

**MINUTES OF THE MEETING OF THE
BOARD OF DIRECTORS OF
UNION SANITARY DISTRICT/UNION SANITARY DISTRICT FINANCING
AUTHORITY
May 11, 2020**

Consistent with Executive Orders No. N-25-20 and No. N-29-20 from the Executive Department of the State of California, the Alameda County March 16, 2020 Shelter in Place Order, and Executive Order No. N-33-20, Stay-at-Home Order, the Monday, May 11, 2020, Regular Board Meeting was not physically open to the public and all Board Members teleconferenced into the meeting. To maximize public safety while still maintaining transparency and public access, members of the public were able to listen to the Board Meeting, and provide public comment by sending comments to the Board Clerk.

CALL TO ORDER

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

SALUTE TO THE FLAG

ROLL CALL

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

STAFF: Paul Eldredge, General Manager/District Engineer
Karen Murphy, District Counsel
J. Leah Castella, Assistant District Counsel
Sami Ghossain, Technical Services Manager
Armando Lopez, Treatment and Disposal Services Manager
James Schofield, Collection Services Manager
Robert Simonich, Fabrication Construction and Maintenance Manager
Laurie Brenner, Business Services Coach
Regina McEvoy, Executive Assistant to the General Manager/Board Clerk

APPROVE MINUTES OF THE UNION SANITARY DISTRICT SPECIAL BOARD MEETING OF APRIL 20, 2020

It was moved by Vice President Kite, seconded by Director Fernandez, to Approve the Minutes of the Special Board Meeting of April 20, 2020. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy
NOES: None
ABSTAIN: None
ABSENT: None

APPROVE MINUTES OF THE UNION SANITARY DISTRICT BOARD MEETING OF APRIL 27, 2020

It was moved by Vice President Kite, seconded by Director Toy, to Approve the Minutes of the Board Meeting of April 27, 2020. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy
NOES: None
ABSTAIN: None
ABSENT: None

WRITTEN COMMUNICATIONS

There were no written communications.

PUBLIC COMMENT

There was no public comment.

CONSIDERATION OF SEWER SERVICE CHARGE RATES FOR FISCAL YEARS 2021 TO 2025:

- (A) HOLD PUBLIC HEARING ON SEWER SERVICE CHARGES FOR FISCAL YEARS 2021 TO 2025, CONSIDER PROTESTS AND COST OF SERVICE STUDY ON SEWER SERVICE CHARGE RATES FOR FISCAL YEARS 2021 THROUGH 2025; AND**
- (B) CONSIDER ADOPTING ORDINANCE NO. 31.40, AMENDING ORDINANCE NO. 31.39, SETTING THE SEWER SERVICE CHARGES SPECIFIED THEREIN FOR FISCAL YEARS 2021 THROUGH 2025**

General Manager Eldredge presented a PowerPoint presentation which included an outline of procedures for the virtual public hearing and provided detail regarding current and future District projects. The presentation also included information regarding a proposed residential deferral program to address the uncertainty created by the COVID-19 pandemic. The proposed program would defer collection of residential fee increases for Fiscal Year 2021 until Fiscal Year 2022; deferred revenues would be temporarily offset with reserves.

Staff responded to Boardmember questions regarding the information included in the presentation.

President Handley opened the public hearing.

The public was able to submit comments via email or voicemail before and during the meeting. General Manager Eldredge read aloud the 11 comments received in opposition to the increase. The Board allowed an additional five minutes for the submission of comments.

President Handley closed the public hearing.

President Handley stated staff would count protests received.

Board Clerk McEvoy stated the District received approximately 354 un-validated protests, which was fewer than the 50,496 required to constitute a majority as of April 2020. Since the number received was insufficient to constitute a majority protest, Board Clerk McEvoy determined the absence of a majority protest without validating protests received.

President Handley stated that since the virtual public hearing had closed, the protests received had become public records. The Board directed staff to compile the protests received and send to the Board electronically.

Staff compiled protests received and sent to the Board electronically.

Boardmembers reviewed the protests received.

District Counsel Murphy stated as it had been determined that the number of un-validated protests was insufficient to constitute a majority protest, the Board may then consider the proposed ordinance included in the Board meeting packet.

It was moved by Director Fernandez, seconded by Director Toy, to Adopt Ordinance No. 31.40, Amending Ordinance 31.39, Setting the Sewer Service Charges Specified Therein for Fiscal Years 2021 Through 2025. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy
NOES: None
ABSTAIN: None
ABSENT: None

It was moved by Vice President Kite, seconded by Secretary Lathi, to Direct Staff to Prepare and Bring Back a Resolution to Adopt the Residential Deferral Program at the next Board meeting. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy
NOES: None
ABSTAIN: None
ABSENT: None

The Board directed staff to continue to explore potential discount programs and bring a report back to the Board in six months.

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**UNION SANITARY DISTRICT
ORDINANCE NO. 31.40**

AN ORDINANCE ESTABLISHING SEWER SERVICE CHARGES FOR FISCAL YEARS 2021 THROUGH 2025 FOR SERVICES AND FACILITIES FURNISHED BY DISTRICT'S WASTEWATER SYSTEM, COLLECTION PROCEDURES, PENALTIES FOR DELINQUENCY, AND RESTRICTION ON USE OF FUNDS DERIVED

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 capital projects, maintenance and operation of the UNION SANITARY DISTRICT wastewater facilities used for the collection, treatment and disposal of wastewater, industrial wastewater, industrial waste, and payment of principal and interest on bonds or other debt service 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 allocating the cost of operation of the District's collection, transport, and treatment facilities among the users of sewer service in proportion to the cost to serve each. For commercial and industrial dischargers, estimations of the relevant wastewater flow and constituents loadings are utilized, which are known to be historically accurate.
- (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 over time and from customer to customer. The District bills 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 industrial or commercial 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) Multiple family residential dwelling, including duplex, triplex, fourplex, townhouse or condominium, apartment house, accessory dwelling unit, 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. DOMESTIC WASTEWATER

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

SECTION 3. COMMERCIAL OR INSTITUTIONAL USE

Any parcel or portion thereof discharging non-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 4. 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 5. OWNER

Any person, 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 which owns real property from which wastewater flows to the District's wastewater collection system as reflected on the Alameda County Assessor's Roll or, for tax-exempt agencies, in such other records upon which the District may reasonably rely.

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 FOR FISCAL YEARS 2021 THROUGH 2025

(a) The below table summarizes the sewer service charges for all customer classifications for FYs 2021-2025.

	FY 21	FY 22	FY 23	FY 24	FY 25
Residential (\$/ Dwelling Unit)					
Single Family Residences	\$454.57	\$490.93	\$530.21	\$569.97	\$611.58
Multiple Family Residences	\$400.58	\$432.63	\$467.24	\$502.28	\$538.95
Commercial (\$/1,000 gals)					
Strong	\$12.53	\$13.53	\$14.61	\$15.71	\$16.85
Moderate	\$6.06	\$6.54	\$7.07	\$7.60	\$8.15
Weak	\$5.08	\$5.49	\$5.93	\$6.37	\$6.83
Fast-Food Restaurant	\$12.62	\$13.63	\$14.72	\$15.83	\$16.98
Full-Service Restaurant	\$12.64	\$13.65	\$14.74	\$15.85	\$17.01
Industrial					
Volume (\$/1,000 gals)	\$2.99	\$3.22	\$3.48	\$3.74	\$4.02
COD (\$/1,000 lbs)	\$338.87	\$365.98	\$395.26	\$424.91	\$455.92
Suspended Solids (\$/1,000 lbs)	\$909.90	\$982.69	\$1,061.30	\$1,140.90	\$1,224.19

Minimum Charge Per Account for non-residential customers	\$400.58	\$432.63	\$467.24	\$502.28	\$538.95

- (b) Residential units, as defined in Section 1 of Article II, shall be subject to the rates shown in Section 2(a).
- (c) Each non-residential parcel of land connected to the District’s sewer system is subject to a minimum charge equal to one multiple family residential dwelling unit as listed in (a) above. Sewer service charges for non-residential units that exceed the minimum rate specified above in subsection (a) shall be calculated in accordance with the following subsections.
- (d) Rates for commercial or institutional uses as defined in Section 2 of Article II, or wastewater discharged from industrial uses as defined in Section 3 of Article II that are not sampled by the District, shall be determined by classifying the wastewater flowing from that 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 shown in Section 2(a):

Strong Classification: 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 495 milligrams per liter of suspended solids, and 1,999 milligrams per liter of chemical oxygen demand.

Moderate Classification: 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 220 milligrams per liter of suspended solids, and 519 milligrams per liter of chemical oxygen demand.

Weak Classification: Examples of establishments assigned to the weak user classification group include, but are not limited to the following: gardens/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 186 milligrams per liter of suspended solids, and 343 milligrams per liter of chemical oxygen demand.

- (e) Restaurants shall pay either the rate for Fast Food Restaurants or Full Service Restaurants as defined in Sections 6 and 7 of Article II. Unit rates for the volume of wastewater discharged are as shown in Section 2(a).

- (f) Rates for industrial use as defined in Section 3 of Article II and uses that have wastewater sampled by the District shall be based on the total volume, chemical oxygen demand and suspended solids discharged to the District's 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 as shown in Section 2(a).

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 owner believes that the charges imposed do not fairly reflect the quantity of discharge to the sanitary sewer for any period. Any appeal should be made within ninety (90) days of receiving the bill for the service charge. In most instances, the Union Sanitary District staff, Customer Service Coach and/or General Manager, will make any adjustment which is in order. Any such appeal can only relate to the quantity of non-domestic wastewater 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 at a noticed hearing within sixty (60) days. The determination of an appeal by the Board of Directors of Union Sanitary District shall constitute a final determination of the District regarding any requested adjustment and shall be subject to judicial review pursuant to California Code of Civil Procedure section 1094.5.

SECTION 4. OPTIONAL SERVICES

- (a) Segregation of Charges for Multi-tenant Parcels — Sewer service charges for parcels of land with multiple occupancies 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, an owner may request in writing that the District segregate the annual sewer service charges by considering the flow from each water meter on a 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 owner by October first of each year. To request the start or stop of this optional service, an owner or his or her authorized representative shall give written notice by June first for the upcoming fiscal year starting July first. Upon receipt of written request for 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, an owner must 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 deny this optional service to an owner.

- (d) 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. PLACEMENT ON THE COUNTY PROPERTY TAX ROLL

Sewer Service Charges are placed on the Alameda County's property tax rolls for collection. 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 request that the County 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 contains 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 County to mail any such bill or failure of an owner to receive any such bill shall not excuse an owner of any parcel from the obligation to pay any sewer service charge for any parcel he, she or it owns.

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 and Other Non-Taxable Parcels. For all government or public parcels or for any parcel which is not subject to property taxation or otherwise not on the tax roll, the sewer service charge shall become due and payable on January 1 of each year and is delinquent if not paid by 5:00 P.M. on February 15 of each year, or as otherwise determined by the Alameda County Tax Collector.

SECTION 4. PENALTIES FOR NON-PAYMENT, LIEN

Except as otherwise provided by ordinance, resolution, or regulation of the District for collection of sewer service charges or by 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. 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 in the preceding fiscal year.
- (b) An owner of property served by Union Sanitary District is responsible for the payment of sewer service charges regardless of whether or not that 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 non-residential property receives a new connection from the Alameda County Water District after March of a given year, a minimum charge will be imposed per Article III, Section 2c; the following year, the sewer service charge imposed will be calculated on the basis of water usage for the previous fiscal year. Residential parcels will be charged per Article III, Section 2b.

SECTION 6. RESPONSIBILITY TO PAY

In the event of a sale or transfer of real property, the owner of record when the annual sewer service charge bill is payable (one-half each on November 1 and February 1 of each year) is responsible for the 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 owners to account for the payment of upcoming sewer service charges in their real property transfer agreements. Notwithstanding such accounting, the 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 he, she or it owns, the District may enforce payment 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 District General Manager or the Manager's 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 charges due the District 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 Board of Directors 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 seek 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 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. AMENDMENT AND REPLACEMENT OF ORDINANCE NO. 31.39

This Ordinance No. 31.40 amends and replaces Ordinance No. 31.39 in its entirety, including as to all sewer service charges commencing FY 2021.

SECTION 3. 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, subsections, sentences, clauses or phrases may be declared invalid, unconstitutional or unenforceable.

SECTION 4. PUBLICATION AND MINUTE ENTRY

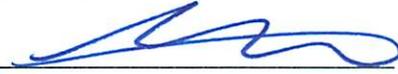
This Ordinance shall take effect and be in force as of July 1, 2020, and at least one week prior to said date a summary of the Ordinance shall be published in The Argus, a newspaper of general circulation published in the UNION SANITARY DISTRICT service area. This Ordinance shall be entered in the minutes of the District.

Passed and adopted by the Board of Directors of UNION SANITARY DISTRICT on this 11th day of May 2020, by the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy
NOES: None
ABSENT: None
ABSTAIN: None


TOM HANLDEY
President, Board of Directors
UNION SANITARY DISTRICT

ATTEST:


ANJALI LATHI
Secretary, Board of Directors
UNION SANITARY DISTRICT

INFORMATION ITEMS:

COVID-19 Update

General Manager Eldredge provided an update regarding COVID-19 impacts on District operations and associated coordination efforts.

Check Register

There were no questions regarding the Check Register.

COMMITTEE MEETING REPORTS:

There were no committee meetings held prior to the May 11, 2020, Board meeting.

GENERAL MANAGER'S REPORT:

General Manager Eldredge stated he had nothing further to report.

OTHER BUSINESS:

There was no other business.

ADJOURNMENT:

The meeting was adjourned at 9:15 p.m. to the next Regular Meeting at 4:00 p.m. in the Boardroom on Tuesday, May 26, 2020.

SUBMITTED:

ATTEST:


REGINA McEVOY
BOARD CLERK


ANJALI LATHI
SECRETARY

APPROVED:


TOM HANDLEY
PRESIDENT

Adopted this 26th day of May 2020