

**MINUTES OF THE MEETING OF THE
BOARD OF DIRECTORS OF
UNION SANITARY DISTRICT
April 25, 2016**

CALL TO ORDER

President Toy called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

STAFF: Paul Eldredge, General Manager
Karen Murphy, District Counsel
Armando Lopez, Treatment & Disposal Services Manager
James Schofield, Collection Services Manager
Robert Simonich, Fabrication, Maintenance, and Construction Manager
Sami Ghossain, Technical Services Manager
Pamela Arends-King, Business Services Manager/CFO
Mitchell Costello, Treatment & Disposal Services Coach
Regina McEvoy, Assistant to the General Manager/Board Secretary

VISITOR: Alice Johnson, League of Women Voters

**APPROVAL OF THE MINUTES OF THE SPECIAL MEETING CLOSED SESSION OF
APRIL 4, 2016**

It was moved by Secretary Kite, seconded by Vice President Handley, to approve the Minutes of the Special Meeting Closed Session of April 4, 2016. Motion carried unanimously.

APPROVAL OF THE MINUTES OF THE MEETING OF APRIL 11, 2016

It was moved by Vice President Handley, seconded by Director Fernandez, to approve the Minutes of the Meeting of April 11, 2016. Motion carried unanimously.

MONTHLY OPERATIONS REPORT FOR MARCH 2016

This item was reviewed by the Budget & Finance Committee. General Manager Eldredge reported the following:

- **Odor Complaints:** The District received two odor complaints in March 2016. One complaint received from a Fremont resident was investigated by staff and no odor was found. The other complaint was received from a Union City resident who heard a loud noise just before smelling a foul odor inside their home. A District hydro crew was cleaning in the area and had sucked water out of the resident's P-Traps. The resident was advised to fill her p-traps with water, flush the toilets in the home, and contact the District if the odor returned.
- **Safety:** Two employees who had been out due to injury returned to full duty in March 2016. One employee experienced a minor injury while working in the treatment plant and declined medical treatment. A contractor at the Patterson Ranch development spilled diesel fuel into a District manhole. Staff was able to pump out the diesel fuel before it traveled to the Plant.

Business Services Manager/CFO Arends-King reported the following:

- **Revenues:**
 - The District received approximately \$6 million in capacity fees including \$223,000 from Mission Linen, and \$137,000 from two Fremont developments.
 - The District also received \$227,000 in SERF loan proceeds for the thickener project.
- **Expenses:**
 - The District spent \$1 million in Capital expenditures

General Manager Eldredge reported the following:

- **Collection Services:**
 - There were no spills in March 2016.
- **Treatment & Disposal:**
 - The Co-Gen engines generated 73% of power consumed during month of March 2016.
- **Technical Services:**
 - 51 new lateral permits were issued in March 2016.
- **FMC:**
 - Work orders continue to be completed on target.

WRITTEN COMMUNICATIONS

There were no written communications.

ORAL COMMUNICATIONS

There were no oral communications.

CONSIDER ADOPTING THREE RESOLUTIONS: 1) ADOPT, AMEND, AND RESTATE ICMA-RC 401(a) PLAN #109522; 2) ADOPT, AMEND, AND RESTATE ICMA-RC 401(a) PLAN #109568; AND 3) ADOPT, AMEND, AND RESTATE ICMA-RC 401(a) PLAN #109569

This item was reviewed by the Budget & Finance Committee. Business Services Manager/CFO Arends-King stated the IRS has a six-year review schedule for the plan documents ICMA-RC makes available to its clients. The new documents incorporate amendments for legislative and regulatory changes which have been enacted. Per instructions from the IRS, each plan sponsor using the ICMA-RC plan document is required to execute a new adoption agreement by April 30, 2016. Adopting the restated plan document will ensure the plans are updated in accordance with current IRS regulations. Staff recommended the Board adopt the three proposed resolutions.

It was moved by Vice President Handley, seconded by Director Lathi, to Adopt Resolution No. 2776 to Amend and Restate the Qualified Retirement Plan Number 9522, Adopt Resolution No. 2777 to Amend and Restate the Qualified Retirement Plan Number 9568, and Adopt Resolution No. 2778 to Amend and Restate the Qualified Retirement Plan Number 9569. Motion carried unanimously.

####

RESOLUTION NO. 2776

AMEND AND RESTATE THE QUALIFIED RETIREMENT PLAN NUMBER 9522

WHEREAS, the UNION SANITARY DISTRICT (DISTRICT) has employees rendering valuable services; and

WHEREAS, the DISTRICT has established a qualified retirement plan for such employees that serves the interest of the DISTRICT by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the DISTRICT has determined that the continuance of the qualified retirement plan will serve these objectives.

NOW THEREFORE BE IT RESOLVED that the DISTRICT hereby amends and restates the qualified retirement plan (the "Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan & Trust; and

BE IT FURTHER RESOLVED the assets of the Plan shall be held in trust, with the DISTRICT serving as trustee ("Trustee"), for the exclusive benefit of Plan participants and their beneficiaries, and the assets shall not be diverted to any other purpose. The Trustee's beneficial ownership of Plan assets held in Vantage Trust shall be held for the further exclusive benefit of the Plan participants and their beneficiaries; and

BE IT FURTHER RESOLVED that the DISTRICT hereby agrees to serve as Trustee under the Plan.

On motion duly made and seconded, this resolution was adopted by the following vote on April 25, 2016:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None

ABSENT: None

ABSTAIN: None



JENNIFER TOY
President, Board of Directors
Union Sanitary District

Attest:



PAT KITE
Secretary, Board of Directors
Union Sanitary District

RESOLUTION NO. 2777

AMEND AND RESTATE THE QUALIFIED RETIREMENT PLAN NUMBER 9568

WHEREAS, the UNION SANITARY DISTRICT (DISTRICT) has employees rendering valuable services; and

WHEREAS, the DISTRICT has established a qualified retirement plan for such employees that serves the interest of the DISTRICT by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the DISTRICT has determined that the continuance of the qualified retirement plan will serve these objectives.

NOW THEREFORE BE IT RESOLVED that the DISTRICT hereby amends and restates the qualified retirement plan (the "Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan & Trust; and

BE IT FURTHER RESOLVED the assets of the Plan shall be held in trust, with the DISTRICT serving as trustee ("Trustee"), for the exclusive benefit of Plan participants and their beneficiaries, and the assets shall not be diverted to any other purpose. The Trustee's beneficial ownership of Plan assets held in Vantage Trust shall be held for the further exclusive benefit of the Plan participants and their beneficiaries; and

BE IT FURTHER RESOLVED that the DISTRICT hereby agrees to serve as Trustee under the Plan.

On motion duly made and seconded, this resolution was adopted by the following vote on April 25, 2016:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None


ABSENT: None

ABSTAIN: None



JENNIFER TOY
President, Board of Directors
Union Sanitary District

Attest:



PAT KITE
Secretary, Board of Directors
Union Sanitary District

RESOLUTION NO. 2778

AMEND AND RESTATE THE QUALIFIED RETIREMENT PLAN NUMBER 9569

WHEREAS, the UNION SANITARY DISTRICT (DISTRICT) has employees rendering valuable services; and

WHEREAS, the DISTRICT has established a qualified retirement plan for such employees that serves the interest of the DISTRICT by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the DISTRICT has determined that the continuance of the qualified retirement plan will serve these objectives.

NOW THEREFORE BE IT RESOLVED that the DISTRICT hereby amends and restates the qualified retirement plan (the "Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan & Trust; and

BE IT FURTHER RESOLVED the assets of the Plan shall be held in trust, with the DISTRICT serving as trustee ("Trustee"), for the exclusive benefit of Plan participants and their beneficiaries, and the assets shall not be diverted to any other purpose. The Trustee's beneficial ownership of Plan assets held in Vantage Trust shall be held for the further exclusive benefit of the Plan participants and their beneficiaries; and

BE IT FURTHER RESOLVED that the DISTRICT hereby agrees to serve as Trustee under the Plan.

On motion duly made and seconded, this resolution was adopted by the following vote on April 25, 2016:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None


ABSENT: None

ABSTAIN: None



JENNIFER TOY
President, Board of Directors
Union Sanitary District

Attest:



PAT KITE
Secretary, Board of Directors
Union Sanitary District

CONSIDER A RESOLUTION TO TERMINATE THE EMERGENCY ACTION TO REPAIR THE 33-INCH SEWER ON ALVARADO BOULEVARD AND FINAL UPDATE ON THE REPAIRS

This item was reviewed by the Construction Committee. Technical Services Manager Ghossain stated curb, gutter, and sidewalk areas were restored on April 7, 2016, and street paving at the site was completed on April 12, 2016. The street was re-opened and normal traffic operations resumed on April 14, 2016. Traffic striping and markers were installed on April 21, 2016. Staff recommended the Board adopt a resolution declaring the end of the emergency action, pursuant to Public Contract Code Section 22050.

It was moved by Director Fernandez, seconded by Vice President Handley, to Adopt Resolution No. 2779 Terminating the Emergency Action to Repair 33-Inch Sewer on Alvarado Boulevard, Union City. Motion carried unanimously.

####

RESOLUTION NO. 2779

TERMINATE THE EMERGENCY ACTION TO REPAIR 33-INCH SEWER ON ALVARADO BOULEVARD, UNION CITY

WHEREAS, on Wednesday, October 14, 2015, a sinkhole opened up at the intersection of Alvarado Boulevard and New Haven Street in Union City, California. The sinkhole was amplified by a subsequent water main break, which was repaired by Alameda County Water District that same day. Union Sanitary District's trunk sewer manhole and 33-inch sewer main located in that intersection were inspected and found to be damaged; and

WHEREAS, section 22050 of the California Public Contract Code authorizes the Board to delegate the authority to declare an emergency to the General Manager. The Board has previously made such delegation in Resolution No. 1931 and the District's Purchasing Policy; and

WHEREAS, given the potential for the sinkhole to affect the health and safety of the community and the possible impact to District facilities, and in order to stabilize the sinkhole, the General Manager determined that an emergency existed and took steps and expended funds to meet the emergency, secure the site, and start the repair process through an existing contract with McGuire and Hester for emergency services; and

WHEREAS, the Board of Directors of Union Sanitary District adopted Resolution No. 2768 on November 9, 2015, pursuant to Public Contract Code section 22050(a), finding that based on substantial evidence presented before the Board, the emergency would not permit a delay resulting from the competitive solicitation of bids for the repair of the District's 33-inch sanitary sewer main, it was necessary to respond to the emergency, an emergency continued to exist, and there was a need to continue the action. Resolution No. 2768 further authorized staff to continue to proceed with the repair or replacement of the 33-inch sanitary sewer and the procurement of the necessary equipment, services and supplies for that purpose without giving notice for bids to let contracts; and

WHEREAS, the Board reviewed the status of the emergency at each subsequent meeting of the Board of Directors, and on November 23, 2015, December 14, 2015, January 11, 2016, January 25, 2016, February 8, 2016, February 22, 2016, March 14, 2016, March 28, 2016, and April 11, 2016, adopted a motion by at least a four-fifths vote to authorize continuation of Resolution No. 2768 and the emergency until the emergency action was completed; and

WHEREAS, the repairs to the sinkhole and sewer main and the site restoration work have been completed, and the affected street, Alvarado Boulevard, was reopened to the public on April 14, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE Board of Directors of Union Sanitary District that:

1. The Board finds that the emergency that began on October 14, 2015, due to the opening of a sinkhole, as confirmed and declared by Resolution No. 2768 and continued through further action of the Board, no longer exists; that the emergency action is complete; and that there is no longer a need to continue the action.

2. The Board hereby declares that the emergency action, as confirmed and declared by Resolution No. 2768 and continued through further action of the Board, is hereby terminated.

On motion duly made and seconded, this resolution was adopted by the following vote on April 25, 2016.

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None

ABSENT: None

ABSTAIN: None



Jennifer Toy
President, Board of Directors
UNION SANITARY DISTRICT

Attest:



Pat Kite
Secretary, Board of Directors
UNION SANITARY DISTRICT

CONSIDER ADOPTING AN ORDINANCE PROVIDING FOR THE COLLECTION OF CAPACITY CHARGES FOR CONNECTION TO THE MAIN SEWERS OF UNION SANITARY DISTRICT

This item was reviewed by the Budget & Finance Committee. General Manager Eldredge stated the Board last discussed increasing capacity charges at a Capacity Charge Update Board Workshop in October 2015. At the workshop, the Board directed staff to incrementally increase the capacity charges over a four year period and present the matter for approval at a Board meeting in the spring of 2016. Capacity fees are one-time fees imposed when a user makes a new or expanded connection to the District's system and are governed by the Mitigation Fee Act. The District provided notice of the proposed increase in capacity fees and made data supporting the proposed increase available to the public as required by law. Staff also conducted public outreach which included the following: notification to each City we serve, publishing a notice of public meeting in a Bay Area News Group newspaper, notification to the District's industrial customers, notification to each Chamber of Commerce, notification to the Homebuilders Association (BIA), and correspondence with developers who expressed interest in District fees previously. Capacity fees are governed by various California Government Codes requiring the fees not exceed the estimated reasonable cost of providing the service. General Manager Eldredge provided an overview of the answers to questions received from the BIA, and stated hard copies were available for those in attendance. A copy of the BIA questions and District responses was added to the Board meeting packet. The District last reviewed capacity fees in 2010, and it was recommended at that time to increase the fees. During the October 2015 Capacity Charge Update Workshop, the Board asked if it made sense to have an inflation factor built into the Ordinance to increase fees annually by that amount. It was not feasible to have an inflation factor built in, partially due to the Board's decision to phase in new fees over a four year period. The District should complete a new study every five years. Staff recommended the Board adopt an ordinance providing for the collection of capacity charges for connection to the main sewers of the District.

Vice President Handley requested staff explore the possibility of building in an inflationary factor for the District's next study.

Director Lathi asked when the BIA questions were received via email and when staff sent a response. General Manager Eldredge stated the BIA email was received on April 21, 2016, and staff sent a response the following day.

Director Lathi asked if staff had contacted the BIA and asked if they would like further information. General Manager Eldredge stated staff reached out to the BIA who indicated they did not need any further information.

There was no public comment for this item.

It was moved by Director Fernandez, seconded by Vice President Handley, to Adopt Ordinance 35.22 Providing for the Collection of Capacity Charges for Connection to the Main Sewers of Union Sanitary District. Motion carried unanimously.

####

ORDINANCE NO. 35.22

AN ORDINANCE PROVIDING FOR THE COLLECTION OF CAPACITY CHARGES FOR CONNECTION TO THE MAIN SEWERS OF UNION SANITARY DISTRICT

The District Board of UNION SANITARY DISTRICT does order and ordain as follows:

ARTICLE I

REPEAL OF PREVIOUS ORDINANCE

Ordinance No. 35.21 is hereby repealed.

ARTICLE II

GENERAL

SECTION 1 SHORT TITLE

This Ordinance shall be known as the "CAPACITY CHARGE ORDINANCE."

SECTION 2 PURPOSE OF THE CAPACITY CHARGE

The District allows new and existing users to buy a share of the District's system's capacity for the discharge of their wastewater. The purpose of the Capacity Charge is to provide revenue to recover costs for existing facilities and facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged.

SECTION 3 USE OF THE CAPACITY CHARGE

Current Capacity Fund Reserves and revenues collected in the future, through the payment of the Capacity Charge will be deposited in a separate Capacity Charge account and will be used for the purposes for which the charges were collected.

SECTION 4 ADOPTION OF A CAPITAL IMPROVEMENT PLAN

The District has prepared a Capital Improvement Plan (CIP) which contains projects and facility upgrades that are required in order to increase or maintain the capacity of the system. The Capital Improvement Plan, which has been reviewed and formally adopted by the Board of Directors, will be revised each year, and an updated Capital Improvement Plan will be adopted by the Board annually.

SECTION 5 REASONABLENESS OF THE CAPACITY CHARGE

In order to demonstrate the reasonableness of the District's Capacity Charge, the calculation method and the basis for determining the Capacity Charge for an equivalent dwelling unit (EDU) are presented in a separate report entitled "Union Sanitary District, Sewer Capacity Fee Update,"

and may be referenced by contacting the District. The Capacity Charges set forth in this Ordinance do not exceed the actual costs to the District to provide capacity for new connections.

SECTION 6 DEFINITIONS

Unless the context indicates otherwise, the following words and terms shall have the meaning as follows:

- a. **Boarding Establishment Unit.** One or more rooms with centralized kitchen facilities designed for use by transients, students, retirees, or other occupants for living and/or sleeping purposes. Each separate room which is designed for occupancy by one or more persons or which serves as one housekeeping unit shall be deemed to be one living unit. For facilities with only communal living space, the design occupancy shall be deemed as the determining factor for the Capacity Charge.
- b. **Building Sewer.** A sewer conveying wastewater from the property of the user to a main sewer. Also referred to as a private sewer or lateral.
- c. **Building Sewer Construction Permit.** A permit issued by UNION SANITARY DISTRICT allowing the construction and connection of a building sewer line to the main sewer.
- d. **Capacity Charge.** The charge to be made by the UNION SANITARY DISTRICT for a sewer connection either directly or indirectly to a main sewer; or, for a change, alteration, or expansion of the use of an existing building, as listed in and in accordance with all the provisions of Article III herein.
- e. **Chemical Oxygen Demand (COD).** The equivalent quantity of oxygen utilized during oxidation of organic and inorganic matter in wastewater under the conditions of the COD test as described in the latest edition of "Standard Methods for the Examination of Water and Wastewater", expressed in milligrams per liter.
- f. **Chemical Oxygen Demand (COD) loading.** The annual average mg/L COD multiplied by the total annual industrial wastewater discharge volume in million gallons multiplied by the conversion factor 8.34.
- g. **Commercial/Industrial/Office Use (C/I/O) (Domestic Use Only).** A parcel of real property designed for use by a single tenant for a single commercial or industrial use whose discharge is limited to domestic waste only. Examples include retail sales, office space, showrooms, and other uses producing domestic waste only, which do not fall into one of the other specifically designated categories. Also included in this category are individual tenant units in the C/I/O category whose floor space exceeds 10,000 square feet and are located within a building or parcel within the Mixed-Use category.

- h. **District.** Union Sanitary District of Alameda County, California.
- i. **District Engineer.** The General Manager of the District or his designees, including, but not limited to, duly authorized personnel.
- j. **Domestic Loading.** The Domestic Premise in terms of pounds/yr. allocating 20 gallons/day/employee to be used in the absence of a separate approved industrial wastewater or industrial process water flow meter.
- k. **Domestic Premise.** Domestic loading equal to 500 mg/L COD and 200 mg/L SS.
- l. **Domestic Wastewater.** Any wastewater which will enter into the main sewers from the non-industrial operation, preparation, cooking and handling of food; or, containing human wastes and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and installations.
- m. **Dwelling Unit.** The following living establishments shall be deemed to be one dwelling unit:
 - (i) Single family residential dwelling or mobile home designed for occupancy by one family and up to 4,500 square feet of building area. Single family residential dwelling units above 4,500 square feet will be charged an additional proportionate charge above 4,500 square feet.
 - (ii) Multi-family dwelling is each housekeeping unit of a: duplex, triplex, fourplex, townhouse or condominium, apartment house, mobile home park, or other multi-residential establishment designed for occupancy for living purposes by more than one family, and which is divided into separate housekeeping units, each of which is designed for occupancy by one family only.
- n. **Groundwater.** Any water found below the land surface or from saturated soil including: potable or irrigation water source wells, injected subsurface water, rising subsurface water, underground infiltration to manmade structures, pumped subsurface waters, foundation and footing drainage, water from crawl space pumps, natural springs, and subsurface flows from riparian habitats, streams, and wetlands.
- o. **Industrial User.** Any establishment engaged in producing, manufacturing, or processing operations, and all other establishments engaged in any activity resulting in the production of industrial wastewater which will enter into the sewer system.
- p. **Industrial Wastewater.** Any non-domestic wastewater which will enter into the main sewers by being discharged, permitted to flow or escape from any industrial, manufacturing, commercial, or business establishment or process; or from the development, recovery, or processing of any natural resource. Industrial wastewater is directly reported from a separate approved industrial wastewater flow meter or industrial

process water flow meter; otherwise, industrial wastewater is calculated from potable water meter sources excluding a calculated percentage of non-industrial use.

- q. **Loadings.** The equivalent weight of Chemical Oxygen Demand and Suspended Solids discharged to the main sewer system during a given time interval. Unless otherwise specified, the loadings shall mean pounds per day or per year of a particular constituent or combination of constituents.
- r. **Main Sewer.** An existing sanitary sewer dedicated to public use, within the public right of way or dedicated easement.
- s. **Mixed Use Commercial Property.** A parcel of real property designed for the occupancy of multiple tenants, such as a shopping center. Examples of acceptable uses on mixed use commercial properties include; retail sales outlets, restaurants, offices, service companies, health clubs, laundromats, theaters, and similar commercial uses. Individual tenant units whose floor area exceeds 10,000 square feet and whose use is consistent with the C/I/O category may be included in the Commercial/Industrial/Office Use (C/I/O) category.
- t. **Person.** Any individual, firm, company, partnership or association; private, public, and municipal corporations; responsible corporate officer; the United States of America; the State of California; districts and all political subdivisions; governmental agencies and mandatories thereof.
- u. **Private Cafeteria.** A food service facility within a school, commercial or industrial building which is used exclusively by the students or employees of the company or school. Cafeterias which are open to the public, or provide catering or off-site food service to other companies will be considered a restaurant. Capacity Charges for private cafeterias will be based on the area of food preparation, cooking, food storage, and food serving areas but shall exclude seating areas.
- v. **Property.** A parcel of real estate or portion thereof, including any improvements thereon, which is determined by the District to be a single user for purposes of receiving, using, and paying for service.
- w. **Public Assembly Facilities.** Any facility where the public may assemble for social, business, educational or entertainment purposes, including, but not limited to, movie theaters, auditoriums, theaters and music halls.
- x. **Suspended Solids (SS).** The solids that either float on the surface of, or are in suspension in, wastewater and which are largely removable by standard laboratory filtration procedures, expressed in milligrams per liter.

- y. **Suspended Solids (SS) loading.** The annual average mg/L SS multiplied by the total annual industrial wastewater discharge volume in million gallons multiplied by the conversion factor 8.34.
- z. **User.** Any person that discharges, causes, or permits the discharge of wastewater into a main sewer.
- aa. **Volume.** The quantity of wastewater discharged during a specified period of time, expressed in gallons.
- bb. **Warehouse.** A building or portion of a building used exclusively for the storage of goods. The following uses are NOT considered warehouse use:
 - 1. Storage areas for goods or finished products within a manufacturing plant or commercial building that are not separated by a permanent partition wall, and or
 - 2. Storage areas that do not exceed 5,000 square feet in area.

Warehouse buildings that contain office, industrial, or other non-warehouse areas, totaling more than ten percent of the gross area of the entire building, will be segregated into separate uses and charged the appropriate rate for each different use. Otherwise, the warehouse rate shall apply to the gross area of the entire building. Shipping, receiving, and packing areas serving warehouses more than 50,000 square feet in area will be charged under the Warehouse category.

Whenever the use of a proposed building or part of a building is not clear or not determined prior to connecting to the sanitary sewer, the Commercial/Industrial/Office Use rate will be used to calculate the Capacity Charge. If, after the building is first occupied, it becomes evident that it, or part of it, is being used exclusively for warehouse purposes, as described herein, a refund may be issued.
- cc. **Wastewater Discharge Permit.** A permit issued by UNION SANITARY DISTRICT authorizing the discharge of groundwater or industrial wastewater by an industrial user, either directly or indirectly into a main sewer.

SECTION 7 TERMINOLOGY

Words, phrases, or terms not specifically defined herein and having a technical or specialized meaning shall be defined as set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. Reference to waste constituents and characteristics shall have the meanings ascribed to them in the aforesaid "Standard Methods for the Examination of Water and Wastewater" and measurements thereof shall be as set forth in said publication, or as established by Federal or State regulatory agencies.

ARTICLE III
BASIS FOR CAPACITY CHARGES

SECTION 1 CAPACITY CHARGES

The Capacity Charges set forth in “**Exhibit A**” are hereby adopted as the District’s Capacity Charges beginning in Fiscal Year 2017 and continuing thereafter. The Capacity Charges will increase to the amounts specified in **Exhibit A** for each Fiscal Year annually on July 1st of each year. The Board hereby finds that the Capacity Charges set forth in **Exhibit A** do not exceed the District’s actual costs for providing capacity for new sewer connections in its wastewater system. **Exhibit A** to this Ordinance is hereby incorporated herein by reference to this Ordinance.

SECTION 2 DOMESTIC WASTEWATER

The Capacity Charge to be paid for connecting either directly or indirectly to a main sewer shall be determined by the District based upon the existing or proposed use of the property to be served, in accordance with the amounts and formulas set forth in **Exhibit A**.

SECTION 3 INDUSTRIAL WASTEWATER

Properties with industrial wastewater discharges will be charged a Domestic Wastewater Capacity Charge and an Industrial Capacity Charge in accordance with the amounts and formulas set forth in **Exhibit A**, which will be divided into four annual installments.

- a. **Initial Charge.** The initial charge shall be the sum of the Volume Component, COD Component, and Suspended Solids Component for the Initial Charges for Industrial connections in the amounts set forth in **Exhibit A** and shall be based upon the unit rates in effect at the time the prospective user enters into an agreement with UNION SANITARY DISTRICT. The total Capacity Charge shall be charged over a four year period with the initial charge based upon estimates and subsequent charges based upon actual flows as further described in section b. below.
- b. **Succeeding Three Annual Charges.** At the time a Building Sewer Construction Permit is issued, or prior to the issuance of a Wastewater Discharge Permit, the prospective user shall enter into an agreement with UNION SANITARY DISTRICT which shall provide that there be three additional charges due and payable upon billing at the end of the first, second, and third year from the date of acceptance of the building sewer or issuance of a Wastewater Discharge Permit. Each of these annual charges shall be based upon the unit rates in effect at the time the prospective user enters into an agreement with the District and shall be equal to the sum of Volume Component, COD Component, and Suspended Solids Component for Industrial connections in the amounts set forth in **Exhibit A**.

Final paid capacity is the average of 4 payments which creates a baseline represented by the combination of the three parameters; flow, COD, and SS, provided that any increase in the combined industrial flow and loadings does not exceed the initial estimate by more than 25%.

- c. **Excess Capacity.** In the event that the combined industrial flow and loadings exceed the initial estimate by more than 25%, an additional Capacity Charge shall be paid over 4 years, concurrently with the initial payment and succeeding annual payments, for the entire increase at the present-day rate.
- d. **Single Installment Amount.** If the calculated charges for an industrial use total less than \$500, the initial charge and the succeeding annual charges shall be paid in a single installment prior to the issuance of any permit.

SECTION 4 GROUNDWATER DISCHARGE

If a discharge permit is granted for groundwater, from the cleanup of spills, leaking underground storage tanks, monitoring wells or other similar sources, the duration of discharge will govern Capacity Charges. If discharge is for less than one year, ten percent of the minimum Capacity Charge will be assessed. For discharge durations of one year or greater, the Capacity Charge will be calculated by multiplying the actual volume of groundwater discharged by ten percent of the industrial wastewater volume component in effect that year, up to a maximum of ten years. Completion of discharge will terminate any ongoing capacity rights.

SECTION 5 MINIMUM CAPACITY CHARGE

In no case shall the minimum Capacity Charge for any initial connection to the District's system be less than the domestic wastewater Capacity Charge for a multi-family dwelling unit.

ARTICLE IV

ALLOWANCE FOR INDUSTRIAL CREDITS, REVIEW OF CHARGES AND CHANGES IN PROPERTY USE

SECTION 1 QUALIFICATION FOR INDUSTRIAL RELOCATION CREDIT

This section shall apply to industrial wastewater only, not to domestic wastewater. If the transfer of an industry discharging industrial wastewater to a different parcel of land does not impose any additional burden on the District's facilities, a credit, which shall be referred to as a relocation credit, may be allowed, provided that:

- (i) the owner of the real property, from which the industry is moving, is willing to relinquish the industrial wastewater capacity for the purpose of a relocating tenant or relocating industrial process.
- (ii) essentially the same industrial operation has been transferred from one parcel to another and such operation was previously connected to the District's system;
- (iii) the industrial operation was owned prior to the transfer by the person now making claim to the relocation credit;
- (iv) the discharger has demonstrated to the satisfaction of the District that the industrial operation has been abandoned from the parcel from which the transfer

has occurred, or presented a certification in writing and a performance bond of equal or greater value than the relocation credit that such industrial operation will be abandoned within six (6) months of the District approving an application for connection. Should the facility not be abandoned within the prescribed period, the relocation credit shall be revoked and a Capacity Charge, with respect to the parcel to which the industrial operation transferred, shall be due and payable as of the date said parcel was connected to the District's system; and

- (v) there is adequate capacity in the District's system at the new location to accommodate connection of the industrial operation to be transferred.

SECTION 2 BASIS FOR RELOCATION CREDIT

The relocation credit shall be based upon the amount of capacity purchased. If a record of the amount of capacity purchased does not exist the average of the total annual discharge of: the number of gallons of industrial wastewater, number of pounds of Chemical Oxygen Demand (exclusive of COD domestic loading), and number of pounds of Suspended Solids (exclusive of SS domestic loading) for the preceding four (4) years, or years of operation if less than four (4) years, prior to the transfer. In no case shall there be a refund or a credit applied to any other type of fee or charge if the fee for the industrial wastewater discharge for the relocated industrial operation is less than the relocation credit allowed.

SECTION 3 REVIEW OF CAPACITY CHARGE

Capacity Charges or relocation credit determined under Article III and Article IV may be reviewed at the applicant's request. The review will be based on the use data provided by the applicant and other criteria to be established by the District for a review fee of \$25.00. Any requested adjustments to the Capacity Charge using this method are subject to verification by the District using District sampling, monitoring, and analysis procedures. All verification costs must be paid by the applicant. After completion of the District's review, the questioned Capacity Charge may be adjusted up or down in accordance with the results of the verification study.

SECTION 4 CHANGE OF PROPERTY USE

- a. **Industrial Wastewater.** If the existing use of a building or property is changed, an industrial process is altered, production is increased or any other change, or alteration will increase the existing combined industrial wastewater flow and loadings by more than 25%, an additional Capacity Charge shall be paid over 4 years for the entire increase at the present-day rate.
- b. **Change in Building Size.** If the existing size of a building or property is expanded, added onto, increased, or otherwise physically modified, an additional Capacity Charge applicable to the expansion, addition, or increase shall be paid. In no instance shall a refund be granted if the size of a building or property is decreased.
- c. **Domestic Wastewater Changes in Use.** When the use of a building or property is modified or changed, such as a change in tenants, or a change in the type of business occupying the property, the District will consider this a change in use. Each change in use

shall be reviewed by the District to determine if an additional Capacity Charge will apply. An additional Capacity Charge shall apply whenever the Capacity Charge calculated for the new use is greater than the value of Capacity Charges already paid for the former use. For the purpose of this comparison, the current Capacity Charges as listed in Article III of this Ordinance, shall apply to both the new and former use. Whenever the Capacity Charge calculated for the new use exceeds the value of the Capacity Charges already paid for the former use, the difference shall be paid to the District as an additional Capacity Charge for the change of use. In no instance shall a refund be granted if the change in the use of a building or property results in the value of Capacity Charges paid for the former use being greater than the cost of the Capacity Charge calculated for the new use.

- d. **Credit for Previously Purchased Capacity.** If the existing size or use of a building or property is expanded, added onto, or increased, a credit may be allowed based on verified previously purchased capacity that is retained on the property site. This verification will include review of District records and any records supplied to the District. If no credible records exist then no credit will be allowed. In no instance shall a refund be granted if the decreased use of a building or property results in a lower discharge volume and/or loading level than that for which Capacity Charges have previously been paid.
- e. **Payment Due Date.** If a Building Sewer Construction Permit or a new or revised Wastewater Discharge Permit is required as a result of an expansion of a building or property and/or the increase in flow or loadings from the property, additional Capacity Charges shall be paid prior to the issuance of the permit. If neither permit is required, additional Capacity Charges shall be paid upon billing by the UNION SANITARY DISTRICT and be delinquent thirty (30) days thereafter.

ARTICLE V

PAYMENT AND DEPOSITION OF CHARGES

SECTION 1 PAYMENT OF INITIAL CHARGES

No building sewer or building drain shall be constructed and connected to any main sewer until the UNION SANITARY DISTRICT has issued a Building Sewer Construction Permit in accordance with District specifications and a Capacity Charge has been paid to the District. The Capacity Charge shall be in addition to the annual sewer service charge, charges for annexation, inspection, permits, reimbursements, and the requirements of any other rule, regulation, or ordinance of the UNION SANITARY DISTRICT.

SECTION 2 PAYMENT OF SUCCEEDING CHARGES

All charges prescribed under this Ordinance are payable upon billing and delinquent at the expiration of thirty (30) days thereafter. If it is necessary to initiate legal action to collect the delinquent obligation, all penalties allowed by the law will be applied. In addition to all other means of legal process available for the collection of the delinquent charges, the UNION SANITARY DISTRICT may elect to have the delinquent charges collected on the property tax roll in the same manner, by the same persons, at the same time as, and together with and not

separately from general taxes in accordance with the provisions of 5473 and 5474 et seq. of the California Health and Safety Code. Delinquent tenant Capacity Charges will be charged against the property of the owner of the premises occupied by the tenant.

SECTION 3 DEPOSITION OF FUNDS

The collected Capacity Charges shall be deposited in the Capacity Charge Fund.

ARTICLE VI **ADMINISTRATION**

SECTION 1 APPEALS

Any user, permit applicant, or permit holder affected by any decision, action, or determination made by the District interpreting or implementing the provisions of this Ordinance may file a written request for reconsideration with the District Engineer, setting forth in detail the facts supporting the user's request.

If the ruling made by the District Engineer is unsatisfactory to the person requesting reconsideration, he may file a written appeal to the District's governing body within ten (10) days after notification of the District's action. The written appeal shall be heard by the governing body within thirty (30) days from the date of filing or as soon thereafter as reasonably possible. The District's governing body shall make a final ruling on the appeal within thirty (30) days of the meeting. The District Engineer's decision, action, or determination shall remain in effect during the period of reconsideration.

SECTION 2 FALSIFYING OF INFORMATION

Any person who knowingly makes any false statements, representation, record, report, plan or other document filed with the District; or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, is hereby declared to be in violation of this Ordinance, and subject to the Civil Penalties imposed under Section 7.05 of UNION SANITARY DISTRICT'S Ordinance No. 36.

SECTION 3 SEVERABILITY

If any provision of this Ordinance or the application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of such provisions to other persons or other circumstances shall not be affected.

SECTION 4 EFFECTIVE DATE

A summary of the changes to this Ordinance shall be published once in the Bay Area News Group, a newspaper of general circulation published in the UNION SANITARY DISTRICT, and shall take effect sixty days thereafter.

On Motion duly made and seconded, this Ordinance was adopted by the following vote on April 25, 2016.

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None

ABSENT: None

ABSTAIN: None



President, Board of Directors
UNION SANITARY DISTRICT

ATTEST:



Secretary, Board of Directors
UNION SANITARY DISTRICT

ORDINANCE 35.22

EXHIBIT A

| Connection Category | Unit Definition | Charge Per Unit Per Fiscal Year (e.g. FY2017 Begins on July 1, 2016 and then every July 1 thereafter) | | | | |
|---|--|--|------------|------------|------------|------------|
| | | 2016 | 2017 | 2018 | 2019 | 2020 |
| Residential & Commercial | | | | | | |
| Single Family Dwelling Unit (less than or equal to 4,500 square feet) | <i>per unit (new construction only; not additions or repairs)</i> | \$5,595.66 | \$6,421.17 | \$7,246.69 | \$8,072.20 | \$8,897.71 |
| Single Family Dwelling Unit (greater than 4,500 square feet) | <i>per unit plus proportionate charge above 4,500 square feet (i.e. charge for 4,600 square feet =4600/4500 x unit charge)</i> | \$5,595.66 | \$6,421.17 | \$7,246.69 | \$8,072.20 | \$8,897.71 |
| Multi-Family Dwelling Unit | <i>per unit (new construction only; not additions or repairs)</i> | \$4,796.28 | \$5,503.86 | \$6,211.45 | \$6,919.03 | \$7,626.61 |
| Mixed-use Commercial property with individual tenant units less than 10,000 sq ft | <i>per square foot of building floor area</i> | \$6.36 | \$7.39 | \$8.43 | \$9.46 | \$10.49 |
| Commercial/Industrial/Office use (C/I/O) (Domestic Use Only) and Mixed Use Commercial Property with individual tenant units exceeding 10,000 sq ft | <i>per square foot of building floor area</i> | \$2.64 | \$2.99 | \$3.33 | \$3.68 | \$4.02 |
| Boarding Establishments Including Hotels and Motels | <i>per unit, OR</i> | \$3,733.21 | \$4,282.86 | \$4,832.51 | \$5,382.16 | \$5,931.81 |
| | <i>per capita design tenant</i> | \$1,866.58 | \$2,141.41 | \$2,416.24 | \$2,691.07 | \$2,965.90 |
| Schools and Day Care Centers (Boarding Facilities Excluded) | <i>per sq ft of building floor area</i> | \$2.99 | \$3.64 | \$4.29 | \$4.93 | \$5.58 |
| Churches (School & Day Care facilities) | <i>per sq ft of building</i> | \$2.12 | \$2.59 | \$3.05 | \$3.52 | \$3.98 |

ORDINANCE 35.22

EXHIBIT A

| Connection Category | Unit Definition | Charge Per Unit Per Fiscal Year (e.g. FY2017 Begins on July 1, 2016 and then every July 1 thereafter) | | | | |
|--|--|--|-------------|-------------|-------------|-------------|
| | | 2016 | 2017 | 2018 | 2019 | 2020 |
| Residential & Commercial | | | | | | |
| Public Assembly Facilities | <i>per seat</i> | \$133.30 | \$152.94 | \$172.56 | \$192.21 | \$211.85 |
| Health Clubs | <i>per sq ft of building</i> | \$8.97 | \$10.91 | \$12.85 | \$14.79 | \$16.73 |
| Park or Recreation Site Restrooms | <i>per water closet</i> | \$5,595.66 | \$6,421.17 | \$7,246.69 | \$8,072.20 | \$8,897.71 |
| Coin-operated Laundromats | <i>per washing machine (in addition to other capacity charges that may apply; e.g. mixed-use)</i> | \$4,263.81 | \$4,809.20 | \$5,354.60 | \$5,899.99 | \$6,445.38 |
| Restaurants - All | <i>per sq ft of building</i> | \$22.06 | \$24.05 | \$26.05 | \$28.04 | \$30.03 |
| Eating/Drinking facilities without cooking | <i>per sq ft of building</i> | \$11.09 | \$10.97 | \$10.84 | \$10.72 | \$10.59 |
| Car Wash with water recycling | <i>lump sum</i> | \$5,595.66 | \$6,421.17 | \$7,246.69 | \$8,072.20 | \$8,897.71 |
| Warehouses | <i>per square foot of building floor area up to 50,000 sq ft</i> | \$1.02 | \$1.19 | \$1.36 | \$1.52 | \$1.69 |
| | <i>per square foot of building floor area for that portion of each building above 50,000 sq ft</i> | \$0.32 | \$0.35 | \$0.37 | \$0.40 | \$0.42 |
| Private cafeterias | <i>per square foot of floor area for food preparation, cooking, food storage, and food service areas (excluding seating areas)</i> | \$22.06 | \$24.05 | \$26.05 | \$28.04 | \$30.03 |
| Equipment Wash Pad with Interceptor | <i>lump sum</i> | \$5,595.66 | \$6,421.17 | \$7,246.69 | \$8,072.20 | \$8,897.71 |
| | <i>per square foot for any additional pad area above 600 sq ft</i> | \$17.18 | \$20.30 | \$23.42 | \$26.54 | \$29.66 |
| Mobile Home/RV Holding Tank disposal station | <i>lump sum</i> | \$11,170.70 | \$12,826.88 | \$14,483.06 | \$16,139.24 | \$17,795.42 |

ORDINANCE 35.22

EXHIBIT A

| Connection Category | Unit Definition | Charge Per Unit Per Fiscal Year (e.g. FY2017 Begins on July 1, 2016 and then every July 1 thereafter) | | | | |
|--------------------------|--|--|------------|------------|------------|------------|
| | | 2016 | 2017 | 2018 | 2019 | 2020 |
| Residential & Commercial | | | | | | |
| Non-Standard Connections | Capacity charges for users not listed in this table shall be determined by the District Engineer based upon a reasonable estimate of the volume and pollutant loadings of the wastewater to be discharged (however, this shall not be less than the minimum capacity charge) | Varies | Varies | Varies | Varies | Varies |
| Industrial | | | | | | |
| Volume Component | per 1,000 gallons of avg. annual discharge volume* (exclusive of domestic wastewater) | \$10.24 | \$13.92 | \$17.60 | \$21.28 | \$24.96 |
| COD Component | per 1,000 lbs of avg. annual COD demand loading* (exclusive of COD domestic loading) | \$658.95 | \$634.65 | \$610.34 | \$586.04 | \$561.73 |
| SS Component | per 1,000 lbs of avg. annual SS demand loading* (exclusive of SS domestic loading) | \$1,421.64 | \$1,376.20 | \$1,330.77 | \$1,285.33 | \$1,239.89 |

* - first years values based on estimates for each category.

INFORMATION ITEMS:

Check Register

All questions were answered to the Board's satisfaction.

Cal-Card Quarterly Activity Report

This item was reviewed by the Budget & Finance Committee. The third quarter, which began January 25, 2016 and ended March 22, 2016, included 231 transactions totaling \$67,667.84. All questions were answered to the Board's satisfaction.

Board Expenditures for the 3rd Quarter of 2016

This item was reviewed by the Budget & Finance Committee. There were no questions regarding this item.

COMMITTEE MEETING REPORTS:

The Construction and Budget & Finance Committees met.

GENERAL MANAGER'S REPORT:

General Manager Eldredge reported the following:

- General Manager Eldredge expressed gratitude to all who were involved with the Alvarado Boulevard sinkhole, and commended staff for working together across teams to accomplish the necessary repairs.
- The California Water Environment Association conference was held in Santa Clara the week of April 25, 2016. The conference was attended by several District staff members and Director Lathi.
- The District received the vehicle incident report from a recent traffic accident. Staff will review the report and District Counsel will provide an update to the Board via email.
- The District will be providing a recognition lunch for employees in celebration of completion of the sinkhole repairs and the lowest X-Mod in District history. General Manager Eldredge stated the Board and all staff are invited to the event, which will be called the SinkMod BBQ, at the District beginning at 11:30 a.m. on June 8, 2016.
- One of the General Manager's goals on the most recent evaluation was to schedule a retreat for the Executive Team. The Executive Team retreat will be held off-site May 10 & 11, 2016. Though work group managers will be off-site, they will be available via email or phone in the event of an emergency. The facilitator for the retreat has interviewed the work group managers separately in preparation for the event, and will complete personality assessments to determine how each person thinks and makes decisions.
- General Manager Eldredge welcomed Mitchell Costello, recently promoted as the new Wastewater Operations Night Coach.

OTHER BUSINESS:

Director Kite stated she had heard the Town of Moraga would be seeking State reimbursement for its recent sinkhole expenditures and asked if the District would qualify for State reimbursement. General Manager Eldredge stated the Moraga sinkhole was tied to an El Nino rainstorm during a period in which the area had been declared a state of emergency. The District's recent sinkhole would not be eligible for State reimbursement as it did not originate during a natural event, and there was no state of emergency in our area at that time.

Secretary Kite stated she attended the recent public information meeting regarding the Newark Backyard Sanitary Sewer Relocation Project – Phase 3, and commended staff for a comprehensive presentation.


Vice President Handley inquired about the possibility of running reclaimed water purple pipe to new developments to be built in relative proximity to the District. General Manager Eldredge stated the District is not currently equipped to treat wastewater to the level necessary for it to be used as reclaimed water. General Manager Eldredge further stated information regarding the potential for the District to produce reclaimed water would be presented at a future meeting. Vice President Handley requested staff prepare information regarding the costs associated with potential reclaimed water projects.

ADJOURNMENT:

The meeting was adjourned at 7:48 p.m. to the FY17 Operating Budget Board Workshop to be held in the Boardroom Room on Wednesday, April 27, 2016, at 5:30 p.m.

The Board will then adjourn to the next scheduled Regular Board Meeting to be held in the Boardroom on Monday, May 9, 2016, at 7:00 p.m.

SUBMITTED:


REGINA McEVOY
SECRETARY TO THE BOARD

ATTEST:


PAT KITE
SECRETARY

APPROVED:


JENNIFER TOY
PRESIDENT

Adopted this 9th day of May, 2016