

**MINUTES OF THE MEETING OF THE  
BOARD OF DIRECTORS OF  
UNION SANITARY DISTRICT  
March 25, 2013**

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**

PRESENT: Manny Fernandez, Secretary  
Tom Handley, Director  
Pat Kite, President  
Anjali Lathi, Vice President  
Jennifer Toy, Director

ABSENT: None

STAFF: Richard Currie, General Manager/District Engineer  
Judi Berzon, Human Resources Administrator  
Richard Cortes, Business Services Manager  
Jesse Gill, Technical Support & Customer Services Manager  
Sami Ghossain, Capital Improvements Projects Coach  
Andy Morrison, Collection Services Manager  
David O'Hara, Legal Counsel  
Michelle Powell, Communications Coordinator  
Maria Scott, Principal Financial Analyst  
Robert Simonich, Fabrication, Maintenance & Construction Manager  
Tom Graves, Assistant to the General Manager/Board Secretary

CONSULTANTS: Glenn Berkheimer, IEDA Professional Staff (Arrived 7:50 p.m.)

VISITORS: None

4. **APPROVAL OF THE MINUTES OF MARCH 11, 2013**

**Action**

On a motion made by Director Lathi and seconded by Director Fernandez, the Minutes of the Board of Directors Meeting of March 11, 2013 were approved as amended. The amendment included expanded text on Director Lathi's report on the CWEA PS3 conference. The motion carried unanimously.

**5. WRITTEN COMMUNICATIONS**

There were no official written communications.

**6. ORAL COMMUNICATIONS**

There were no oral communications.

**7. MONTHLY OPERATIONS REPORT FOR FEBRUARY, 2013**

GM Summary

Rich Currie reported that there were two odor reports for the month, but none were attributable to USD. There were two minor accidents, both eye incidents. The first was reported to the Board earlier, involving a worker who had gotten a piece of metal in his eye, even though he was fully protected. The second incident was caused by a burst hose which caused dirt to blow into a worker's eye. The eye was washed, and the worker returned to work. Collection Services has once again reported no spills for the month. Hours worked have risen from 33.7/week to 34.07, and sick leave has declined from 60.5 to 57.25.

Financials

Maria Scott presented the financial report. The Board had no questions.

**8. This item was withdrawn.**

9. **INITIAL RESOLUTION NO. 2700 FOR ANNEXATION NO. U-289, CITY OF FREMONT PROPERTIES LOCATED ALONG PALM AVENUE**

Jesse Gill said that the City of Fremont submitted a request to annex two city-owned parcels (Assessor Parcel Numbers 513-0472-008-04 and 513-0472-009-04) totaling 12.15 acres located near Palm Avenue and Interstate I-680 in the Mission District. There is no land use change involved with the annexation proposal, and the annexation will have no fiscal impact on the District's ratepayers.

Action

On a motion made by Director Handley and seconded by Director Fernandez, Initial Resolution No. 2700 for Annexation No. U-289 was adopted. The motion carried unanimously.

###

**RESOLUTION NO. 2700**  
**A RESOLUTION OF APPLICATION BY UNION SANITARY DISTRICT REQUESTING  
THE LOCAL AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS FOR  
ANNEXATION NO. U-289**

**BE IT RESOLVED**, by the Board of UNION SANITARY DISTRICT that,

**WHEREAS**, UNION SANITARY DISTRICT desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code, for the annexation of territory to District boundaries; and

**WHEREAS**, notice of intent to adopt this resolution of application has been given to each interested and each subject agency; and

**WHEREAS**, the territory proposed to be annexed is uninhabited, and a description of the boundaries of the territory is set forth in Exhibit A attached hereto and by this release incorporated herein; and

**WHEREAS**, this proposal is consistent with the Sphere of Influence of the District; and

**WHEREAS**, it is desired to provide that the proposed annexation be subject to the following terms and conditions:

1. Payment of Ordinance No. 25.6 Annex Fee of \$162 per acre.
2. The annexation of territory referred to herein does not guarantee capacity will be available in UNION SANITARY DISTRICT's sewer system to serve said territory at the time sewer construction permits are desired; and

**WHEREAS**, the reason for the proposed annexation is to provide sanitary sewer service to the proposed four single family residences on Tract 8016 and any future development in the City of Fremont properties if needed;

**NOW, THEREFORE, BE IT RESOLVED** that:

1. This Resolution of Application is hereby adopted and approved by the Board of Directors of the UNION SANITARY DISTRICT, and the Local Agency Formation Commission of Alameda County is hereby requested to take proceedings for the annexation of territory as described in Exhibit A according to the terms and conditions stated above and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
2. This annexation has been reviewed in accordance with the provisions of the California Environmental Quality Act. It is hereby resolved that no adverse environmental impacts will result from the annexation of the properties into USD service area.

3. The UNION SANITARY DISTRICT Board of Directors does hereby request the Local Agency Formation Commission to waive the conducting authority for Annexation No. U-289

Passed and adopted by the Board of Directors of UNION SANITARY DISTRICT at a regular meeting thereof held on March 25, 2013 by the following vote:

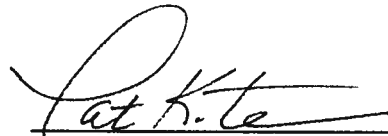
AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: ----

ABSENT: ----

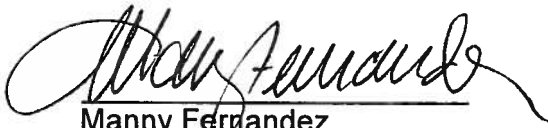
ABSTAIN: ----

ADOPTED: March 25, 2013



Pat Kite  
President, Board of Directors  
Union Sanitary District

Attest:



Manny Fernandez  
Secretary, Board of Directors  
Union Sanitary District

10. **AUTHORIZING THE GENERAL MANAGER TO EXECUTE TASK ORDER NO. 2 WITH THE COVELLO GROUP FOR PROVIDING CONSTRUCTION MANAGEMENT SERVICES FOR THE COGENERATION PROJECT**

Jesse Gill reported that the Board awarded the construction contract for the Project to D. W. Nicholson Corporation in the amount of \$10,566,358 on March 11, 2013. The Project's construction period will be five hundred twenty five (525) calendar days with an estimated completion of all project elements by October 2014. However, the Project will require the commissioning of the new engine generators within four hundred thirty five (435) calendar days, or by July 2014.

On October 9, 2012, staff executed an Agreement and Task Order No. 1 in the amount of \$21,904 with The Covello Group to review the design of the Cogeneration Project for biddability and constructability issues. The scope of services for Task Order No. 2 will include the attendance at the partnering workshop and preconstruction conference, construction administration, facilitation of progress meetings with the contractor, processing of paperwork between the contractor and the design consultant, field quality control, coordination of field testing and training, and project closeout inspection. The total cost is not to exceed \$959,502, which is equal to 9.1% of the \$10.5M construction contract.

Action

On a motion made by Director Fernandez and seconded by Director Toy, the Board authorized the General Manager to execute Task Order No. 2 with The Covello Group for providing construction management services for the Cogeneration Project. The motion carried unanimously.

11. **AUTHORIZING THE GENERAL MANAGER TO EXECUTE A PURCHASE ORDER CONTRACT WITH SIEMENS INDUSTRY, INC. FOR THE INTERNAL LIFT STATION NO. 1 IMPROVEMENTS PROJECT.**

Jesse Gill reported that the District operates two primary effluent lift stations with a total of eight (8) enclosed screw pumps at the Alvarado Wastewater Treatment Plant. Primary Effluent Lift Station No. 1 (pumps No. 1 through 4) was built in 1986. Primary Effluent Lift Station No. 2 (pumps No. 5 through 8) was built in 1995. Staff conducted inspections of the internal components of the effluent pumps in May 2009. The inspection showed that the effluent pumps were corroding and were in need of replacement.

Staff received a quote from Siemens Industry, Inc. on February 25th to provide one (1) new stainless steel pump and a combination of new and refurbished ancillary parts to replace effluent pumps No. 1 through 4 at a cost of \$558,450. Staff negotiated with Siemens and was able to reduce the final price to \$424,049.11.

Action

On a motion made by Director Handley and seconded by Director Fernandez, the Board authorized the general manager to execute a purchase order contract with Siemens Industry, Inc. for the Internal Lift Station No. 1 Improvements Project. The motion carried unanimously.

12. **REVIEWING AND APPROVING BUDGET POLICY NO. 2015**

Rich Cortes presented this item. There are minor changes being proposed by staff to make the policy align with current budget practices. There were no questions from the Board.

Action

On a motion made by Director Lathi and seconded by Director Toy, the Board approved Policy No. 2015, Budget Policy. The motion carried unanimously.

13. **REVIEWING AND APPROVING ACCOUNTING STANDARDS POLICY NO. 2000.**

Rich Cortes presented this item to the Board for review. The only change related to the Auditor presenting to the Board Audit Committee. The Board had no questions.

Action

On a motion made by Director Lathi and seconded by Director Fernandez, Policy No, 2000, Accounting Standards Policy, was approved. The motion carried unanimously.

14. **ADOPTING RESOLUTION NO. 2701, TO TREAT EMPLOYEES' COST-SHARING CONTRIBUTIONS UNDER PERS AS PRE-TAX FOR INCOME-TAX PURPOSES, and;**
15. **ADOPTING RESOLUTION NO. 2702 IMPLEMENTING COST-SHARING CONTRIBUTIONS UNDER PERS FOR NON-REPRESENTED EMPLOYEES WHO ARE CLASSIC MEMBERS.**

These two items were considered together. The HR Administrator explained that Resolution 2701 is required to define and designate amounts deducted from Employees' compensation to pay Employer's contributions to PERS as Employee Contributions, and also provide for the "pick up" of cost-sharing contributions in order to qualify them as Pre-Tax for income tax purposes. She handed out a table explaining how the contributions worked.

The Resolution No. 2702 is required to implement cost sharing for non-represented (unclassified) "Classic Members" equal to 1.5% of their PERSable compensation and will be effective the first day of the pay period that includes May 5, 2013. The 1.5% contribution will pay part of the District's employer contribution to PERS. In addition, non-represented Classic Members will continue to pay 2% of their compensation to PERS as member contributions. The District will maintain the 6% contribution to PERS, the employer-paid member contribution (EPMC), for non-represented Classic Members.

Action

On a motion made by Director Handley and seconded by Director Lathi, the Board adopted both Resolution No. 2701 and No. 2702 together in one motion. The motion carried unanimously.

###



**RESOLUTION NO. 2701**

**RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE UNION SANITARY DISTRICT  
APPROVING THE PICK UP UNDER  
INTERNAL REVENUE CODE SECTION 414(h)(2) OF  
EMPLOYEE COST-SHARING CONTRIBUTIONS TO PERS**

**WHEREAS**, the Union Sanitary District (the "District") provides retirement benefits to eligible employees under the California Public Employees' Retirement System ("PERS");

**WHEREAS**, benefits under PERS are funded by "member contributions" and "employer contributions," at rates determined by PERS in accordance with the laws governing PERS and with the agreement governing the District's participation in PERS;

**WHEREAS**, the District may, to the extent permitted by the PERS laws and the District's memorandums of understanding or similar agreements with employees, deduct employees' compensation to pay member contributions or employer contributions, or both, to PERS;

**WHEREAS**, the District previously adopted a resolution providing, in accordance with section 414(h)(2) of the Internal Revenue Code (the "Code"), for the "pick up" of amounts deducted from employees' compensation to pay member contributions to PERS, in order to qualify the contributions as pre-tax for income-tax purposes; and

**WHEREAS**, the District wishes to adopt this resolution in order to (1) designate amounts deducted from employees' compensation to pay employer contributions to PERS ("cost-sharing contributions") as employee contributions, and (2) provide for the "pick up" of cost-sharing contributions in accordance with section 414(h)(2) of the Code, in order to qualify the contributions as pre-tax for income-tax purposes.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE UNION SANITARY DISTRICT DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** All cost-sharing contributions made by District employees are hereby designated as employee contributions.

**SECTION 2.** The District hereby picks up all cost-sharing contributions in accordance with section 414(h)(2) of the Code, so that the contributions, even though designated as employee contributions and deducted from employees' compensation, will be treated as employer contributions for tax purposes.

**SECTION 3.** Employees will not have the option of choosing, directly or indirectly, to receive the contributions instead of having them paid by the District to PERS.

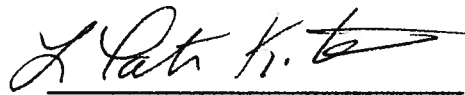
**SECTION 4.** The District will pay to PERS the contributions designated as employee contributions from the same source of funds as used in paying salary.

**SECTION 5.** Contributions picked up under this resolution will be tax deferred to the extent provided under the Code, Treasury Regulations, and other guidance issued thereunder.

**SECTION 6.** Nothing in this resolution affects or governs PERS's methods for characterizing or accounting for amounts deducted from employees' compensation for contribution to PERS. Those methods are governed solely by California law and PERS's policies.


On motion duly made and seconded, this resolutions was adopted by the following vote on March 25, 2013:

AYES:            Fernandez, Handley, Kite, Lathi, Toy  
NOES:            ---  
ABSENT:        ---



\_\_\_\_\_  
L. PATRICIA KITE  
President, Board of Directors  
Union Sanitary District

Attest



\_\_\_\_\_  
MANNY FERNANDEZ  
Secretary, Board of Directors  
Union Sanitary District

**RESOLUTION NO. 2702**

**RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE UNION SANITARY DISTRICT  
PROVIDING FOR  
EMPLOYEE COST-SHARING CONTRIBUTIONS TO PERS**

**WHEREAS**, the Union Sanitary District (the "District") provides retirement benefits to eligible employees under the California Public Employees' Retirement System ("PERS");

**WHEREAS**, benefits under PERS are funded by "member contributions" and "employer contributions," at rates determined by PERS in accordance with the laws governing PERS and with the agreement governing the District's participation in PERS;

**WHEREAS**, under the laws governing PERS, every District employee covered by PERS is classified as either a New Member within the meaning of Section 7522.04(f) of the California Government Code, or not a New Member (using PERS's terminology, any PERS-covered District employee who is not a New Member is a Classic Member);

**WHEREAS**, the member-contribution rate for each non-represented employee of the District who is a Classic Member is 8% of the employee's PERSable compensation;

**WHEREAS**, of the 8% member contribution, the District currently pays 6% as an employer-paid member contribution (EPMC) to PERS in accordance with Section 20691 of the California Government Code, and reports the full monetary value of the 6% EPMC as additional compensation in accordance with Section 20636(c)(4) of the California Government Code;

**WHEREAS**, the remaining 2% member contribution is deducted from the employee's District compensation and contributed to PERS;

**WHEREAS**, the District is permitted under Section 20516 of the California Government Code to implement cost-sharing contributions, under which an employee's District compensation is deducted in order to pay part of the District's employer contribution to PERS; and

**WHEREAS**, the District wishes to implement a 1.5% cost-sharing contribution for each non-represented employee who is Classic Member, without affecting any other changes to the District's existing structure for contributions to PERS.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE UNION SANITARY DISTRICT DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** Effective the first day of the pay period that includes May 5, 2013, each non-represented employee of the District who is a Classic Member will pay a cost-sharing contribution equal to 1.5% of the employee's PERSable compensation.

**SECTION 2.** The 1.5% amount will be deducted from the employee's District compensation in order to fund the District's employer contributions under PERS.

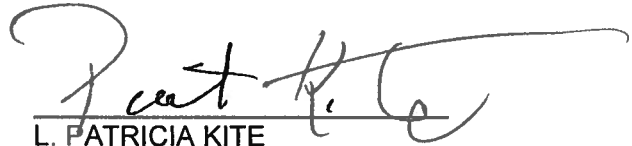
**SECTION 3.** Nothing in this Resolution affects the District's existing structure for member contributions and EPMCs. Accordingly, each employee will continue to contribute 2% of his or her District compensation to PERS as a member contribution; and, the District will continue to pay the remaining 6% of the member contribution as an EPMC and report this amount as PERSable compensation.

On motion duly made and seconded, this resolution was adopted by the following vote on March 25, 2013:

AYES:            Fernandez, Handley, Kite, Lathi, Toy

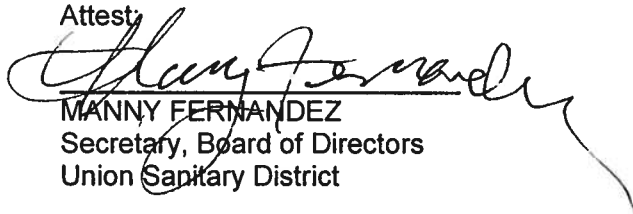
NOES:            ----

ABSENT:        ----



L. PATRICIA KITE  
President, Board of Directors  
Union Sanitary District

Attest:



MANNY FERNANDEZ  
Secretary, Board of Directors  
Union Sanitary District

16. **RESCHEDULING THE MAY 27, 2013 BOARD OF DIRECTORS' MEETING.**

Rich Currie pointed out that May 27, 2013 is a District Holiday. Director Toy may not be able to attend.

Action

On a motion made by Director Lathi and seconded by Director Fernandez, the Board moved to reschedule the May 27, 2013 Regular Board Meeting to Tuesday, May 28, 2013. The motion carried unanimously.

17. **PROPOSITION 218 NOTICE TO CUSTOMERS**

Rich Currie passed out the latest revision of the Proposition 218 Notice to Customers, and rate scenarios requested by the Board at the March 18, 2013 workshop.

Action

On a motion made by Director Fernandez and seconded by Director Toy, the Board approved the final elements of the brochure and adopted Scenario #12 as the proposal to present to property owners for a rate increase. The motion carried unanimously.

18. **TEMPORARY EXTENSION OF EMPLOYMENT CONTRACT WITH GENERAL MANAGER**

The employment contract with the General Manager expired on February 28, 2013. This action will extend the current contract until an agreement is reached on a new contract.

Action

On a motion made by Director Handley and seconded by Director Lathi, the Board approved a temporary extension of the General Manager's employment contract to May 13, 2013. The motion carried unanimously.

**INFORMATION ITEMS**

**19. LEGISLATIVE UPDATE FOR MARCH 2013**

Rich Currie highlighted several bills in his presentation to the Board:

AB 436 would apply the doctrine of proportional fault to inverse condemnation cases, which is strongly supported by CASA.

AB 1140 has to do with prevailing wages, and that they would need to be reviewed every six months. CASA does not support this bill.

AB 1235 is similar to AB 1234, which would require elected officials to take financial management training every term of office.

SB 338 would amend the Brown Act for posting of notices at remote sites, requiring such posting 24 hours in advance, instead of 72 hours.

SB 727 would require pharmaceutical companies to fund statewide pharmaceutical take back programs.

On local issues, San Francisco is issuing the first \$335M of its \$4.8B wastewater treatment bonds; Belmont is evaluating its lateral program, and sewage sniffing dogs are being used to detect contamination now in Sonoma County, the second program of its kind.

**20. REPORT ON EBDA COMMISSION MEETING OF MARCH 21, 2013.**

Director Lathi presented the report of the meeting. There were no questions from the Board.

**21. CHECK REGISTER**

There were no questions from the Board.

**22. COMMITTEE MEETING REPORTS**

The following Committees met: Personnel, Construction, Budget & Finance and Legislative.

Regarding AB 194, Director Lathi asked if the proposed change to public meeting law would impact the 3 minute speaking limit. It appears that, as written, it will not.

**23. GENERAL MANAGER'S REPORT.**

The X-Mod for FY14 is going up to 0.95, mostly attributable to several accidents two years back.

At the Hayward Marsh Stakeholders meeting, there was a lengthy discussion about the operational status of the marsh. The East Bay Parks District has approved \$2.4M to make improvements, but the cost estimate to dredge and restore the marsh is close to \$20M. This should have been done 10 years ago. The marsh is failing now. Further meetings are being scheduled.

The email address unionsanitary.ca.gov is still awaiting state approval. Once we receive it, we will convert all email and web addresses to that new address.

Special District Legislative Days are scheduled for May 14 and 15 in Sacramento. Interested Directors should let Rich or Tom know if they want to attend.

Director Toy said she may have a conflict on May 21, which is one of the days set for Board interviews of AGM candidates. Mr. Currie asked Tom Graves to work with the Board to find days that work for all Boardmembers.

Director Kite agreed to take the gift basket to the ACSDA dinner on behalf of the District.

**24. OTHER BUSINESS:**

The Board welcomed Andy Morrison back after his recent surgery.

25. **ADJOURNMENT:**

The Board adjourned to a Closed Session to discuss Contract Negotiations with SEIU Local 1021 (Calif. Govt. Code Section 54957.6). Negotiating Team Members Richard Currie, Judi Berzon, Andy Morrison and/or Glenn Berkheimer of IEDA may attend this session.

The Board then adjourned to a Special Meeting Workshop on the Fats, Oils and Grease (FOG) Public Outreach Program to be held in the Boardroom on April 4, 2013 at 6:30 p.m.,

And then to the next Regular Board Meeting on April 8, 2013 at 7:00 p.m. in the Boardroom.

SUBMITTED:

  
\_\_\_\_\_  
TOM GRAVES  
SECRETARY TO THE BOARD

ATTEST:

  
\_\_\_\_\_  
MANNY FERNANDEZ  
SECRETARY

APPROVED:

  
\_\_\_\_\_  
PAT KITE  
PRESIDENT

Adopted this 8th day of April, 2013.