

**MINUTES OF THE MEETING OF THE
BOARD OF DIRECTORS OF
UNION SANITARY DISTRICT
April 22, 2013**

1. CALL TO ORDER

President Kite called the Board to Order at 7:01 p.m.

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 (arrived 7:04 p.m.)
Richard Cortes, Business Services Manager
Kathy Destafney, Business Services Coach
Sami Ghossain, Capital Improvements Projects Coach
Jesse Gill, Technical Support & Customer Services Manager
Dave Livingston, Treatment & Disposal Services Manager
Andy Morrison, Collection Services Manager
David O'Hara, Legal Counsel
Richard Scobee, Sr. GIS/Database Administrator
Maria Scott, Principal Financial Analyst
Robert Simonich, Fabrication, Maintenance & Construction Manager
Tom Graves, Assistant to the General Manager/Board Secretary

CONSULTANTS: William H. McInerney, Jr., Legal Counsel
Glenn Berkheimer, IEDA Professional Staff

VISITORS: None

4. APPROVAL OF THE MINUTES OF APRIL 8, 2013

Action

On a motion made by Director Toy and seconded by Director Handley, the Minutes of the Board of Directors Meeting of April 8, 2013 were approved. 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 MARCH, 2013.

GM Summary

Rich Currie reported that there was one odor complaint for the month, but it related to a storm drain, and not to the District. There were no accidents during the month, as well. The District's Experience Modification Factor (X-Mod) is increasing to 0.95 for FY14. There were again no spills for the month of March, bring the number of months in a row to 10 for no spills. Hours worked have risen from 34.07 to 34.5, and sick leave has declined to under 57 now.

Financials

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

8. APPROVING THE PUBLICLY AVAILABLE PAY SCHEDULE

The Publicly Available Pay Schedule has been updated to include the most recent salary survey data for Unclassified Employees.

Action

On a motion made by Director Toy and seconded by Director Fernandez, the Board approved the Publicly Available Pay Schedule. The motion carried unanimously.

9. **APPROVING CHANGES TO POLICY NO. 3060 – LETTERS TO THE MEDIA**

Rich Currie reported that this item was brought back to the board from the March meeting, at which time the Board asked that endorsement of candidates for political office be made an exception to the policy for Board members. This policy as presented now creates an exception that does not require prior Board approval for Board members wishing to endorse candidates for public office or ballot measures, as long as the endorsement is limited to the individual Board member and not the Board or the District as a whole.

Director Fernandez moved approval and Director Toy seconded. Director Lathi expressed concerns about correspondence with other elected officials, and using the title "Director" in that capacity. Directors Handley and Kite agreed that the change in this policy, as outlined by Director Lathi, would be appropriate. Directors Fernandez and Toy withdrew the motion, and asked that the policy be amended to include this situation. Mr. Currie asked Director Lathi to assist in drafting the language, and she agreed to do so.

10. **REVIEWING AND APPROVING CHANGES TO POLICY NO. 3100 – PUBLIC INPUT AT BOARD AND COMMITTEE MEETINGS**

GM Rich Currie said there were very few changes to this item. One small change is a distinguishment between "Regular" and "Special" board meetings, and clarified the total time allotment for public input on agenda items.

Action

On a motion made by Director Handley and seconded by Director Toy, the Board approved Policy 3100. The motion carried unanimously.

11. **RESOLUTION NO. 2703, INITIAL RESOLUTION FOR ANNEXATION NO. U-290, CREEKSIDE LANDING, LOCATED IN THE NORTHWEST QUADRANT OF INTERSTATE I-880 AND DIXON LANDING ROAD**

Legal Counsel Dave O'Hara polled Boardmembers on areas of possible conflicts of interest. All Boardmembers answered that they had no conflicts of interest in the annexation.

Jesse Gill reported that the annexation is within the District's sphere of influence and existing sewers are available that will be extended to serve the annexation. The District has the necessary capacity in its existing system to provide service to the proposed development and there would be no adverse impact on the ratepayers by the proposed annexation.

Action

On a motion made by Director Handley and seconded by Director Toy, the Board adopted Resolution No. 2703. The motion carried unanimously.

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RESOLUTION No. 2703
A RESOLUTION OF APPLICATION BY UNION SANITARY DISTRICT
REQUESTING THE LOCAL AGENCY FORMATION COMMISSION TO TAKE
PROCEEDINGS FOR ANNEXATION NO. U 290

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 three new warehouse buildings on the Creekside Landing Project;

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 the Board of Directors of UNION SANITARY DISTRICT concurs with the City of Fremont's

Statement of Overriding Considerations regarding the significant and unavoidable traffic and air quality impact that will result.

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-290.

Passed and adopted by the Board of Directors of UNION SANITARY DISTRICT at a regular meeting thereof held on April 22, 2013 by the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: ----

ABSENT: ----

ABSTAIN: ----

ADOPTED: April 22, 2013



Pat Kite
President, Board of Directors
Union Sanitary District

Attest:



Manny Fernandez
Secretary, Board of Directors
Union Sanitary District

12. AUTHORIZING THE GENERAL MANAGER TO EXECUTE TASK ORDER NO. 3 WITH CAROLLO ENGINEERS FOR PROVIDING ENGINEERING SERVICES DURING CONSTRUCTION OF THE COGENERATION PROJECT

The construction contract will require the new engine generator system to be commissioned by June 13, 2014 and overall project substantial completion by September 11, 2014. The submittals for the new engine generator system and its components are expected to be very complicated and will require more time to review than would a typical submittal. Additionally, there will be a significant number of submittals associated with the new metal building construction including all of the interior systems such as ventilation, lighting, bridge crane, and electrical. The Task Order's total not-to-exceed amount of \$475,677 is 4.5% of the construction contract amount. Staff believes this is a fair amount and percentage for a project of this scope and size.

Action

On a motion made by Director Lathi and seconded by Director Toy, the Board authorized the General Manager to execute Task Order No. 3 with Carollo Engineers for providing engineering services during construction of the Cogeneration Project. The motion carried unanimously.

13. APPROVING CHANGE ORDER NO. 1 TO THE AGREEMENT WITH ENFOTECH & CONSULTING, INC. FOR IMPLEMENTATION OF AN ENVIRONMENTAL COMPLIANCE MANAGEMENT SYSTEM

Sr. GIS/Database Coordinator Richard Scobee stated that the FY'12 IS R&R budget included funds through FY13 for implementation of an Environmental Compliance Management System (ECMS) in order to replace the existing FileMaker Pro 5 database system. On May 14, 2012, the Board awarded the Professional Services Agreement in the amount of \$161,313 to enfoTech & Consulting, Inc. to implement iPACS, a commercial off the shelf (COTS) solution. During the course of reviewing the iPACS implementation design, a number of needed enhancements were identified. Change Order #1 will modify the agreement with enfoTech to include the implementation of the specified iPACS Enhancements by the amount of \$34,350, from \$161,313 to a not-to-exceed amount of \$195,663.

Action

On a motion made by Director Toy and seconded by Director Lathi, the Board approved Change Order No. 1 to the Agreement with enfoTech & Consulting, Inc. for implementation of an Environmental Compliance Management System. The motion carried unanimously.

14. **AUTHORIZING THE GENERAL MANAGER TO EXECUTE TASK ORDER NO. 2 WITH WEST YOST AND ASSOCIATES FOR THE DESIGN OF PHASE 1 OF THE NEWARK BACKYARD SANITARY SEWER RELOCATION PROJECT**

Jesse Gill stated that On July 13, 2012, the General Manager executed the Agreement and Task Order No. 1 with West Yost and Associates for the Preliminary Design and Evaluation of the Newark Backyard Sanitary Sewer Relocation Project. Task Order No. 1 provided for the development of a preliminary layout of the new sewers within public streets, the evaluation of construction methods for installing new laterals from the backyard to the front of the house, and total project construction cost estimates.

West Yost and Associates has submitted a scope of work for Task Order No. 2, which staff has reviewed and deemed appropriate. The cost proposal comes to \$76,352, which is about 15.2% of the construction cost estimate. Typically, the design costs for a project of this size vary between 10-12%. However, since this project includes a significant public outreach effort, which accounts for 5.6% of the construction cost estimate, this cost proposal is appropriate for this project. Further, the scope of work for Task Order No. 2 includes project management, design, and bid support services.

Director Fernandez asked the distance horizontal drilling could be used. Mr. Gill replied that it is typically a maximum of about 1,000 feet, but that in this case, drilling wouldn't encompass more than 100 feet, and there is no problem with the grade for this project.

Director Kite inquired if there had been any inquiries from residents, and Mr. Gill said we had received none to date. He did state that residents would be contacted soon, since this project will required that access to properties and backyards will be necessary.

Action

On a motion made by Director Fernandez and seconded by Director Lathi, the Board authorized the General Manager to Execute Task Order No. 2 with West Yost and Associates for the design of Phase 1 of the Newark Backyard Sanitary Sewer Relocation Project. The motion carried unanimously.

15. **RESOLUTION NO. 2704, ACCEPTING THE CONSTRUCTION OF THE THICKENER NOS. 3 AND 4 REHABILITATION PROJECT FROM ANDERSON PACIFIC ENGINEERING CONSTRUCTION, INC. AND AUTHORIZING THE ATTORNEY FOR THE DISTRICT TO RECORD A NOTICE OF COMPLETION.**

Jesse Gill reported that staff issued the Notice to Proceed to Anderson Pacific Engineering Construction, Inc. on December 27, 2011 with a scheduled completion date of April 30, 2013. Anderson Pacific Engineering Construction, Inc. substantially completed all contract work on March 29, 2013. The Covello Group provided construction management and general inspection services for the project.

The Contractor has currently not completed all work on the Punch List and has some administrative requirements remaining. If these items are not completed by the time Notice of Completion is filed, staff will withhold 125% of the value of the work until completion. One Change Order for additional paving remains to be executed. The initial estimate for this final Change Order is \$3,500. The total change orders for this project result in an overall credit of \$36,220 to the District.

The District has assumed beneficial use of the Project.

Action

On a motion made by Director Handley and seconded by Director Fernandez, the Board accepted the Thickener Nos. 3 and 4 Rehabilitation Project from Anderson Pacific Engineering Construction, Inc. and authorized the Attorney for the District to record a Notice of Completion at the Alameda County Recorder's Office. The motion carried unanimously.

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RESOLUTION NO. 2704

**ACCEPTING CONSTRUCTION OF THE
THICKENER NOS. 3 AND 4 REHABILITATION PROJECT FROM
ANDERSON PACIFIC ENGINEERING CONSTRUCTION, INC.
LOCATED IN UNION CITY, CALIFORNIA**

RESOLVED: That the Board of Directors of the UNION SANITARY DISTRICT hereby accepts the Thickener Nos. 3 and 4 Rehabilitation Project from Anderson Pacific Engineering Construction, Inc., effective April 22, 2013; and be it

FURTHER RESOLVED: That the attorney for the District is authorized to file a "Notice of Completion" for the project.

On motion duly made and seconded, this resolution was adopted by the following vote on April 22, 2013:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: ----

ABSENT: ----

ABSTAIN: ----



PAT KITE
President, Board of Directors
Union Sanitary District

Attest:



MANNY FERNANDEZ
Secretary, Board of Directors
Union Sanitary District

26. **AWARDING THE CONSTRUCTION CONTRACT FOR THE I-680 AT SABERCAT ROAD SANITARY SEWER RELOCATION PROJECT TO RANGER PIPELINES, INC.**

Note: This item was taken out of agenda order.

Jesse Gill said the purpose of the Project is to replace the existing 12-inch diameter sewer crossing under Interstate 680 at Sabercat Road. The existing sewer crossing is 852 feet in length and crosses the Hayward Fault near the shoulder of southbound I-680. At that location, the pipeline has experienced severe offset joints due to the lateral movement associated with fault creep. Further lateral movement will critically compromise the pipe joints, potentially allowing the erosion of soils outside the pipe.

Bay Pacific Pipelines (BPP) was the apparent low bidder with a total base bid amount of \$1,579,490. Staff reviewed the bid and found it to be non-responsive. Section 00470 required bidders to acknowledge five (5) insurance requirements. BPP failed to include two (2) of those acknowledgements. In addition, BPP's bid did not appear to meet the contractor experience requirements as specified in the bid documents. After consulting with legal counsel, staff notified BPP on April 4, 2013, of its intent to reject their bid. On April 11, 2013, BPP protested the District's position and contended, among other matters, that their bid was indeed responsive, and requested a hearing to discuss the experience qualifications. Staff responded on April 15, 2013, addressing their protest, maintaining the District's position that the bid was non-responsive, and advising that the bid rejection is based on non-responsiveness rather than non-responsibility, and therefore a hearing is not warranted.

Steve P. Rados (SPR) was the second-lowest bidder with a total base bid amount of \$1,800,240. Staff reviewed the bid and found it also to be non-responsive. Section 00420 required bidders to provide the average of their Worker's Compensation Experience Modification Rate (EMR or X-mod) for the last three complete years. SPR's average is 1.14, which exceeds the maximum allowable limit of 1.1. After consulting with legal counsel, staff notified SPR on April 12, 2013, of its intent to reject their bid based on their failure to meet the minimum safety requirement. On April 15, 2013, SPR notified staff that it had accepted the District's position and communicated its intention not to pursue the matter further.

Ranger Pipelines (RP) was the third-lowest bidder with a total base bid amount of \$1,804,245. Staff reviewed the bid and found it to be responsive and responsible, with no irregularities. RP's bid is 7.25% above the Engineer's Estimate of \$1,682,260. Given the project's complexity and extensive requirements, the close nature of most of the bid results reflects a competitive bidding environment. No further bid protests were received by the District and RP has confirmed that they will construct the project as bid.

26. **AWARDING THE CONSTRUCTION CONTRACT FOR THE I-680 AT SABERCAT ROAD SANITARY SEWER RELOCATION PROJECT TO RANGER PIPELINES, INC. (continued)**

Ranger Pipelines is a General Engineering Class A licensed contractor who has constructed numerous projects in the San Francisco Bay Area, including the Quito Basin #7 Sanitary Sewer Rehabilitation Project for West Valley Sanitation District, the Walnut Creek Sewer Renovations Phase 7 Project for Central Contra Costa Sanitary District, and the Victoria Canal Conveyance Pipeline Project for Contra Costa Water District. RP has also completed a number of successful projects for the District such as the Dairy Ave. Corridor Sewer Replacement, Wells Ave. Sewer Replacement, and the Peachtree Avenue Corridor Sanitary Sewer Replacement - Reach B Projects. Staff has checked references and received satisfactory responses.

Director Toy asked if the District had worked with Ranger before, and Mr. Gill said that we had, and that Ranger has a good reputation.

Action

On a motion made by Director Toy and seconded by Director Fernandez, the Board rejected the two lowest bidders and awarded the Construction Contract for the I-680 at Sabercat Road Sanitary Sewer Relocation Project to Ranger Pipelines, Inc. in the amount of \$1,804,245. The motion carried unanimously.

INFORMATION ITEMS

16. **THIRD QUARTERLY REPORT ON CAPITAL IMPROVEMENT PROGRAM FOR FY 13**

Jesse Gill made the presentation, stating that the total CIP expenditure up to March 31, 2013 was below the projections for the third quarter by \$ 1,515,000. He reviewed the variances project by project. There were no questions from the board.

17. **STATUS OF PRIORITY I PROJECTS**

There are eleven Priority 1 CIP Projects currently ongoing for FY13. All eleven are either nearing completion or on schedule, with exception of the Boyce road project, which is nearing completion. Mr. Gill commended CIP Coach Sami Ghossain and his team. The Board had no questions.

18. **CAL-CARD QUARTERLY ACTIVITY REPORT**

Rich Cortes reviewed the report with the Board. There were no questions.

19. **BOARD OF DIRECTORS QUARTERLY EXPENDITURES, 3RD QUARTER FY13**

There were very few expenditures to review, and the Board had no questions.

20. **CHECK REGISTER**

The Board reviewed the Check Register. There were no questions.

21. **REPORT ON EBDA COMMISSION MEETING OF APRIL 18, 2013**

Director Lathi reported on the meeting.

Director Kite asked about the circumstances surrounding the River Watch legal cases. GM Currie gave a brief general background update.

22. **COMMITTEE MEETING REPORTS:**

The following committees met: Construction, Legal/Community Affairs, Personnel and Budget & Finance.

23. **GENERAL MANAGER'S REPORT**

The Deputy General Manager recruitment will close on Monday, April 29th. There are 8 applicants to date.

There has been one inquiry about the Proposition 218 Notice to Ratepayers. Our Press Release was also published in the Fremont Patch, and there have been several comments to it online.

We had a very successful earth Day event at Washington Hospital. Many board members came by the booth, and there was a lot of interest from the public.

GM Currie will be at the CASA conference the rest of the week. Rich Cortes will be Acting General Manager at the May 13th board meeting, while Mr. Currie addresses the League of Women Voters' meeting at the Fremont Congregational Church that night.

Rich Currie asked Rich Cortes to update the Board on possible PERS rate increases. PERS is beginning to look at rates and assumptions, and will be making a number of recommendations for changes. It appears that rates will increase significantly starting in 2015, but by how much and when isn't known at this time.

24. RECESS

The Board recessed at 8:03 p.m., and reconvened at 8:10 p.m. The Board was unable to proceed with Item 25, Approving the General Manager's Employment Contract, due to a technical issue with the iPads. While paper materials were being printed, the Board took up Item 27.

27. OTHER BUSINESS:

This item was taken out of agenda order.

Director Lathi asked about Board interview dates for Deputy General Manager. Mr. Currie said that dates will be set with the Board as soon as possible.

28. ADJOURNMENT #1

This item was taken out of agenda order.

At 8:15 p.m., the Board adjourned to a Closed Session to discuss contract negotiations with SEIU Local 1021 (Calif. Code Section 54957.6).

The Board reconvened in Open Session at 9:00 p.m.

25. APPROVING THE GENERAL MANAGER'S EMPLOYMENT CONTRACT

This item was taken out of agenda order.

Action

On a motion made by Director Lathi and seconded by Director Fernandez, the Board approved changes to the General Manager's Employment contract, increasing his compensation to \$228,547.22, to be consistent with the GM survey average and recognizing the GM for his excellent work, and acknowledging that his salary has been below the survey average for several years. The salary adjustment will be retroactive to January 1, 2013. The Board asked the General Manager to schedule discussion of the GM retiree medical benefit later this year and did not change the benefit. The GM's contribution to PERS retirement will be increased by 1.5% of his salary. The motion carried unanimously.

28. **ADJOURNMENT #2**

The Board then adjourned to the next Regular Board Meeting on May 13, 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 13th day of May, 2013.

NOTICE OF CLOSED SESSION

The Board of Directors will now adjourn to a closed session to discuss ongoing labor negotiations between the District's negotiators and agents for the represented employees with SEIU Local 1021.

Agency negotiators: Richard B Currie, Glenn Berkheimer, Andy Morrison and Judi Berzon

It is the opinion of legal counsel for the Union Sanitary District that a closed session is authorized by Government Code Section 54957.6, allowing Directors to meet privately to discuss these labor negotiation matters.

April 22, 2013

Respectfully submitted,



David M. O'Hara

Attorney for Union Sanitary District