



Montecito Sanitary District

1042 Monte Cristo Lane *A Public Service Agency*
Santa Barbara, CA 93108

Phone: (805) 969-4200
www.montsan.org

BOARD PACKET

For the Board Meeting of

Thursday, December 8, 2022

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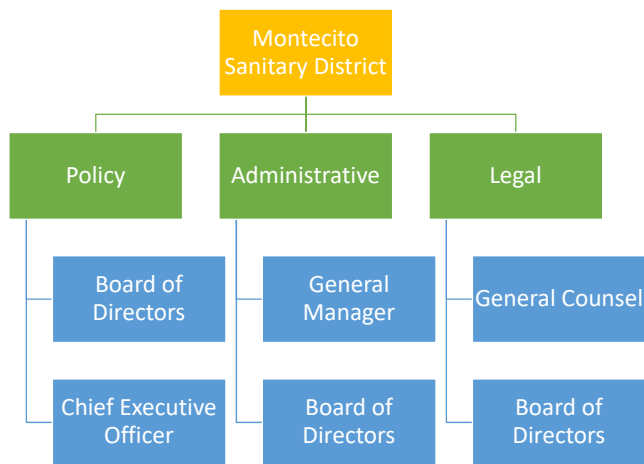
Roles & Responsibilities / Intro to Brown Act & Public Records Act

Montecito Sanitary District
December 8, 2022 Regular Meeting

Presented by
Aleks R. Giragosian
General Counsel

COLANTUONO
HIGHSMITH
WHATLEY, PC

Roles & Responsibilities

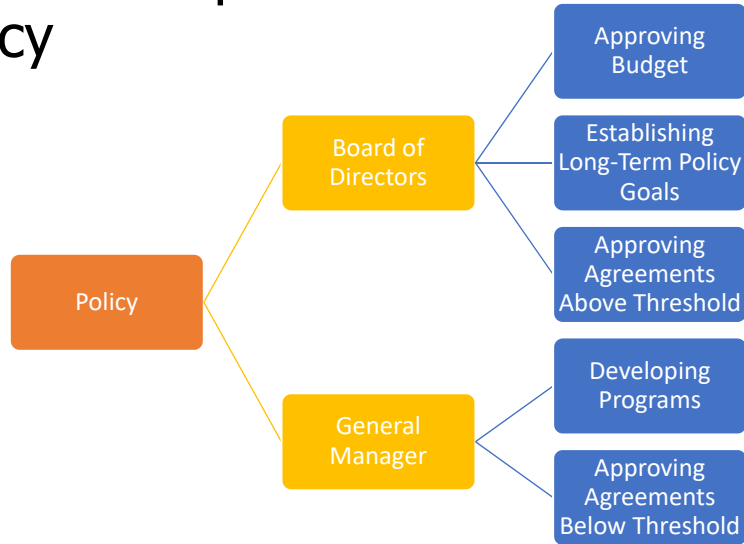


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Roles & Responsibilities: Policy



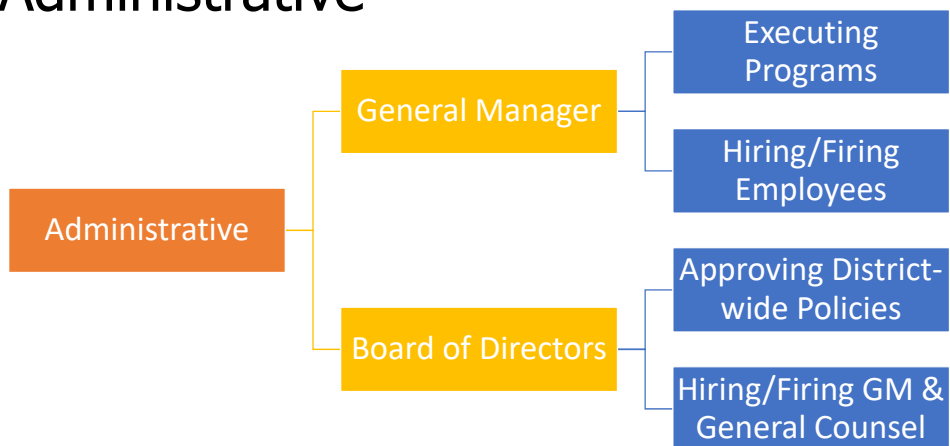
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Roles & Responsibilities: Administrative


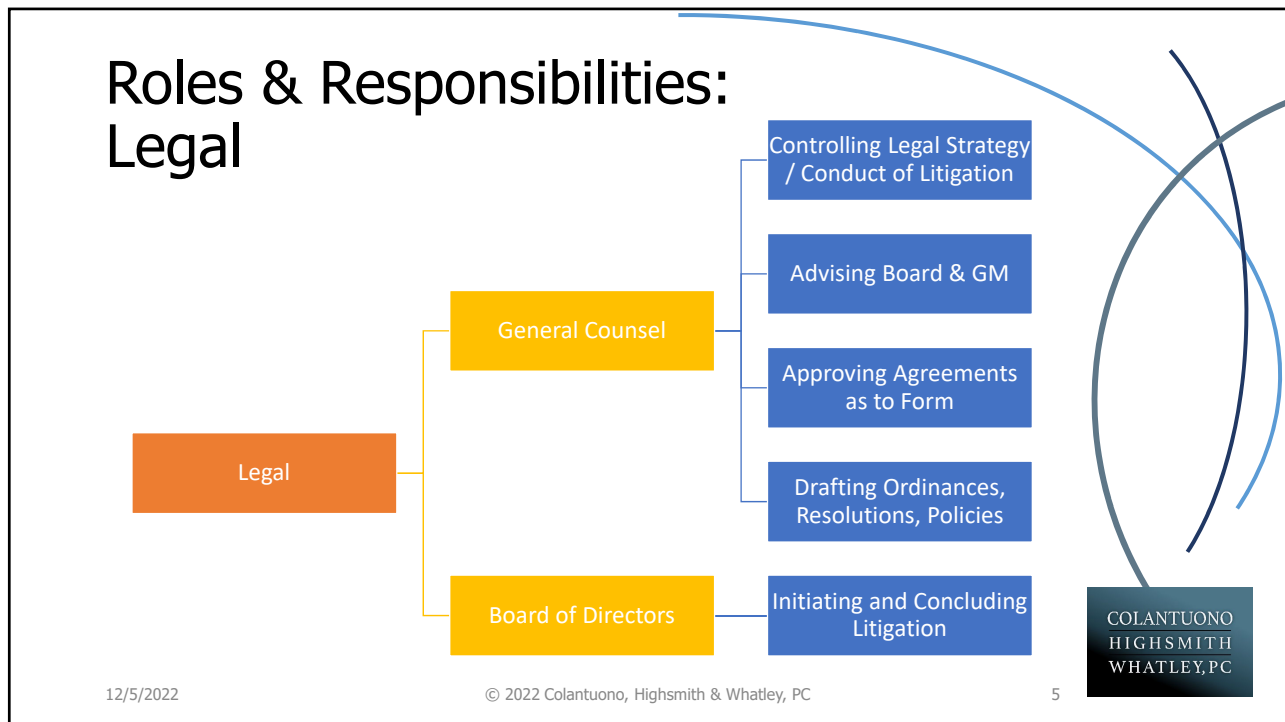


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Ralph M. Brown Act: Historical Background

- “The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”



Heart of the Brown Act

"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as provided in this chapter."



WELCOME

What is a "Legislative Body"?

- Governing body of a local agency
- A local agency created by state or federal statute
- Any sub-committee, board, or commission created by the local agency

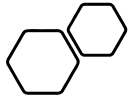
Legislative Body: Exception

- Ad Hoc Committee:
 - Advisory to legislative body
 - Temporary
 - Limited Purpose
 - Composed of less than quorum legislative body's members
- Special advisory groups
 - Created by staff or a single member of the legislative body
 - Advisory to staff or the single member
- Public employees

What is a "Meeting"?

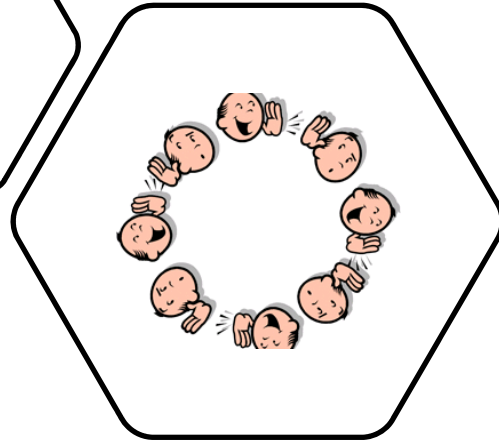
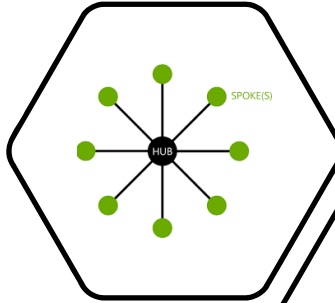
"Any congregation of a majority of the members of a legislative body at the same time and place, to **hear, discuss, or deliberate** upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains."

Any use of a **series of communications** of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.



Serial Meetings

- Hub and Spoke
- Daisy Chain



Serial Briefings: When does the Brown Act Violation first occur?

1) CEO meets with Director A to discuss her concern regarding agenda item #1

2) CEO meets with staff and General Counsel to discuss Director A's concerns

3) CEO meets with Director B to discuss Director A's concerns

4) CEO emails the entire Board regarding Director A's concerns

5) CEO meets with Director C to discuss Director A's concerns

Email: When does the Brown Act Violation first occur?

- 1) Director emails the agenda to the entire Board, placing their names in the "To" field of the email
- 2) Director A "Replies All" and asks whether the other Directors saw the Dodgers game
- 3) Director B "Replies All" and asks whether the Board can schedule a special meeting
- 4) Director C "Replies All" and asks whether the Chair can move an agenda item to the next meeting
- 5) Director D "Replies All" and presents her arguments in support of agenda item #3

Social Media: When does the Brown Act Violation first occur?

1) Director A posts "Happy Birthday" on Director C's Facebook page

2) Director B likes Director A's post

3) Director B tags all the Directors in Director A's post

4) Director C appreciates all the birthday love from her fellow Board Members and likes an article that Director B shared on his page about the California Voting Rights Act

5) Director A comments on Director B's article saying, "We should discuss this article at our next meeting!"

Examples of Serial Meetings + Polls



Serial Briefings



Email



Social Media

Can I post
about District
business on
social media?

Yes,

- but members of a board cannot use social media to discuss among themselves "business of a specific nature that is within the subject matter jurisdiction of the legislative body."
 - CAN use social media to communicate with constituents
 - CANNOT have one member post on discussions by other members
 - CANNOT weigh in with "likes" or emoji's; This counts as discussion.
- (GC §54952.2(b)(3))



Garnier v. O'Connor-Ratcliff

- Do you have an official (as opposed to personal) social media account?
- May members of the public interact with your page?
- Are interactions limited to reactions and comments, or can people post content?
- Have you adopted an etiquette policy or incorporated the District's policy by reference?
- Consult legal counsel before deleting comments/posts or blocking users.



CA Public Records Act: Historical Background

- Modeled on Federal Freedom of Information Act
- Signed by Governor Reagan in 1968
- Requires inspection and disclosure of public records

CA Public Records Act: Purpose

- California Constitution: "the People have the right of access to information concerning the conduct of the people's business"
- Government Code: "In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

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"Public Record"

- Any writing*
- Containing information relating to the conduct of the public's business
- prepared, owned, used, or retained*
- by any state or local agency
- regardless of physical form or characteristics.*

CA Public Records Act: Process

District receives PRA request
(request can be in any form, including oral)

01

Staff has 10 days to provide records, make them available for inspection during business hours, notify requestor of exemption, or request extension

02

Upon request, Staff has additional 14 days to provide records, make them available for inspection during business hours, or notify requestor of exemption

Exemptions from Duty to Disclose

- "Preliminary drafts, notes or memoranda ... not retained ... in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure."
- Pending litigation
- "personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy"
- Certain public contract documents and architectural drawings/building plans
- Directors' home addresses or phone numbers
- Records protected by legal privilege (attorney-client or work product)
- General public interest exemption*

Remedies

-  Requesters can sue to challenge denial of request
-  Burden is on the agency to justify withholding records
-  Agency cannot seek declaratory relief
-  Agency pays legal fees upon loss
-  Agency wins fees only if suit is “clearly frivolous”

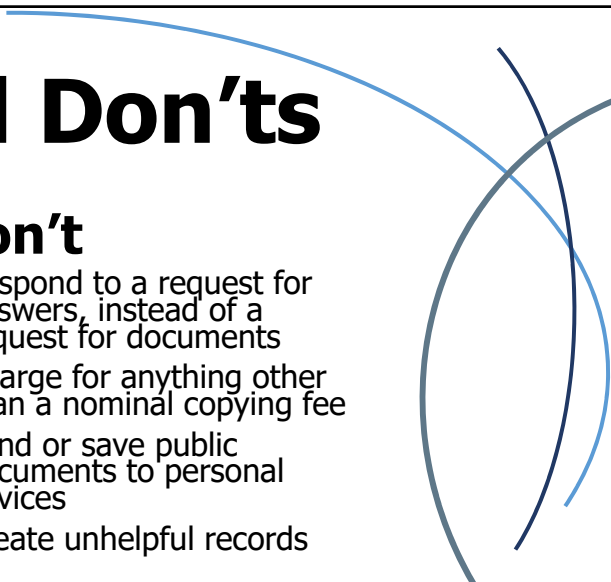
Do's and Don'ts

Do

- Assist requester by helping narrow search by date range, sender, and subject matter
- Make documents available in electronic format
- Provide documents in native file format, upon request
- Adopt a retention schedule and delete documents pursuant to it

Don't

- Respond to a request for answers, instead of a request for documents
- Charge for anything other than a nominal copying fee
- Send or save public documents to personal devices
- Create unhelpful records



COLANTUONO
 HIGHSMITH
 WHATLEY, PC



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MINUTES

For the Special Meeting of the Board on:

November 8, 2022

1. CALL TO ORDER

The Governing Board of the Montecito Sanitary District (MSD) convened a special meeting of the Board at 2:03 pm on Tuesday November 8, 2022. The meeting was also broadcast using Zoom teleconferencing.

ATTENDANCE

Board Members Present:

Director Barrett, Director Hogan, Director Martin, Director Newquist, and President Dorinne Lee Johnson

Board Members Absent:

None

Also Present and Participating:

Bradley Rahrer, MSD General Manager
Stephen Williams, MSD District Administrator
Aleks Giragosian, Colantuono, Highsmith & Whatley, PC

2. PUBLIC COMMENT

No members of the public addressed the Board.

3. CLOSED SESSION

A. PUBLIC EMPLOYMENT APPOINTMENT - GOVERNMENT CODE §54954.5(e)

Title: General Manager

Reportable Action: The Board will receive a training from General Counsel outlining the role of the Board, General Manager, and staff and

4. ITEMS FOR THE NEXT AGENDA

The next Board meeting will be a Regular Meeting of the Board on November 10, 2022 at 2:00 pm.

5. **ADJOURNMENT**

The meeting adjourned at 4:35 p.m. ON MOTION by Director Barrett, seconded by Director Newquist.

These minutes were presented for approval at the General Board Meeting on December 8, 2022.

Dorinne Lee Johnson, President

Minutes taken and prepared by:

Stephen Williams
District Administrator/Clerk of the Board



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MINUTES

For the Regular Meeting of the Board on:

November 10, 2022

1. CALL TO ORDER

The Governing Board of the Montecito Sanitary District convened a regular meeting at 2:03 pm on Thursday November 10, 2022. The meeting was also broadcast using Zoom teleconferencing.

ATTENDANCE

Board Members Present:

Director Newquist, Director Martin, Vice President Woody Barrett, and President Dorinne Lee Johnson

Board Members Absent:

Director Hogan

Also Present and Participating:

Bradley Rahrer, General Manager
Stephen Williams, MSD District Administrator
Ricardo Larroude, MSD Collections Superintendent
Bryce Swetek, MSD Engineering Manager
Carole Rollins, MSD Laboratory Manager
Marco Felix, MSD Treatment Superintendent/Chief Plant Operator
Jack Lyon, RDN Inc.
Anthony Elonsky, RDN Inc.
Sanjay Gaur, RDN Inc.
Ken Coates, MWD Vice President
Carrie Poytress, Member of the Public

2. PUBLIC COMMENT

No members of the public addressed the board.

3. CONSENT CALENDAR

ON MOTION by Director Newquist, Second by Director Martin, the Board voted to approve the Consent Calendar consisting of the following items:

- A. Payables from September 1, 2022 through September 30, 2022
- B. Meeting Minutes from Special Board Meeting of October 12, 2022
- C. Meeting Minutes from Regular Board Meeting of October 13, 2022
- D. Meeting Minutes from Special Board Meeting of October 26, 2022
- E. Residential Sewer Service Agreement – 1419 Wyant
- F. Termination of Residential Sewer Service Agreement for Auxiliary Structure – 1160 Fife Lane
- G. Termination of Residential Sewer Service Agreement for Auxiliary Structure – 321 Ennisbrook

AYES: Directors Barrett, Martin, Newquist, and Johnson
NAYS: None
ABSTAIN: None
ABSENT: Director Hogan

4. COMMITTEE REPORTS

It is recommended that the Board receive and file a report provided by the following committee(s):

- i) Director Barrett gave a summary of the Finance Committee Meeting of Thursday October 20, 2022.

NOTE: Director Hogan joined the meeting at 2:05 p.m. during the Finance Committee report.

5. REMOTE MEETINGS ADOPTION

The Board received a report from General Legal Counsel on AB2449 regarding new teleconferencing protocols effective January 1, 2023 under the Brown Act.

ON MOTION by Director Newquist, Second by Director Barrett, the Board voted to adopt Resolution 2022-958 continuing remote meetings.

AYES: Directors Barrett, Hogan, Martin, Newquist, and Johnson
NAYS: None
ABSTAIN: None
ABSENT: None

6. DISTRICT BUSINESS ITEMS

A. FY2022-23 UNAUDITED QUARTERLY FINANCIAL REPORTS

District Administrator Stephen Williams presented a summary of the District's Fourth Quarter Unaudited Financial Reports.

ON MOTION by Director Newquist, Second by Director Hogan, the Board voted to approve and accept as presented the Unaudited Quarterly Financial Statements for the period ended September 30, 2022.

AYES: Directors Hogan, Eversoll, Newquist, and Johnson
NAYS: None
ABSTAIN: None
ABSENT: Director Barrett

B. DISTRICT RESERVE POLICY

The Board received a presentation from District Administrator Stephen Williams regarding the different Policy Reserve types, industry standard thresholds, and the various key policy elements included. The Board directed staff to draft a District Reserve Policy for review at a General Meeting of the Board of Directors in December.

C. SEWER RATE AND CONNECTION FEE STUDY

The Board received a presentation from Director Barrett regarding a presentation given by a member of the public on the previous rate study.

ON MOTION by Director Hogan, Second by Director Johnson the Board voted to:

- i) Authorize the General Manager to execute a professional services agreement with Robert D. Hiehaus in the amount of \$38,200 to conduct a sewer rate connection fee study contingent on an update to the proposed schedule and;
- ii) Authorize the General Manager to approve expenditures of up to \$5,000 for extra services that may result from necessary changes in scope of work.

AYES: Directors Hogan, Eversoll, Martin, and Johnson
NAYS: None
ABSTAIN: None
ABSENT: Director Newquist

NOTE: Director Newquist left the meeting prior to the end of the Sewer Rate and Connection Fee Study agenda item.

D. DISINFECTION PROCESS CHEMICAL PROCUREMENT

ON MOTION by Director Hogan, Second by Director Martin the Board voted to:

- i) Authorize the General Manager to execute a purchase order with HASA Inc. in the amount of \$165,000 to provide the District sodium hypochlorite for the remainder of FY2022-23; and
- ii) Authorize the General Manager to execute a purchase order with Univar USA, Inc. in the amount not to exceed \$55,000 to provide the District sodium bisulfate for the remainder of FY2022-23.

AYES: Directors Hogan, Eversoll, Martin, and Johnson
NAYS: None
ABSTAIN: None
ABSENT: Director Newquist

E. 720 E. MOUNTAIN DRIVE ANNEXATION

ON MOTION by Director Hogan, Second by Director Martin the Board voted to:

- i) Approve a Dedication Agreement for sewer facilities serving 710/720 E. Mountain Drive; and
- ii) Accept a grant of easement 720 E. Mountain Drive for District sewer facilities; and
- iii) Accept the sewer main extension and direct staff to provide owners written notice of the District's acceptance of the sewer main extension.

AYES: Directors Hogan, Eversoll, Martin, and Johnson
NAYS: None
ABSTAIN: None
ABSENT: Director Newquist

7. DISTRICT OPERATIONS AND MAINTENANCE

A. INFORMATION ITEMS

General Manager Brad Rahrer P.E. provided informational, nonactionable updates regarding matters before the District.

B. OPERATIONS AND MAINTENANCE REPORTS

The operational data was presented for the period of September 1, 2022 through October 31, 2022

8. ITEMS FOR THE NEXT AGENDA

The next Board meeting will be a General Board Meeting on December 8, 2022. No items were discussed for future agendas.

9. ADJOURNMENT

The meeting adjourned at 5:39 p.m. ON MOTION by Director Newquist, seconded by Director Johnson.

These minutes were presented for approval at the General Board Meeting on December 8, 2022.

Dorinne Lee Johnson, President

Minutes taken and prepared by:

Stephen Williams
District Administrator/Clerk of the Board



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MINUTES

For the Special Meeting of the Board on:

November 22, 2022

1. CALL TO ORDER

The Governing Board of the Montecito Sanitary District (MSD) convened a special meeting of the Board at 2:04 pm on Tuesday November 22, 2022. The meeting was also broadcast using Zoom teleconferencing.

ATTENDANCE

Board Members Present:

Director Hogan, Director Martin, and President Dorinne Lee Johnson

Board Members Absent:

Directors Barrett and Newquist

Also Present and Participating:

Bradley Rahrer, PE, MSD General Manager
Stephen Williams, MSD District Administrator
Bryce Swetek, MSD Engineering Manager

2. DISTRICT BUSINESS ITEMS

A. HIGHWAY 101 SEWER CROSSING RELOCATION PROJECT - POTHOLING

ON MOTION by Director Hogan, Second by Director Johnson, the Board voted to:

- i) Authorize the General Manager to execute a purchase order with Sam Hill & Sons, Inc. in the amount of \$118,104 to pothole district facilities related to the Highway 101 Sewer Crossing Relocation Project; and
- ii) Authorize the General Manager to approve expenditures of up to \$11,810 (10%) as a change order allowance for any necessary changes in scope of work.

AYES: Directors Hogan, Martin, and Johnson
 NAYS: None
 ABSTAIN: None
 ABSENT: Directors Barrett and Newquist

3. ITEMS FOR THE NEXT AGENDA

The next Board meeting will be a Special Meeting of the Board on November 23, 2022 at 2:00 pm. Under consideration at that meeting will be:

- A) Interviews of potential candidates for General Manager.

4. **ADJOURNMENT**

The meeting adjourned at 2:23 p.m. ON MOTION by Director Newquist, seconded by Director Barrett.

These minutes were presented for approval at the General Board Meeting on December 8, 2022.

Dorinne Lee Johnson, President

Minutes taken and prepared by:

Stephen Williams
District Administrator/Clerk of the Board



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MINUTES

For the Special Meeting of the Board on:

November 23, 2022

1. **CALL TO ORDER**

The Governing Board of the Montecito Sanitary District (MSD) convened a special meeting of the Board at 2:11 pm on Tuesday November 23, 2022. The meeting was also broadcast using Zoom teleconferencing.

ATTENDANCE

Board Members Present:

Director Barrett, Director Hogan, Director Martin, Director Newquist, and President Dorinne Lee Johnson

Board Members Absent:

None

Also Present and Participating:

Aleks Giragosian, Colantuono, Highsmith & Whatley, PC

2. **PUBLIC COMMENT**

No members of the public addressed the Board.

3. **CLOSED SESSION**

A. **PUBLIC EMPLOYMENT APPOINTMENT - GOVERNMENT CODE §54957**

Title: General Manager

Reportable Action: None

4. **ITEMS FOR THE NEXT AGENDA**

The next Board meeting will be a General Meeting of the Board on December 8, 2022 at 2:00 pm.

5. **ADJOURNMENT**

The meeting adjourned at 4:23 p.m. ON MOTION by Director Hogan, seconded by Director Martin.

These minutes were presented for approval at the General Board Meeting on December 8, 2022.

Dorinne Lee Johnson, President

Minutes taken and prepared by:

Stephen Williams
District Administrator/Clerk of the Board



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Board Organization 2022 & 2023

<u>Officer:</u>	<u>2022 Members:</u>	<u>2023 Members</u>
President / Chair	Director Dorinne Lee Johnson	
Vice President	Director Woody Barrett	
Secretary	Director Dana Newquist	
Treasurer	Director Dana Newquist	
Director	Director Phil Hogan, Edwin Martin	

2022 Designated Regularly Scheduled Meeting Times and Places:

Board Meetings have been held the second and fourth Thursday of each month at 2:00 pm pacific time remotely via Zoom teleconferencing due to COVID-19.

2023 Designated Regularly Scheduled Meeting Times and Places

TBD

Committee Assignments

<u>Committee:</u>	<u>2022 Members:</u>	<u>2023 Members</u>	<u>Day, Time and Place</u>
Finance	Directors Barrett & Johnson		
Administration & Operations	Directors XXX and Hogan		
Personnel	Directors Barrett and Newquist		
Public Information	Directors Newquist and Johnson		
Strategic Planning Committee	Directors Johnson & Barrett		

<u>Appointment:</u>	<u>2022 Appointment</u>	<u>2023 Appointment</u>
General Manager	Bradley J. Rahrer, P.E.	John Weigold
General Counsel	Aleks Giragosian, Colantuono, Highsmith & Whatley	Aleks Giragosian, Colantuono, Highsmith & Whatley

RESOLUTION NO. 2022-959

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTECITO SANITARY DISTRICT PROCLAIMING A LOCAL EMERGENCY PERSISTS, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM DATED MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE BOARD OF DIRECTORS OF THE MONTECITO SANITARY DISTRICT FOR THE PERIOD OF 30 DAYS PURSUANT TO THE BROWN ACT PROVISIONS.

WHEREAS, the Montecito Sanitary District (“District”) is a sanitary district duly organized and existing pursuant to the Sanitary District Act of 1923 codified in Health & Safety Code section 6400 et seq.; and

WHEREAS, the District is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the District’s governing body are open and public, as required by the Ralph M. Brown Act, codified in California Government Code section 54950 et seq. (“Brown Act”), so that any member of the public may attend, participate, and watch the District’s governing body conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the District’s boundaries, caused by natural, technological or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the Board of Directors previously adopted Resolution No. 2021-935, on September 30, 2021, finding that the requisite conditions exist for the Board of Directors of the District to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District’s jurisdiction, and the Board of Directors has done so; and

WHEREAS, emergency conditions persist in the jurisdiction of the District, specifically, a State of Emergency remains active as proclaimed by Governor Gavin Newsom’s Proclamation of a State of Emergency dated March 4, 2020; and

WHEREAS, State and Local Officials have imposed and recommended social distancing measures and allowing legislative bodies to meet via teleconferencing to avoid risks to the health and safety of members of the public who would like to participate in meetings of the legislative bodies; and

WHEREAS, the Board of Directors does hereby find that Governor Gavin Newsom's Proclamation of State of Emergency and Social Distancing Orders and other conditions causing imminent risk to attendees has caused, and will continue to cause, conditions of peril to the safety of persons within the jurisdiction of the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to affirm a local emergency exists and ratify the proclamation of state of emergency by the Governor of the State of California and ratify State and Local orders for social distancing; and

WHEREAS, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the District's governing body shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the District shall continue to provide notice as otherwise required by the Brown Act of all public meetings.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MONTECITO SANITARY DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Affirmation that Local Emergency Persists. The Board of Directors hereby considers the conditions of the state of emergency in the jurisdiction of the District and proclaims that a local emergency persists throughout the jurisdiction of the District and allowing remote access and participation in the District's board meetings will reduce health and safety risks to attendees.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The General Manager or designee and the Board of Directors of the District are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) **January 7, 2022**, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Board of Directors of the Montecito Sanitary District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District this 8th day of December 2022, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

(SEAL)



Board President
Dorinne Lee Johnson

ATTEST:

Clerk of the Board
Stephen Williams

GENERAL MANAGER EMPLOYMENT AGREEMENT

This General Manager Employment Agreement (“Agreement”) is made and entered into by and between the Montecito Sanitary District, a California special district (“District”), and John F. Weigold, IV, an individual (“Employee”). The District and Employee may be individually referred to as “Party” or collectively as “Parties.”

RECITALS

- A. Parties desire to enter into this Agreement with Employee to establish the terms and conditions of Employee’s employment as General Manager with the District.
- B. Employee, through the representations made in his resume and cover letter, as well as during his interview with the District’s Board of Directors, represents that he has the qualifications and experience necessary to perform the duties of the District’s General Manager.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the Parties agree as follows:

- 1. Duties.
 - a. District hereby employs Employee as General Manager to perform the functions and duties of the position of General Manager, as outlined in the attached job description, as may be assigned from time-to-time by the District’s Board of Directors, and as may be necessitated by local, state, or federal law.
 - b. Employee agrees to devote his full time and effort to the performance of this Agreement and to remain in the exclusive employ of District and not to become otherwise employed while this Agreement is in effect without the prior written approval of the District’s Board of Directors.
 - c. District acknowledges that the Employee occasionally serves as a wedding officiant, which will not to interfere with District duties.
- 2. Term.
 - a. This Agreement will take effect on December 8, 2022 and will remain in force and effect until terminated as provided for herein.
 - b. Employee will commence service on the effective date of this Agreement and will assume the role of General Manager on December 17, 2022.
- 3. Termination.
 - a. Termination for Convenience. Employee is an at-will employee and this Agreement does not create any property interest in continued employment with the District or a right to be discharged only upon cause during his tenure as General Manager. At such times as Employee is serving as General Manager, he is serving at the pleasure of the District Board of Directors and may be dismissed at any time, for any reason, with or without notice. Upon termination, Employee

shall be paid six months of his then current salary as severance consistent with the requirement of Government Code sections 53260 et seq.

- b. Termination for Cause. District may terminate this Agreement for cause upon the occurrence of any of the following:
 - i. Sexual harassment or abusive conduct;
 - ii. Drug abuse that impedes performance of duties;
 - iii. Conviction of a felony or misdemeanor involving a crime of moral turpitude or “abuse of office or position” as defined in Government Code section 53243.4;
 - iv. Willful abandonment of the position or continued and unexcused absence from duty or absence due to disability if such disability precludes performance of essential job duties for more than six cumulative months after attempts at reasonable accommodations pursuant to the Americans with Disabilities Act and/or California’s Fair Employment & Housing Act; or
 - v. Fails to provide a clearance notice from the California Department of Justice within 30 days of the effective date of this Agreement.

Upon termination for cause, Employee will not be entitled to receive any compensation or benefits under this Agreement, except for accrued salary and vacation that Employee accrued as of the date of the notice of termination. At the Board of Director’s discretion, Employee may be placed on paid administrative leave pending any District investigation. Any salary provided to Employee and any defense costs incurred by the District on behalf of Employee shall be fully reimbursed to the District by Employee in the event of a crime involving an abuse of office or position.

- c. Resignation. Employee may terminate this Agreement at any time for convenience upon 60 days written notice of resignation to District, or a date as agreed upon by the Board of Directors. Upon resignation, Employee will be entitled to receive all salary and accrued benefits as of the date of resignation to which Employee is entitled to pursuant to this Agreement.

4. Hours of Work.

- a. Subject to Employee’s inability to work due to sickness, injury, noticed periods of vacation, holiday or other excused absences, at all times during the term of this Agreement or any extension thereof, Employee will arrange to be available to perform the duties of the General Manager during the regular business hours of District, and also at such other times as District may from time-to-time reasonably request.
- b. It is understood and agreed that Employee shall not be entitled to any compensation other than that provided for in this Agreement for services which may be rendered by him outside of District’s regular business hours, such as on Saturdays, Sundays, or holidays, or for attendance at District’s Board of Directors meetings, community meetings or events, and meetings with other governmental officials.

5. Salary.
 - a. District shall pay Employee an annual base salary of \$180,000, which shall be paid bi-weekly in accordance with District's standard pay schedule.
 - b. Employee shall be exempt from paid overtime compensation and from Social Security taxes, other than the mandatory Medicare portion of such taxes.
 - c. Salary and/or benefits adjustments may be considered by the Board of Directors annually in conjunction with Employee's Annual Review.

6. Retirement.
 - a. Parties shall pay their respective shares of the CalPERS retirement contribution as actuarially determined by CalPERS for each fiscal year.
 - b. Employee shall be entitled to a retirement benefit level of 2% at 62, as defined by CalPERS.

7. Retirement Notice.
 - a. Employee agrees to provide District with written notice of his intent to retire from District service at least 180 days prior to the date of his intended retirement.

8. Vacations.
 - a. District agrees to provide Employee 120 hours of vacation leave with pay per year. The use of such vacation leave shall be subject to the same rules that apply to all management level employees of District. Employee shall not carry over more than 240 hours of vacation leave in excess of his regular annual accrual. Accrual of additional vacation shall cease until Employee's total accrual of vacation leave falls below the 240-hour accrual limit.
 - b. District acknowledges that Employee has a preplanned vacation scheduled for the period beginning on December 22, 2022, and ending on December 30, 2022. The District and Employee agree that Employee will be allowed to take this vacation without pay.

9. Cellular Phone and Internet Allowance.
 - a. District shall provide Employee with a cellular phone and Internet allowance of \$100 per month in recognition of the additional hours of duty outside of normal working hours.

10. Vehicle Allowance.
 - a. District shall provide Employee with a vehicle allowance of \$300 per month.

11. Continuing Education and Professional Associations.
 - a. District recognizes the need for and encourages Employee to participate in continuing education classes (in addition to those required for his professional licensures and certifications) that are relevant to the sanitary industry and to associate himself with industry-related professional organizations. To that end, District authorizes Employee to maintain membership in such professional organizations at District's reasonable expense and to participate in the educational seminars and meetings of said organizations, both inside and outside the District,

to the extent the District may reasonably authorize and approve such expenditures in its annual budget.

12. Professional Licenses.

- a. District agrees to pay all applicable renewal fees and continuing education expenses required for Employee to maintain all of his professional licensures and certifications.

13. Other Benefits.

- a. Employee will be entitled to those other benefits received by management level employees, not otherwise specifically provided herein, pursuant the District's Employee Handbook, including health insurance, short- and long-term disability insurance, life insurance, unemployment insurance, workers' compensation insurance, sick leave, holiday leave, paid personal leave, kin care, bereavement leave, and time off due to jury duty, witness duty, or pursuant to a subpoena.
- b. District agrees to provide Employee with 40 hours of paid personal leave annually. The use and accrual of such personal leave shall be subject to the same rules that apply to the District's eligible employees.
- c. District agrees to a one-time payment of up to \$3,000 for an executive coach of Employee's choice for purposes of Employee's successful onboarding.

14. Performance Evaluation.

- a. The District's Board of Directors shall conduct a one-time review 6 months after the start of Employee's employment to evaluate Employee's performance ("6 Month Review").
- b. The District's Board of Directors shall review and evaluate the Employee's performance at least once a year ("Annual Review").
- c. Employee shall initiate and schedule the 6 Month Review and Annual Review.
- d. At each 6 Month Review and Annual Review, Employee will be afforded an adequate opportunity to discuss each evaluation with the District's Board of Directors. Among other things, the evaluation shall include the Board of Directors' and District Manager's expectations of one another. Nothing herein shall constrain the District Board of Directors from establishing a work plan, the priorities or objectives therefor, or changing or modifying the plan.

15. Indemnification.

- a. District shall defend, hold harmless and indemnify Employee against any claim, demand, judgment, or action of any type or kind arising within the course and scope of his employment to the extent required by Government Code sections 825 and 995.
- b. Pursuant to Government Code section 825(a), District reserves the right not to pay any judgment, compromise, or settlement until it is established that the injury arose out of an act or omission occurring within the scope of the Employee's employment as an employee of District.
- c. The following limitations apply to District's obligation to indemnify the Employee:

- i. In the event the Employee is placed on paid leave pending an investigation, Employee shall reimburse such pay to District if he is subsequently convicted of a crime involving an act listed in Section 3(b)(iii);
- ii. In the event District pays for Employee's legal criminal defense, he shall fully reimburse such funds to District if he is subsequently convicted of a crime involving an act listed in Section 3(b)(iii);
- iii. If this Agreement is terminated, any cash settlement related to the termination that Employee may receive from District must be fully reimbursed to District if he is subsequently convicted of a crime involving an act listed in Section 3(b)(iii).

16. General Provisions

- a. Integration. This Agreement constitutes the entire agreement between the Parties. The Parties hereby acknowledge that they have neither made nor accepted any other promise or obligation with respect to the subject matter of this Agreement. This Agreement may be amended only by a writing signed by Employee, approved by the District Board of Directors, and executed on behalf of both Parties.
- b. Waiver. A waiver of any of the terms and conditions of this Agreement shall not be construed as a general waiver by the District and the District shall be free to enforce any term or condition of this Agreement with or without notice to Employee notwithstanding any prior waiver of that term or condition.
- c. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- d. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“DISTRICT”
Montecito Sanitary District

“EMPLOYEE”
John F. Weigold, IV

Signature: _____

Signature: _____

Printed: Dorinne Lee Johnson

Printed: John F. Weigold, IV

Title: President

Title: General Manager

Date: _____

Date: _____

Approved as to form:

Signature: _____

Printed: Aleks R. Giragosian

Title: General Counsel

Date: _____

RESOLUTION NO. 2022-961

**RESOLUTION OF THE GOVERNING BOARD OF
THE MONTECITO SANITARY DISTRICT
DECLARING 2023 HOLIDAYS**

The Board of Directors for the Montecito Sanitary District resolves as follows:

SECTION 1: The following dates are declared to be 2023 holidays for the Montecito Sanitary District. Accordingly, the administrative offices will be closed on these dates:

- (1) January 1st – New Year's Day
- (2) Third Monday in January – Martin Luther King Jr. Day
- (3) Third Monday in February – Presidents' Day
- (4) Last Monday in May – Memorial Day
- (5) July 4th – Independence Day
- (6) First Monday in September – Labor Day
- (7) November 11th – Veteran's Day
- (8) Fourth Thursday in November – Thanksgiving Day
- (9) Fourth Friday in November – Day after Thanksgiving Day
- (10) December 25th – Christmas Day

SECTION 2: If a holiday falls on a Sunday, the Monday following is the observed holiday and the District office is closed on that Monday.

SECTION 3: If a holiday falls on a Saturday, the preceding Friday is the observed holiday and the District office is closed on that Friday.

SECTION 4: If any regular meeting of the Governing Board falls on a holiday, said regular meeting will be held on the next business day.

SECTION 5: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 6: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

SECTION 7: *Recordation.* The Secretary of the Board will certify to the passage and adoption of this Resolution; will enter the same in the book of original Resolutions of the District; and will make a minute of the passage and adoption thereof in the record of proceedings of the Board of Directors, in the minutes of the meeting at which the same is passed and adopted.

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on the **8th** day of **December 2022**.

AYES:

NAYS:

ABSTAIN:

ABSENT:

**RESOLUTION NO. 2022-961
DECLARING 2023 HOLIDAYS**



(SEAL)

Dorinne Lee John, Board President

ATTEST:

Stephen Williams, Clerk of the Board

RESOLUTION NO. 2022-962

**RESOLUTION OF THE GOVERNING BOARD OF
THE MONTECITO SANITARY DISTRICT
CONCERNING DISTRICT LANDS INVENTORY**

The Board of Directors for the Montecito Sanitary District resolves as follows:

SECTION 1: As directed by section 50569 of the California Government Code the District has inventoried all lands, including air rights, owned or controlled by the District in order to determine whether any of this land, including air rights, exceeds the District's foreseeable needs.

SECTION 2:

1. The Governing Board of this District finds and determines that no land, including air rights, owned or controlled by this District exceeds its foreseeable needs; and
2. A copy of this Resolution shall be made available upon request and without charge to any citizen, limited dividend corporation, housing corporation, or nonprofit corporation.

SECTION 3: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 4: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

SECTION 5: *Recordation.* The Secretary of the Board will certify to the passage and adoption of this Resolution; will enter the same in the book of original Resolutions of the District; and will make a minute of the passage and adoption thereof in the record of proceedings of the Board of Directors, in the minutes of the meeting at which the same is passed and adopted.

PASSED AND ADOPTED by the Board of Directors of the Montecito Sanitary District on the 8th day of **December 2022**.

**AYES:
NAYS:
ABSTAIN:
ABSTENT:**



(SEAL)

Dorinne Lee Johnson, Board President

ATTEST:

Stephen Williams, Clerk of the Board

RESOLUTION NO. 2023-XXX

**RESOLUTION OF THE GOVERNING BOARD
OF THE MONTECITO SANITARY DISTRICT
ADOPTING A RESERVE POLICY**

WHEREAS, the Governmental Finance Officers Association recommends that governments establish a formal policy on the level of unrestricted fund balance that should be maintained for Generally Accepted Accounting Principles (GAAP) and budgetary purposes; and

WHEREAS, such guideline(s) should be set by the appropriate policy body and articulate a framework and process for how the government would increase or decrease the level of unrestricted fund balance over a specific time period; and

WHEREAS, governments should provide broad guidance in the policy for how resources will be directed to replenish fund balance should the balance fall below the level(s) prescribed.

NOW, THEREFORE, the Governing Board of the Montecito Sanitary District hereby resolves:

1. **Established:** The reserve funds set forth in Sections (X,X,&X) are hereby established. The General Manager shall maintain those Reserve Funds in accordance with this policy. All dollar amounts indicated are 2022 dollars.

2. **Utilization:** The reserve funds so created will be utilized for the specific purposes set forth in this Resolution.

3. **Reserve Funds:**

A. Operations and Maintenance (O&M) Reserve Fund

Purpose: The Operations and Maintenance Reserve Fund is intended to provide a mechanism for the District to undertake immediately unanticipated operation and maintenance activities, including emergency repairs, for which funds are not otherwise immediately available.

Funding: The Operations and Maintenance Reserve Fund shall be funded by income from sources other than property tax. This fund shall maintain a minimum balance of desired threshold here – examples include 3, 4, 5, or 6 months of Annual Operating Costs or a specific dollar amount).

Administration: The District shall invest funds held in the Operations and Maintenance Reserve fund in liquid (LAIF Account, Montecito Bank and Trust Account, County Treasury Account, Line of Credit). If drawn down the Operations and Maintenance Reserve Fund will be replenished through (timeline, amount and method).

Use of Fund: Monies held in the Operations & Maintenance Reserve Fund may be expended only upon authorization of the Board of Directors for unanticipated operating and maintenance activities, including by way of example only: repair of natural disaster-related damage to facilities (i.e. flood, earthquake, tsunami); unanticipated need to purchase chemicals; major emergency repair or replacement of equipment; unanticipated legal judgements.

B. Capital Projects Reserve Fund

Purpose: The Capital Projects Reserve Fund is intended to finance the reconstruction and replacement of the sanitation and sewerage facilities of the District which may be required from time to time due to wear, tear, and aging. It can also be utilized to fund the expansion/maintenance of the sanitation and sewerage facilities of the District to accommodate the demand for additional capacity.

Funding: The Capital Projects Reserve Fund shall be funded by income from property taxes and connection fees and may be funded with unrestricted sources of the Operations and Maintenance fund. This fund shall maintain a minimum balance of (insert desired threshold here – examples include percentage of the five year average of the District’s annual capital budget, percentage of the five year average of the District’s annual capital expenditures, flat dollar amount). If drawn down the Capital Projects Reserve Fund will be replenished through (timeline, amount, method).

Administration: The General Manager shall invest funds held in the Capital Projects Reserve fund in liquid (LAIF Account, Montecito Bank and Trust Account, County Treasury Account, Line of Credit). The General Manager shall annually contribute the prior year audited depreciation expense, plus connection fees, plus property tax.

Use of Fund: Monies held in the Capital Projects Reserve Fund may be expended only upon authorization of the Board of Directors to ensure the strategic capital needs of the District are met. Use of Capital Reserves is limited to repairs to existing infrastructure, relocation of infrastructure, work completed towards a septic to sewer plan, and emergencies.

C. Rate Stabilization Reserve Fund

Purpose: The Rate Stabilization Reserve Fund is intended to mitigate the effects of occasional shortfalls in revenue. Revenue shortfalls result from a number of events, and a rate stabilization fund assists in smoothing out revenue variability resulting from these factors to ensure adequate resources are available during these times without the need to increase rates on the end users.

Funding: The Rate Stabilization Fund shall be funded by income from sources other than property tax. This fund should maintain a minimum balance of (insert desired threshold here – examples include 3, 4, 5, or 6 months of Annual Operating Costs or a specific dollar amount). If drawn down the Rate Stabilization Fund will be replenished through (timeline, amount, method).

Administration: The District shall invest funds held in the Capital Projects Reserve fund in liquid (LAIF Account, Montecito Bank and Trust Account, County Treasury Account, Line of Credit). The General Manager shall annually contribute the prior year audited depreciation expense, plus connection fees, plus property tax.

Use of Fund: Monies held in the Rate Stabilization Fund may be utilized to cover anticipated overages in expenditures compared to revenues in order to mitigate the need for increasing Sewer Service rates. If anticipated budgetary deficits are expected than the release of these reserves to the appropriate program (Operations and Maintenance or Capital Projects) will be utilized rather than an increase to rates.

PASSED AND ADOPTED by the Governing Board of the Montecito Sanitary District on the Xth day of XXX 2023 by the following vote:

AYES:	None
NAYS:	None
ABSTAIN:	None
ABSENT:	None

Board President

ATTEST:

Board Secretary

(SEAL)





Montecito Sanitary District

1042 Monte Cristo Lane
Santa Barbara, CA 93108

A Public Service Agency

Phone: (805) 969-4200
www.montsan.org

MONTECITO SANITARY DISTRICT STAFF REPORT

DATE: December 8, 2022
TO: Board of Directors
FROM: Bradley Rahrer, General Manager
SUBJECT: Manhole Adjustment Project 10-2022
SUMMARY: Staff have identified 10 manholes that have been overlaid due to various paving projects and need to be adjusted to final grade.

RECOMMENDATION – THEREFORE, STAFF RECOMMENDS THAT

1. The Board of Directors authorize the General Manager to award a contract to Tierra Contracting in an amount not to exceed \$19,350; and
2. Authorize the General Manager to execute the contract and approve expenditures of up to \$1,935 (10%) as a change order allowance for any necessary changes in scope of work.

Fiscal Impact – The District has available funds in its Sewer Manhole Raising Capital Improvement Project #2 in Fiscal Year 2021-22 to cover the costs of this scope of work.

Public Notice – No notice required

Previous Related Action – None

Goals and Objectives – Adjust manholes to current grade.

Analysis – Justifications: District staff issued a request for bids on-line via PlanetBids on November 04, 2022. There were 4 prospective bidders registered for the project. All bids were due November 18, 2022. Tierra Contracting was the sole and only responsive bidder on the project. Tierra Contracting's bid of \$19,350 (\$1,935 per manhole) is the apparent low bid for the scope of work and staff agrees that the unit price for adjusting each manhole is reasonable for this scope of work. The contract amount exceeds the general Manager's contract authority so authorization by the Board of Directors is required to execute a contract.

Departments Involved: Collections

Attachments: None 1



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MANAGER'S REPORT

For the Regular Board Meeting of

December 8, 2022

8. DISTRICT OPERATIONS AND MAINTENANCE

A. Information Items

General Manager Brad Rahrer, P.E. will provide informational, nonactionable, updates regarding matters before the District.

Office Closure for the Holidays - Consistent with previous years, the District's front office will be closed the last week of the year (December 26 - 30) and reopen on Tuesday January 3. District staff will post a notice on the website to notify the public in advance of the closure. Operations staff will still be operating the treatment plant and be responsive to any emergencies.

Engineering Support – Historically, the District has had an engineer as General Manager to fulfill the District Engineer duties. District staff have begun developing a list of additional engineering resources to support the Engineering Manager in executing the anticipated capital improvement projects in the near term.

SSMP Audit – the State Water Resources Control Board General Order governing the operation of collection systems requires an audit to be performed every two years. Staff conducted their semi-annual audit of the District's sewer system management plan in November to comply with current General Order requirements and prepare for a new order being adopted on December 6. It is recommended that the new board receive a presentation from staff on the new General Order and any changes needed to the SSMP as a result of the audit or new Order.

B. Operations and Maintenance Reports

For the period of **November 1 - 30, 2022**

November 1-30, 2022

WWT PLANT STATISTICS FOR DURATION: 30 DAYS

Flows	15.21 MG	0.507 MGD avg
Hypochlorite used	4,052Gal	135 Gallons day, avg
Bisulfite used	2,120 Gal	71 Gallons day, avg.
Effluent T.S.S.		3.9 mg/L avg
Effluent CBOD ₅		2.61 mg/L avg

BAC-T		2.2 MPN/100mL median
Rainfall	1.74 inches	

SLUDGE DISPOSAL - LOAD AND DISPOSAL BY ENGEL & GRAY

<u>Load Date</u>	<u>Total Haul (lbs)</u>	<u>Total Haul (Tons)</u>
11/07/22	38,300	19.15
11/11/22	40,420	20.21
<u>Totals:</u>	<u>78,720</u>	<u>39.36</u>

PLANT OPERATIONS

- No violation of the NPDES permit during this reporting period.
- Operated the belt press for a total of 24 hours.
- 11/2/22 – Newly installed IPS Pump #2 operational.
- 11/4/22 – De-ragged AB#2 Header #5 and replaced all diffusers.
- 11/7-8/22 - Rain event: 1.67” total.
- 11/9/22 – Provided a tour to charter school K-12 and parents.
- 11/14/22 – Bypassed WAS Pump during its replacement. Repaired broken diffusers in AB#1, Header #6.
- 11/21/22 – De-ragged AB#2, Header#6, and replaced all diffusers.
- 11/23/22 – WAS Pump installed and operational.
- 11/28/22 – De-ragged AB#2, Header#4 and replaced all diffusers. Repaired broken diffusers in AB#1, Header #6.

PLANT MAINTENANCE

- Performed routine inspections and maintenance of District Buildings and Equipment.
- Removed and installed back-up IPS pump due to seal leak alarm.
- 11/7/2022 through 11/23/2022 Maintenance staff replaced WAS wasting pump, base, valves, and piping.

COLLECTIONS

- 0 public sewer system overflows this reporting period.
- 0 private sewer system overflows this reporting period.
- Linear Feet Cleaned: 19,844 ft, 3.75 Miles.
- 88% of linear feet cleaned showed Roots & Debris.
- Linear Feet Inspected: 3,958 ft, 0.74 Miles.

- Tierra Contracting completed phase one of the San Ysidro / N Jameson Roundabout Sewer Relocation Project.
- Quinn Power completed scheduled maintenance repairs at two emergency lift station generators.
- Collection staff assisted Maintenance staff with WAS project.
- 11/19/22 Collection staff after hours call out for Power fail alarm at Channel Lift Station.
- 11/20/22 Collection staff after hours call out for Power fail alarm at Channel Lift Station.

LABORATORY

For November 1-30, the Laboratory Manager and Operators assigned to the Laboratory performed the following activities during the reporting period:

- Collected 220 permit-required, process control and recycled pilot samples
- Ran 325 tests plus 154 duplicate tests on above samples
- Performed 41 calibrations on laboratory equipment and 711 quality control checks
- On-Site inspection of laboratory Quality Assurance Program occurred on November 14 by a contracted representative of California ELAP. It went well.

RECYCLED WATER

Recycled Water Monthly Summary- November

Total Power used: 400 kWh

Average Daily Power in November (UF Only): 18 kWh

Daily Average Production Range for November: 12,000 gallons (system off on 11/8, 11/17, 11/18, and 24-27)

Daily Average Production while operational: 14,378 gallons

Total production for November: **268,392 gallons**

Operations Water use November: 27,857 gallons

Collections Water use September: 3,516 gallons

Total Recycle Water Used: **31,373 gallons**

12-MONTH EFFLUENT FLOW / RAINFALL

