two potential cases.

## **OPEN SESSION**

At 6:35p.m. the Board returned to open session. No reportable actions were taken in closed session.

## **LEGAL COUNSEL'S REPORT**

General Counsel Allison Burns reported on various matters that she has been working on with the General Manger, Michael Dunbar.

The next regularly scheduled meeting on Wednesday, March 21, 2018 at 5:30 p.m. may be cancelled due to director's unavailability. Michael Dunbar is to check director's availability to hold a Special Meeting of the Service District on Wednesday, March 28, 2018.

## **ADJOURNMENT**

The meeting was adjourned at 6:55 p.m.



John Marconi, President



Cathy Lovitt, Recording Secretary