

KIRBY CORP
Form 8-K
May 02, 2019

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): April 30, 2019

Kirby Corporation
(Exact name of Registrant as Specified in Charter)

Nevada 1-7615 74-1884980
(State or other Jurisdiction of incorporation) (Commission File Number) (IRS Employer Identification No.)

55 Waugh Drive, Suite 1000, Houston, Texas 77007
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (713) 435-1000

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 2.02. Results of Operations and Financial Condition.

On May 2, 2019, Kirby Corporation (“Kirby”) issued a press release announcing earnings for the first quarter ended March 31, 2019. A copy of the press release is attached as Exhibit 99.1 to this report.

EBITDA, a non-GAAP financial measure, is used in the press release. Kirby defines EBITDA as net earnings attributable to Kirby before interest expense, taxes on income, depreciation and amortization, impairment of long-lived assets and impairment of goodwill. Kirby has historically evaluated its operating performance using numerous measures, one of which is EBITDA. EBITDA is presented because of its wide acceptance as a financial indicator. EBITDA is one of the performance measures used in Kirby’s incentive bonus plan. EBITDA is also used by rating agencies in determining Kirby’s credit rating and by analysts publishing research reports on Kirby, as well as by investors and investment bankers generally in valuing companies. A quantitative reconciliation of EBITDA to net earnings attributable to Kirby for the 2019 and 2018 first quarters is included in the press release.

The press release also includes non-GAAP financial measures which exclude certain one-time items, including earnings before taxes on income (excluding one-time items), net earnings attributable to Kirby (excluding one-time items), and diluted earnings per share (excluding one-time items). A reconciliation of these measures with GAAP is included in the press release. Management believes that the exclusion of certain one-time items from these financial measures enables it and investors to assess and understand operating performance, especially when comparing those results with previous and subsequent periods or forecasting performance for future periods, primarily because management views the excluded items to be outside of Kirby’s normal operating results.

Item 5.07. Submission of Matters to a Vote of Security Holders.

Kirby held its Annual Meeting of Stockholders on April 30, 2019, at which the stockholders voted on the following matters:

1. Anne-Marie N. Ainsworth, C. Sean Day and William M. Waterman were elected Class III directors of Kirby to serve until the 2022 Annual Meeting of Stockholders by the following vote:

| | <u>For</u> | <u>Against</u> | <u>Abstain</u> | <u>Broker Non-Votes</u> |
|-------------------------|------------|----------------|----------------|-----------------------------|
| Anne-Marie N. Ainsworth | 51,949,320 | 216,971 | 18,262 | 5,113,830 |
| C. Sean Day | 43,340,836 | 8,658,159 | 185,558 | 5,113,830 |
| William M. Waterman | 49,010,649 | 3,155,287 | 18,617 | 5,113,830 |

2. The Audit Committee’s selection of KPMG LLP as Kirby’s independent registered public accounting firm for 2019 was ratified by the following vote:

| | |
|---------|------------|
| For | 56,755,057 |
| Against | 520,043 |
| Abstain | 23,283 |

3. Advisory vote on the approval of the compensation of Kirby’s named executive officers:

| | |
|------------------|------------|
| For | 36,512,008 |
| Against | 15,482,606 |
| Abstain | 189,939 |
| Broker non-votes | 5,113,830 |

Item 9.01. Financial Statements and Exhibits

(d) Exhibits:

99.1 Press release dated May 2, 2019

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

KIRBY CORPORATION

By: /s/ William G. Harvey
William G. Harvey
Executive Vice President
and Chief Financial Officer

Date: May 2, 2019

EXHIBIT INDEX

| Exhibit Number | Description of Exhibit |
|-------------------|------------------------|
|-------------------|------------------------|

| | |
|-------------|---|
| <u>99.1</u> | Press release dated May 2, 2019. |
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