

**MINUTES OF THE MEETING OF THE  
BOARD OF DIRECTORS OF  
UNION SANITARY DISTRICT  
June 24, 2013**

**1. CALL TO ORDER**

President Kite called the Board to Order at 7:00 p.m.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

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

ABSENT: Jennifer Toy, Director

STAFF: Rich Currie, General Manager/District Engineer  
Richard Cortes, Manager, Business Services  
Sami Ghossain, Coach, Capital Improvements Projects  
Jesse Gill, Manager, Technical Support & Customer Services  
Dave Livingston, Manager, Treatment & Disposal Services  
David O'Hara, Legal Counsel  
Maria Scott, Principal Financial Analyst  
Tom Graves, Assistant to the General Manager/Board Secretary

CONSULTANTS: None

VISITORS: Ellen Culver, League of Women Voters

**4. APPROVAL OF THE MINUTES OF JUNE 6, 2013**

Action

On a motion made by Director Lathi and seconded by Director Handley, the Minutes of the Board of Directors Special Meeting of June 6, 2013 were approved. The motion carried unanimously (Director Toy absent).

**4.1 APPROVAL OF THE MINUTES OF JUNE 10, 2013**

Action

On a motion made by Director Handley and seconded by Director Lathi, the Minutes of the Board of Directors Meeting of June 10, 2013 were approved. The motion carried unanimously (Director Toy absent).

5. **WRITTEN COMMUNICATIONS**

There were no official written communications.

6. **ORAL COMMUNICATIONS**

There were no oral communications.

7. **MONTHLY OPERATIONS REPORT FOR MAY**

GM Summary

Rich Currie reported that there were three odor reports for the month, but with two being from the same location. All three checked out as unattributable to USD. There was a complaint from the neighborhood to our east side, and staff will continue to monitor the situation there. There were no accidents in the Month of May, and Collection Services staff completed their 12<sup>th</sup> consecutive month without a spill. Hours worked continues to rise in the right direction, and sick leave usage has declined from last month.

Financials

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

8. **PUBLIC HEARING: 1) CONFIRMING SEWER SERVICE CHARGE ORDINANCE NO. 31.36, 2) ADOPTING SEWER SERVICE CHARGE FOR FISCAL YEARS 2014, 2015, AND 2016, AND 3) SETTING AND COLLECTING SEWER SERVICE CHARGES FOR FISCAL YEAR 2014 ON THE TAX ROLL**

President Kite opened the Public Hearing at 7:05 p.m.

No members of the public wished to speak.

President Kite closed the public hearing at 7:05 p.m.

9. **RESOLUTION NO. 2709, CONSIDERING PROTESTS AND CONFIRMING SEWER SERVICE CHARGE RATES FOR FISCAL YEARS 2014, 2015, AND 2016.**

On a motion made by Director Lathi and seconded by Director Fernandez, the Board approved Resolution No. 2709, Confirming Sewer Service Charge Rates for Fiscal Years 2014, 2015 and 2016. The motion carried unanimously (Director Toy absent).

####

**RESOLUTION NO. 2709**

**RESOLUTION CONSIDERING PROTESTS TO AND ESTABLISHING REPORT ON  
SEWER SERVICE CHARGE RATES FOR UNION SANITARY DISTRICT FOR THE  
FISCAL YEARS 2014, 2015, AND 2016**

RESOLVED, by the Board of Directors of the UNION SANITARY DISTRICT,  
Alameda County, California, that:

WHEREAS, this Board intends to adopt sewer service charges increasing the current rate for the next three (3) fiscal years by five and seven tenths percent (5.7%) each year; and

WHEREAS, this Board intends to adopt Ordinance No. 31.36 establishing sewer charge rates and to elect to have sewer service charges collected on the tax roll for the Fiscal Year 2014, and directed the preparation of a written report containing the rates; and

WHEREAS, said written report and Ordinance were duly prepared and filed with the Secretary of the UNION SANITARY DISTRICT; and

WHEREAS, this Board appointed the time and place of hearing protests to said report and directed notice; and

WHEREAS, notice was given of the time therein stated in the manner provided by law as it appears by the Affidavit of Publication on file in the office of the Secretary of said District; and

WHEREAS, said matter came on regularly for hearing at the time fixed; and

WHEREAS, all written protests and other written communications were summarized at said meeting and all persons desiring to be heard were fully heard;

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

1. That objections to and protests against said report were not made by the owners of a majority of the separate parcels of property within the Service District against which sewer service charge rates for the services and facilities provided by the District were fixed.
2. That all objections to and protests against said report have been heard by this Board and that said objections and protests be, and each of them are, hereby overruled.

**RESOLUTION NO. 2709, Page Two**

3. That said report be, and it is, hereby adopted in full without revision, change, reduction, modification, and that sewer service charges based upon these rates and the 2014 rates shall be collected on the tax roll of the County of Alameda in the manner provided by law.
4. That the sewer service charges for the fiscal years 2015 and 2016 be increased by five and seven tenths percent (5.7%) per year over the fiscal year 2014 rates as was proposed in the Proposition 218 notice to all landowners.
5. That the Secretary of this District be, and is, hereby directed to file with the County Auditor of Alameda County forthwith, a copy of said Ordinance fixing the rates, upon which shall be endorsed over his/her signature a statement that the Ordinance has been finally adopted by the Board of Directors of the UNION SANITARY DISTRICT.
6. The County Auditor of Alameda County shall, upon receipt of a copy of said Ordinance and a report showing the amounts of the charges based upon currently adopted rates, enter the amounts of the charges against the respective lots or parcels as they appear on the current assessment roll for the Fiscal Year 2014.

I hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Board of Directors of the UNION SANITARY DISTRICT, Alameda County, California, at a meeting thereof held on the 24<sup>th</sup> day of June 2013.

AYES: Fernandez, Handley, Kite, Lathi

NOES: ----

ABSTAIN: --

ABSENT: Toy



---

President, Board of Directors  
Union Sanitary District

ATTEST:



---

Secretary, Board of Directors  
Union Sanitary District

10. **RESOLUTION NO. 2710, ADOPTING ORDINANCE NO. 31.36, SETTING THE SEWER SERVICE CHARGES SPECIFIED THEREIN FOR FISCAL YEAR 2014.**

On a motion made by Director Lathi and seconded by Director Fernandez, the Board adopted Resolution No. 2710, Adopting Ordinance No. 31.36, setting the Sewer Service Charges Specified Therein for Fiscal Year 2014. The motion carried unanimously (Director Toy absent).

**####**

**RESOLUTION NO. 2710**

**UNION SANITARY DISTRICT  
ORDINANCE NO. 31.36**

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF SEWER SERVICE CHARGES FOR FISCAL YEARS 2014, 2015 AND 2016 FOR SERVICES AND FACILITIES FURNISHED BY DISTRICT'S WASTEWATER SYSTEM, COLLECTION PROCEDURES, PENALTIES FOR DELINQUENCY, RESTRICTION ON USE OF FUNDS DERIVED, ELECTION TO HAVE SEWER SERVICE CHARGES COLLECTED ON THE ALAMEDA COUNTY TAX ROLL

The Board of Directors of the UNION SANITARY DISTRICT does ordain as follows:

**ARTICLE I  
GENERAL**

**SECTION 1. PURPOSE**

- (a) The purpose of the sewer service charge is to raise revenue for the cost of maintenance and operation of the UNION SANITARY DISTRICT wastewater facilities used for the collection, treatment and disposal of wastewater, industrial wastewater, industrial waste, payment of principal and interest on bonds and capital recovery costs in accordance with Federal and State Revenue Program guidelines. The funds derived from the sewer service charge shall be used for only those purposes provided for in Division 5, Part 3, Chapter 6, Article 4 (commencing with Section 5470) of the Health and Safety Code of the State of California.
- (b) The purpose of this ordinance is to establish a method of sharing the cost of operation of the District's collection, transport, and treatment facilities among the users of sewer service. For commercial and industrial dischargers, an estimation of the relevant wastewater flow constituents and loadings are utilized which are known to be historically valid.
- (c) Quantity of wastewater flow is an important factor in the cost of collection, transport and treatment of industrial and commercial wastewater discharge. Therefore, the quantity of discharge is calculated from flow for the prior year. These flows may vary widely. The District bills the industrial and commercial users the following year for what is in essence the previous year's discharge. For this reason there can be no adjustments to sewer service charges based only upon a change in water usage for a particular user. This change in usage will be reflected in the ensuing year's bill.

**ARTICLE II**  
**DEFINITIONS**

**SECTION 1. DWELLING UNITS**

The following residential establishments shall be deemed to have the following number of dwelling units:

- (a) Single family residential dwelling, designed for occupancy by one family: one dwelling unit.
- (b) 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, which is divided into separate housekeeping units, each of which is designed for occupancy by one family only: each housekeeping unit shall be deemed to be one dwelling unit.

**SECTION 2. COMMERCIAL OR INSTITUTIONAL USE**

Any parcel or portion thereof discharging domestic wastewater and shall include the following:

- (a) Parcels used for commercial or business purposes.
- (b) Hotel, auto court, motel and similar transient living facilities.
- (c) Schools, churches, hospitals, convalescent homes, parks, public office and service buildings public transportation facilities, or other types of public facilities or publicly owned facilities available for public use.

**SECTION 3. INDUSTRIAL**

Any parcel or portion thereof used for manufacturing, processing or other operations which discharges non-domestic wastewater by reason of manufacturing, processing or other operations involved.

**SECTION 4. DOMESTIC WASTEWATER**

Wastewater of a quality essentially similar to that of a single family dwelling.

**SECTION 5. OWNER**

Any human being, individual, firm, company, partnership, association, and private or public and municipal corporations, the United States of America, the State of California, districts and all political subdivisions, governmental agencies and mandatories thereof.

## **SECTION 6. FAST FOOD RESTAURANTS**

Restaurants that serve all food on disposable plates, cups and utensils.

## **SECTION 7. FULL SERVICE RESTAURANTS**

Restaurants with sit down service that utilize washable plates, cups or utensils.

### **ARTICLE III** **SEWER SERVICE CHARGE**

#### **SECTION 1. CLASSIFICATION**

The owner of each parcel of property as it appears on the Assessor's records of Alameda County lying within the UNION SANITARY DISTRICT and upon which there are wastewater facilities shall pay a sewer service charge in accordance with the purpose for which said parcel is used, as hereinafter set forth in Section 2. In the event that the use of any parcel results in the discharge of wastewater in more than one classification, there shall be an annual charge for each classification of use of said parcel and the annual sewer service charges for such parcel shall be the aggregate of all such annual charges.

#### **SECTION 2. RATES**

Each individual parcel of land connected to the District sewer system is subject to a minimum charge equal to one dwelling unit as listed in (a) below, with the exception of those multiple dwelling units which are specified in subsection (b).

- (a) Residential dwelling units as defined in Section 1(a) of Article II: FY 2014 \$337.76 per dwelling unit per year; FY 2015 \$357.02 per dwelling unit per Year; FY 2016 \$377.37 per dwelling unit per year.
- (b) Residential dwelling units as defined in Section 1(b) of Article II: FY 2014 \$298.25 per dwelling unit per year; FY 2015 \$315.25 per dwelling unit per Year; FY 2016 \$333.22 per dwelling unit per year.

Sewer service charges that exceed the minimum rate specified above in subsection (a) shall be calculated as follows:

- (c) Restaurants shall pay either the rate for fast food or full service restaurant as defined in Sections 6 and 7 of Article II. Unit rates for the volume of wastewater discharged are as follows:

Fast Food Restaurants \$6.75 per 1,000 gallons per year in FY 2014;  
\$7.14 in FY 2015; \$7.55 in FY 2016.

Full Service Restaurants \$8.64 per 1,000 gallons per year in FY 2014;  
\$9.13 in FY 2015; \$9.65 in FY 2016.

- (d) Commercial or institutional use as defined in Section 2 of Article II, or wastewater discharged from industrial uses that are not sampled by the District, shall be determined by classifying the parcel into one of three strength classifications: strong, moderate or weak. Unit rates for the volume of wastewater discharged and examples of the types of uses which fall into the strong, moderate and weak categories are as follows:

Weak - \$3.34 per 1,000 gallons discharged per year in FY 2014; \$3.53 in FY 2015; \$3.73 in FY 2016.

Examples of establishments assigned to the weak user classification group include, but are not limited to the following: garden/nurseries, libraries, retail stores, schools, churches, spas and health clubs, professional offices, and soft water processing. The weak strength category is based on an average wastewater strength for the group of 144 milligrams per liter of suspended solids, and 331 milligrams per liter of chemical oxygen demand.

Moderate - \$3.82 per 1,000 gallons discharged per year in FY 2014; \$4.03 in FY 2015; \$4.26 in FY 2016.

Examples of establishments assigned to the moderate user classification group include, but are not limited to the following: car washes, service stations, bars, dining and reception halls, hotels and motels without dining facilities, hospitals, convalescent homes, mixed multi-tenant retail (unless a more specific rate applies) cold storage facilities, theaters, medical offices, and miscellaneous commercial and industrial. The moderate strength category is based on an average wastewater strength for the group of 199 milligrams per liter of suspended solids, and 536 milligrams per liter of chemical oxygen demand.

Strong - \$7.07 per 1,000 gallons discharged per year in FY 2014; \$7.47 in FY 2015; \$7.90 in FY 2016.

Examples of establishments assigned to the strong user classification group include, but are not limited to the following: auto steam cleaners, bakeries, restaurants, markets with a bakery or deli, mortuaries, bowling alleys with dining facilities. The strong strength category is based on an average wastewater strength for the group of 489 milligrams per liter of suspended solids, and 1,839 milligrams per liter of chemical oxygen demand.

- (e) Industrial use as defined in Section 3 of Article II and that have wastewater sampled by the District shall be based on the total volume, chemical oxygen demand and suspended solids discharged to the sewer system. The charges for these three components shall be calculated and added to arrive at the total

sewer service charge. The unit rates for each of the three components are provided below:

Volume - \$2.12 per 1,000 gallons per year in FY 2014; \$2.25 in FY 2015; \$2.37 in FY 2016.

Chemical Oxygen Demand - \$215.27 per 1,000 pounds per year in FY 2014; \$227.54 in FY 2015; \$240.51 in FY 2016.

Suspended Solids - \$394.67 per 1,000 pounds per year in FY 2014; \$417.17 in FY 2015; \$440.95 in FY 2016.

### **SECTION 3. ADJUSTMENTS**

The owner of any parcel subject to the scheduled charges set forth in Section 2 above may appeal to the Union Sanitary District staff if the charges imposed do not fairly reflect the quantity of discharge made to the sanitary sewer for any period. Any appeal should be made within ninety (90) days of receiving the tax bill reflecting the charges imposed, which relate to actual usage of water for the prior year. In most instances, the Union Sanitary District staff will make any adjustment which is in order. Any such appeal can only relate to the quantity of water actually discharged to the sewer system and cannot relate to strength of discharge or category of discharger. The Union Sanitary District staff will have forty-five (45) days to act on any request for adjustment or the request will be deemed denied. After a decision on the adjustment request, the owner will have fifteen (15) days to appeal to the Board of Directors, in writing. The Board of Directors shall act on such appeal within sixty (60) days. The determination of an appeal by the Board of Directors of Union Sanitary District shall constitute a final determination regarding any requested adjustment.

### **SECTION 4. OPTIONAL SERVICES**

- (a) Segregation of Charges for Multi-tenant Parcels - Sewer Service Charges for parcels of land with multiple tenants shall be determined by assigning the parcel into one of three strength categories, strong, moderate, or weak as defined by this ordinance. This determination shall be made by the District based on the quantity of flow from each strength category. The strength category which includes a majority of flow shall be the strength category assigned to the entire parcel.
- (b) As an optional service, the property owner may request in writing, that the District segregate the annual sewer service charges by considering the flow from each water meter on the property as a separate calculation. The flow from each water meter would be assigned into one of three strength categories (strong, moderate, or weak) or into one of the restaurant categories and calculated separately. The charge for each water meter shall be totaled and the entire amount billed to the parcel with the property tax bill. When the charges are segregated, a written breakdown of the District's strength assignments and calculations will be provided to the property owner by

October first of each year. To request the start or stop of this optional service, the property owner or authorized representative, shall give written notice by June first for the upcoming fiscal year starting July first. Upon receipt of written notice to start this optional service, the District will continue to segregate the charges each year until it is given a written notice to discontinue the service.

- (c) In order to qualify for and receive this optional service initially, the property owner must be able to provide documentation acceptable to the District (such as a site plan or plumbing plan) showing which water meters serve which tenants. Insufficient documentation, as determined by the District, will be grounds to disqualify a property from receiving this optional service.
- (d) Property owners who request this optional service shall pay an annual service charge, which shall be added to the total sewer service charges and collected with the property tax bill. Annual service charges shall be as follows:

\$50.00 Per year per water meter, for the first year the service is started or re-started

\$25.00 Per year per water meter, for the second and succeeding years the service is provided

## **ARTICLE IV** **BILLING AND COLLECTING**

### **SECTION 1. MAILING**

Except as provided elsewhere in this ordinance, the District shall ascertain the amount of each sewer service charge applicable to each parcel in the district, and shall mail to the owner thereof a bill for the first installment on or before November 1 of each year, and a bill for the second installment on or before the following February 1 of each year. Each bill so mailed shall contain a statement that a delinquency in payment for sixty (60) days shall constitute a lien against the parcel against which the charge is imposed, and that when recorded shall have the force, effect and priority of a judgment lien for three years unless sooner released or otherwise discharged. Failure of the District to mail any such bill or failure of the owner to receive any such bill shall not excuse the owner of any parcel from the obligation of paying any sewer service charge for any parcel owned by him.

### **SECTION 2. DUE DATES OF CHARGES**

All sewer service charges shall become due and payable in the following installments. One-half thereof on November 1 of each year and one-half thereof on the following February 1 of each year.

### **SECTION 3. DELINQUENCY DATES**

The first installment due on November 1 of each year is delinquent if not paid by 5:00 P.M. on December 10 of each year. The second installment due February 1 of each year is delinquent if not paid by 5:00 P.M. on the following April 10 of each year.

(a) Government Parcels. For all government or public parcels or for any parcel which is not subject to taxation and not on the tax roll the sewer service charge shall become due and payable on January 1 of each year. Payment is due on January 1 of each year and is delinquent if not paid by 5:00 P.M. on February 15 of each year.

#### **SECTION 4. PENALTIES FOR NON-PAYMENT, LIEN**

Except as otherwise provided in this ordinance for collection of sewer service charges through general tax law, whenever a delinquency shall occur for non-payment, a penalty shall be paid in accordance with the requirements of the Alameda County Tax Collector. After delinquency for sixty (60) days, such unpaid charge and penalty shall constitute a lien upon the parcel of land against which the charge was levied.

#### **SECTION 5. COLLECTION OF CHARGES ON TAX ROLL**

(a) Pursuant to the provisions of Division 5, Part 3, Chapter 6, Article 4, of the Health and Safety Code of the State of California, and subject to the exceptions hereinafter set forth, the District hereby elects as an alternative procedure for the collection of sewer service charges prescribed or imposed by the provisions of this ordinance to have all such sewer service charges for each fiscal year commencing with fiscal-year 1974-75, collected on the tax roll in the same manner, by the same persons, and at the same time as, and together with and not separately, from general taxes.

(b) The amount of the charges shall constitute a lien against the lot or parcel of land against which the charge has been imposed as of the date prescribed by law as the lien date for general property taxes. The Tax Collector of the County of Alameda shall include the amount of the charges on bills for taxes levied against the respective lots and parcels of land.

(c) Thereafter the amount of the charges shall be collected at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the District and shall be delinquent at the same time and thereafter be subject to the same delinquency penalties.

(d) All laws applicable to the levy, collection and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund and redemption, are applicable to such charges. The Tax Collector of Alameda County may, in his discretion, issue separate bills for such charges and separate receipts for collection on account of such charges. The County of Alameda shall be compensated for

services rendered in connection with the levy, collection and enforcement of such charges in an amount to be fixed by agreement between the Board of Supervisors of Alameda County and the Board of Directors of the UNION SANITARY DISTRICT.

- (e) The sewer service charges for any and all governmental or public parcels or for any parcel which is not subject to taxation on the tax roll shall be collected in accordance with other provisions of this ordinance.

## **SECTION 6. TIMING OF SEWER SERVICE CHARGE CALCULATIONS**

- (a) The sewer service charge to be billed for the current fiscal year is calculated based on water use and pollutant strength records for the period March to February preceding this fiscal year.
- (b) The owner of property served by Union Sanitary District is responsible for the payment of sewer service charges regardless of whether or not the owner actually conducts any business or utilizes any services for wastewater disposal on the premises. The charges made herein are for the fiscal year beginning July 1 and ending the following June 30.
- (c) In the event a property receives a new connection from the Alameda County Water District after March of a given year, there will be no sewer service charge imposed until the following year, and the sewer service charge imposed will be calculated on the basis of water usage for the previous fiscal year.

## **SECTION 7. RESPONSIBILITY TO PAY**

In the event of a sale or transfer of real property, the owner of record at the time the annual sewer service charge bill is payable (one-half each on November 1 and February 1 of each year) is responsible for payment of charges. It is understood that the current owner will be assessed sewer service charges based on flows as calculated in Section 2 of Article III and Section 6 of Article IV. It shall be the responsibility of the prior and new owner to account for the payment of upcoming sewer service charges in their real property transfer agreements. Notwithstanding such accounting, the property owner of record at the time the annual sewer service charge is payable is responsible for payment.

## **ARTICLE V** **ENFORCEMENT**

### **SECTION 1. FAILURE TO PAY**

In the event of the failure of any owner to pay when due any sewer service charges, applicable to a parcel owned by him, the District may enforce payments of such delinquent charges in any of the following manners:

- (a) The District may have such parcel disconnected from the sanitary sewer system. In the event such disconnection should create a public hazard or nuisance, the manager or his representatives may enter upon the parcel for the purpose of doing such things as may be reasonably necessary to alleviate or remove such hazard or menace.

The owner of such parcel shall have a duty to reimburse the District for all expenses incurred by District in disconnecting any such parcel, or in doing other things authorized by this Section; and no reconnection shall be made until all such charges are paid.

- (b) During the period of non-connection or disconnection, habitation of such parcel by human beings may constitute a public nuisance, whereupon the Sanitary Board may cause proceedings to be brought for the abatement of the occupancy of said parcel by the human beings. In such event, and as a condition of connection or reconnection, there shall be paid to the District reasonable attorney's fees and costs of suit arising in said action.
- (c) The District may institute action in any court of competent jurisdiction to collect any charges, penalties and interest which may be due and payable in the same manner as any other debts owing to the District may be collected, in which event the District shall have judgment for the costs of suit and reasonable attorney's fees.
- (d) Any and all delinquent payments may be placed on the tax roll, and collected with the property taxes, as provided in this ordinance.
- (e) Such other action may be taken as may be authorized by law and the District Board.

## **SECTION 2. AUTHORITY**

All powers authorized by this Article for the enforcement and collection of said sewer service charges, penalties and interest are cumulative and may be pursued alternatively or collectively as the District determines.

## **ARTICLE VI** **MISCELLANEOUS**

### **SECTION 1. VACANCY**

No credit, adjustment or refund will be made to any owner because the structure or any portion thereof on a parcel is vacant or the wastewater facilities are not being utilized.

**SECTION 2. SEVERABILITY**

If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional, or unenforceable, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors of the UNION SANITARY DISTRICT hereby declares that it would have passed the provisions of this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases may be declared invalid, unconstitutional or unenforceable.

**SECTION 3. PUBLICATION AND MINUTE ENTRY**

This ordinance shall take effect and be in force July 15, 2013, and at least one week prior to said date a summary of the changes shall be published in The Argus, a newspaper of general circulation published in the UNION SANITARY DISTRICT service area. This ordinance shall be entered in the minutes of the District.

Passed and adopted by the Board of Directors of UNION SANITARY DISTRICT on this 24<sup>th</sup> day of June 2013, by the following vote:

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



\_\_\_\_\_  
President, Board of Directors  
UNION SANITARY DISTRICT

ATTEST:



\_\_\_\_\_  
Secretary, Board of Directors  
UNION SANITARY DISTRICT

11. **PUBLIC HEARING: 1) ESTABLISHING CAPACITY FEES OF ORDINANCE NO. 35.20, AND 2) ADOPTING CAPACITY FEES FOR FISCAL YEAR 2014.**

Public Hearing

President Kite opened the Public Hearing at 7:09 p.m.

No members of the public wished to speak.

President Kite closed the public hearing at 7:09 p.m.

12. **RESOLUTION NO. 2711, CONSIDERING PROTESTS AND CONFIRMING CAPACITY FEE RATES FOR FISCAL YEAR 2014.**

Action

On a motion made by Director Handley and seconded by Director Lathi, the Board adopted Resolution No. 2711, Confirming Capacity Fee Rates for Fiscal Year 2014. The motion carried unanimously (Director Toy absent).

####

**RESOLUTION NO. 2711**

**RESOLUTION CONSIDERING PROTESTS TO AND CONFIRMING REPORT ON  
CAPACITY CHARGES FOR UNION SANITARY DISTRICT FOR THE FISCAL YEAR  
2014**

RESOLVED, by the Board of Directors of the UNION SANITARY DISTRICT, Alameda County, California, that:

WHEREAS, this Board intends to adopt Ordinance No. 35.20 establishing capacity charges, and directed the preparation of a written report containing the rates; and

WHEREAS, said written report and Ordinance were duly prepared and filed with the Secretary of the UNION SANITARY DISTRICT; and

WHEREAS, this Board appointed the time and place of hearing protests to said report and directed notice; and

WHEREAS, notice was given of the time therein stated in the manner provided by law as it appears by the Affidavit of Publication on file in the office of the Secretary of said District; and

WHEREAS, said matter came on regularly for hearing at the time fixed; and

WHEREAS, all written protests and other written communications were publicly read at said meeting and all persons desiring to be heard were fully heard;

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

1. That all objections to and protests against said report have been heard and considered by this Board and that said objections and protests be, and each of them are, hereby overruled.
2. That said report be, and it is, hereby adopted in full without revision, change, reduction, or modification.

I hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Board of Directors of the UNION SANITARY DISTRICT, Alameda County, California, at a meeting thereof held on the 24<sup>TH</sup> day of June, 2013.

AYES: Fernandez, Handley, Kite, Lathi

NOES: ----

ABSENT: Toy

ABSTAIN: ----



\_\_\_\_\_  
President, Board of Directors  
Union Sanitary District

ATTEST  
  
\_\_\_\_\_  
Secretary, Board of Directors  
Union Sanitary District

13. **RESOLUTION NO. 2712, ADOPTING ORDINANCE NO. 35.20, PROVIDING FOR THE ESTABLISHING OF CAPACITY FEES FOR FISCAL YEAR 2014.**

Principal Financial Analyst Scott pointed out that the final document has been updated to reflect the most accurate numbers. Paper copies have been given to each Board Member and to members of the public.

On a motion made by Director Handley and seconded by Director Fernandez, the Board adopted Resolution No. 2712, Adopting Ordinance No. 35.20, providing for the Establishing of Capacity Fees for Fiscal Year 2014. The motion carried unanimously (Director Toy absent).

####

**RESOLUTION NO. 2712**

**ORDINANCE NO. 35.20**

**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. 35.19 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 Capacity Charge exists to fund facilities and assets that increase or maintain system capacity. The purpose of the Capacity Charge is to provide revenue to recover costs for: the acquisition of future facilities and assets that benefit new or expanded connections; the replacement or rehabilitation of existing facilities and assets that benefit new or expanded connections; a share of any debt service and financing costs related to new or existing facilities and assets benefiting new or expanded connections; other costs that the District has incurred or anticipates incurring in acquiring facilities or assets that benefit new or expanded connections.

**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 used to fund capital projects, upgrades and replacements that increase capacity or maintain existing capacity. The capacity charges can be used to fund a proportionate share of capital outlays, including debt service, for any capital projects. The collected revenue will not be used to fund operating or maintenance costs.

#### **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 "USD Capacity Fee Study, October 2010", and may be referenced by contacting the District. The District will establish capacity charges that consider the approximate average capacity charge of other agencies in the San Francisco Bay Area and construction cost inflation.

#### **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 mixed-use commercial category whose floor space exceeds 10,000 square feet.
- 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 may be included in the Commercial/Industrial/Office Use (C/I/O) (Domestic Use Only 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 fees 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 is NOT considered a warehouse;
  1. A distribution, wholesale trade, shipping, receiving, and/or packing center,
  2. 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
  3. 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.

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 fee. 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 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, the number of existing or proposed units thereon, and the volume of wastewater generated, in accordance with the following:

<b>Connection Category</b>	<b>Charge per Unit</b>	
1. Single Family Dwelling Unit (less than or equal to 4500 square feet)	\$5,329.20	per unit
Single Family Dwelling Unit (greater than 4500 square feet)	\$5,329.20	per unit, plus proportionate charge above 4500 square feet (i.e. charge for 4600 square feet = 4600/4500 x Charge per Unit)
Multi Family Dwelling Unit	\$4,567.89	per unit
2. Mixed Use Commercial Property with individual tenant units less than 10,000 square feet.	\$6.06	per square foot of building floor area
Commercial/Industrial/Office Use (C/I/O) (Domestic Use Only) and Mixed Use Commercial Property with individual tenant units exceeding 10,000 square feet.	\$2.52	per square foot of building floor area

3.	Boarding Establishments	\$3,555.44	per living unit; or
	Including Hotels and Motels	\$1,777.70	per capita design tenant
4.	Schools and Day Care Centers (Boarding Facilities Excluded)	\$2.85	per square foot of building floor area
5.	Churches (School and Day Care Facilities Excluded)	\$2.02	per square foot of building floor area
6.	Public Assembly Facilities	\$126.96	per seat
7.	Health Clubs	\$8.55	per square foot of building floor area
8.	Park or Recreation Site Restrooms	\$5,329.20	per water closet
9.	<sup>1</sup> Coin-Operated Laundromats	\$4,060.78	per washing machine
10.	Restaurants - All	\$21.01	per square foot of building floor area
11.	Eating/Drinking Facilities without Cooking Facilities	\$10.57	per square foot of building floor area
12.	Car Wash with Water Recycling	\$5,329.20	lump sum
13.	Warehouses	\$0.98	per square foot of building floor area up to 50,000 square feet
		\$0.31	per square foot of building floor area for that portion in each building above 50,000 square feet
14.	Private Cafeterias	\$21.01	Per square foot of floor area for food preparation, cooking, food storage, and food serving areas but excluding seating areas
15.	Equipment Wash Pad with Interceptor	\$5,329.20	lump sum,
		\$17.03	plus per square foot for any additional pad area above 600 sq. ft.

- |   |   |
|---|---|
| 16. Mobile Home Holding Tank Disposal Station | \$10,638.77 lump sum  |
| 17. Non-Standard Connections                  | Capacity charges for users not listed in the above 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. |

<sup>1</sup> Note: The charge listed is in addition to other capacity charges that may apply (example: Mixed-Use Commercial).

**SECTION 2 INDUSTRIAL WASTEWATER**

Properties with industrial wastewater discharges will be charged a Capacity Charge that will be divided into four annual installments, in addition to the Domestic Wastewater Capacity Charge in accordance with the following formula:

- a. **Initial Charge.** The initial charge shall be the sum of the following:
  - (i) Volume Component. Estimated total annual industrial wastewater discharge volume (exclusive of domestic wastewater) times \$9.76 per 1,000 gallons.
  - (ii) COD Component. Estimated annual Chemical Oxygen Demand loading (exclusive of COD domestic loading) times \$627.58 per 1,000 pounds.
  - (iii) Suspended Solids Component. Estimated annual Suspended Solids loading (exclusive of SS domestic loading) times \$1,353.95 per 1,000 pounds.
  
- 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 the sum of the following:
  - (i) Volume Component. \$9.76 per 1,000 gallons times the previous year's industrial wastewater discharge volume (exclusive of domestic wastewater).
  - (ii) COD Component. \$627.58 per 1,000 pounds times the previous year's discharge of Chemical Oxygen Demand loading (exclusive of COD domestic loading).

- (iii) Suspended Solids. \$1,353.95 per 1,000 pounds times the previous year's discharge of Suspended Solids loading (exclusive of SS domestic loading).

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 3 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 fees. 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 fee 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 4 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;
- (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 fee will apply. An additional capacity fee shall apply whenever the capacity fee calculated for the new use is greater than the value of capacity fees already paid for the former use. For the purpose of this comparison, the current capacity fee rates as listed in Article III of this Ordinance, shall apply to both the new and former use. Whenever the capacity fee calculated for the new use exceeds the value of the capacity fees already paid for the former use, the difference shall be paid to the District as an additional capacity fee 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 fees paid for the former use being greater than the cost of the capacity fee 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 annually 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 5473a et seq. of the California Health and Safety Code and UNION SANITARY DISTRICT Ordinance No. 31 as amended. 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 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 Argus, a newspaper of general circulation published in the UNION SANITARY DISTRICT, and shall take effect sixty days thereafter.

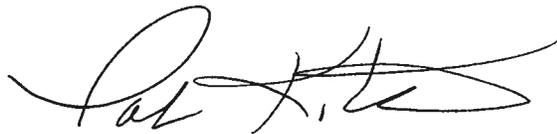
On Motion duly made and seconded, this Ordinance was adopted by the following vote on June 24, 2013.

AYES: Fernandez, Handley, Kite, Lathi

NOES: ----

ABSENT: Toy

ABSTAIN: ----



\_\_\_\_\_  
President, Board of Directors  
UNION SANITARY DISTRICT

ATTEST:



\_\_\_\_\_  
Secretary, Board of Directors  
UNION SANITARY DISTRICT

14. **ADOPTING FINAL OPERATING FUND AND CAPITAL FUND BUDGETS FOR FISCAL YEAR 2014.**

Maria Scott reported briefly on the Budgets, stating that some changes had been made to final budget numbers based upon adoption of the Labor Agreement with SEIU Local 1021, resulting in a net increase in personnel costs of \$51K. The SRF Loan for the Thickener project has been increased from \$12.2M to \$13.4M. If the loan is approved, the change will increase proceeds as well as debt payable. All Fund Balances remain positive in the 10-Year Plan.

Mr. Cortes said that one of our vendors for chemicals has informed us that they will be increasing their charges by 300%. We will be exploring ways to mitigate this increase, and will report back to the board. If the increase goes into effect, USD's costs will increase by approximately \$60K.

Action

On a motion made by Director Lathi and seconded by Director Fernandez, the Board adopted the Final operating Fund and Capital Fund Budgets for Fiscal year 2014. The motion carried unanimously (Director Toy absent).

15. **APPROVING REVISED INTERNAL CONTROLS POLICY NO. 2010.**

Director Handley reported that the Board Audit Committee met with auditors conducting the FY13 preliminary audit, and no serious concerns were raised. Regarding the policy some minor changes have been proposed and instituted, mostly having to do with virtual access to the bank affecting Payroll staff. The next revision of the Policy is slated for June of 2016.

In answer to a question from Director Lathi, Mr. Cortes said that most of the items that will be adopted in this proposed revision have already been instituted, since this policy is only slated for revision and adoption every three years.

Action

On a motion made by Director Handley and seconded by Director Lathi, Policy No. 2010, Internal Controls was adopted. The motion carried unanimously (Director Toy absent).

16. **AWARDING THE CONSTRUCTION CONTRACT FOR THE LIFT STATION NO. 1 IMPROVEMENTS PROJECT.**

Jesse Gill asked the Board to relieve NMI Industrial Holdings (NMI) of their bid in the amount of \$340,512, which came in at 55% of below the Engineer's Estimate. In a letter sent to staff dated June 17, 2013, NMI stated that their bid did not support the dollar amounts needed for the necessary equipment for this project, and requested to be relieved from their bid. With the relief of NMI's bid, D.W. Nicholson Corporation becomes the lowest responsive bidder with a total base bid of \$747K, which is 0.4% below the Engineer's Estimate.

Action

On a motion made by Director Lathi and seconded by Director Fernandez, the Board awarded the construction contract for the Lift Station No. 1 Improvements Project to D. W. Nicholson Corp. in the amount of \$747,000. The motion carried unanimously (Director Toy absent).

17. **LEGISLATIVE UPDATE.**

Rich Currie updated the Board on the latest developments in the legislature, and highlighted several bills.

State Budget. The recently approved state budget has little impact on wastewater agencies according to Mike Dillon at CASA. The Governor has "borrowed" \$500 million of cap and trade funds from Green House Gas reduction proceeds to supplement the general fund, which could have potentially been used by local government agencies to help fund alternative energy programs.

**AB39, SB39 - Proposition 39 Proceeds.** The passage of Proposition 39 regarding tax paid to California associated with transactions with companies out of State, will result in \$100s of millions of dollars in new revenues dedicated to alternative energy and reduction of greenhouse gases. CASA has been lobbying to include funding of alternative energy projects from wastewater facilities. Senator Corbett was successful in getting a supplemental bill passed out of committee to specifically address this. Unfortunately, very recent developments have resulted in an agreement to utilize 100% of the funds available for K-14 school programs. The bill passed the Assembly by a wide margin while a similar Senate bill passed as well.

**AB194 Campos – Public Meetings.** Under this bill, it would be a misdemeanor for the chair of a public agency to prohibit a member of the public from criticizing the elected officials or the agency when speaking at a public meeting. This controversial bill was withdrawn by the author from further consideration.

17. **LEGISLATIVE UPDATE. (continued)**

**AB 543 Campos – CEQA Requirements.** This bill would require the lead agency for a project to translate major CEQA documents into other languages where 25% or more of the population is non-English speaking. CASA was successful in amending the bill which originally set the threshold at 5%, which would have potentially required translation to multiple languages.

Director Fernandez observed that it would be very difficult to translate technical documents.

**AB1235 Gordon – Mandatory Financial Training.** Similar to AB1234, elected officials would be required to attend training on elements of financial management. This would be a four hour training session and would be required once in every term of office. This bill has passed the Assembly and has moved to the Senate.

**Kern County Biosolids.** In February, the California Court of Appeals in Fresno County affirmed the preliminary injunction which allows continuation of biosolids land application in Kern County while the case is heard in the court system. In response, the legislature created SB371 to allow counties to ban biosolids from outside of their county for land application. After passing from Committee, the bill was put in the inactive file before coming to a vote on the Senate Floor. This effort was the result of extensive lobbying by CASA members and CASA staff. While the bill is not officially dead, it cannot be brought up again until 2014.

**New CalPERS Medical Insurance Options.** CalPERS has announced the addition of 4 new HMO plans to its insurance options for the next five years. In an effort to help control costs through competition, they have contracted with Anthem, Health Net, Sharp, and United Health Care to offer HMO options in addition to Kaiser and Blue Shield, starting on January 1, 2014.

**Federal Issues. ASCE Report Card on Water and Wastewater Infrastructure.** US Water and Wastewater Infrastructure received near failing grades of “D” in the American Society of Civil Engineers assessment that is conducted every 4 years. The group estimates \$298 billion needs to be invested in pipes and treatment plants, including storm drainage facilities. Drinking water system improvement needs are estimated at over \$1 trillion dollars.

**SRF Program Funding.** The presidential budget request for FY14 includes \$1.1 billion for the Clean Water SRF program, a reduction of \$350,000 from 2013.

**Sewer Service Charge Trends.** NACWA's annual survey has found that sewer service charges on a nationwide basis are increasing by 2.8 percent, outpacing inflation of 2.1 percent for the period. This is the lowest average increase in sewer service charges in the last 10 years. The average charge for a single family residence was about \$410 compared to USD's 2012 rate of \$336.

**Local and Regional Issues. Legal Action by River Watch.** Both the City of American Canyon and Delta Diablo Sanitation District recently settled law suits filed by River Watch under the Clean Water Act for unpermitted discharges associated with SSOs. Settlements include commitments to undertake improved inspection, testing and repair programs, improvements to SSMP practices, and payment to various environment groups and attorney fees. Typical settlements include \$30,000+ payments to River Watch for attorney fees.

**City of Dixon Plant Upgrade.** The City of Dixon, in the Central Valley, will be constructing a new activated sludge treatment plant as a result of a cease and desist order from their Regional Water Board. It is estimated that the plant upgrade will cost \$30 million for a 2.5 mgd plant and will require a rate increase of \$26 per month. The City serves a population of 18,500.

**Public Records Update.** Legal Counsel Dave O'Hara updated the Board on SB71, a budget rider bill that would have significant impacts on how public agencies respond to requests for records from members of the public. One of the outcomes of the bill would be to change the mandate for compliance by agencies to requests for public records, thus saving the State about \$20M per year. But the public and press have reacted very strongly to this proposed change, so much so that in the last twelve days, the bill has gone from being passed in Committee to now being withdrawn, pending a constitutional amendment. Senators Leno and Steinberg are working now on a constitutional amendment that would eliminate reimbursement for local governments, while still maintaining California's vaunted open records statutes.

## **INFORMATION ITEMS**

### **18. CHECK REGISTER**

Directors Handley and Kite asked several questions about items in the register, and received responses from staff.

### **19. COMMITTEE MEETING REPORTS: The following committees met: Construction; Audit; Legislative and Budget & Finance.**

**20. GENERAL MANAGER'S REPORT:**

Mr. Currie explained in further detail about an email he had sent earlier to the Board about a pipeline issue at the intersection of Cedar and Thornton in Fremont. Crews worked on the weekend to replace the pipe. Final paving has yet to be scheduled.

Director Kite asked why the pipe failed. Mr. Currie replied that at times, while cleaning and checking the pipes, it is the cleaning of the pipe itself that causes the failure.

Director Fernandez asked if all of the work was done in house. Mr. Currie replied that a contractor had to be called out on Saturday to deal with the issue, and their staff were supported by USD staff.

One odor complaint has been received from Ponderosa Homes, our neighbor. Staff is still investigating, and there have been no further complaints since the initial report.

The year-end audit has begun, and auditors from the firm of Vavrinek, Trine & Day will be in the library for the rest of the week.

District staff met with staff from East Bay Regional Parks District regarding Hayward Marsh. Parks staff have been unable to make any progress, and have sent a letter to the Regional Water Quality Control Board to that effect. USD staff will take the lead on the study of the marsh, and will be meeting with consultants soon. The Board will be kept up to date on progress.

The Healthy Parks Healthy People event at Quarry Lakes Regional Recreational Area was a great success, with USD staff receiving 289 Pollution Prevention Pledges, the most ever in one day.

Mr. Currie spoke to the newly-hired Deputy General Manager this week, and the Deputy GM is looking forward to starting on July 22, 2013.

Finally, Rich Currie will be on vacation the next three weeks, and Rich Cortes will be the Acting General Manager.

**21. OTHER BUSINESS**

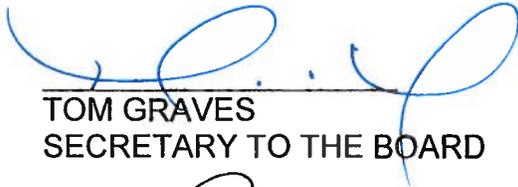
Director Kite asked if there were any objections to the nomination of Georgann Vonheeder-Leopold and Tim Bender to the Alameda County Chapter of the California Special Districts Association. By consensus, there were no objections.

Director Lathi delivered the report on the June 20, 2013 EBDA Meeting. There were no questions from the board.

**ADJOURNMENT**

At 7:48 p.m., the Board adjourned to the next Regular Board Meeting on Monday, July 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 July, 2013.

**CERTIFICATE OF FILING**  
**WRITTEN REPORT FOR SEWER SERVICE CHARGES**  
**FOR FISCAL YEAR 2014**

UNION SANITARY DISTRICT, Alameda County, California, presents herewith its written report on its proposed sewer service charges of the Fiscal Year 2014 and to be collected on the County Tax Roll of Alameda County, California, for said year.

Said charges are imposed and collected pursuant to authority established by Ordinance No. 31.36 duly passed and adopted by the Board of Directors of said District, and in conformance with Resolution No. 2710 for the Fiscal Year 2014.

Said report contains a description of each parcel of real property receiving such services and facilities and the amount of the charge for each parcel for said year, computed in conformity with the charges prescribed by said Ordinance and Resolution.

The names and addresses of the owners of said properties, or the names of the owners where no addresses are available, and the descriptions of said properties as shown on the last equalized assessment roll of the County of Alameda, California, together with and set opposite each of the sewer service charges therefore, are as hereinafter set forth.

I, MANNY FERNANDEZ Secretary of the UNION SANITARY DISTRICT, Alameda County, California, do hereby certify that the foregoing report on sewer service charge was duly filed in my office and that notice of the hearing on said Ordinance and Resolution was duly published.

  
Secretary, Board of Directors  
UNION SANITARY DISTRICT