

**MINUTES OF THE MEETING OF THE
BOARD OF DIRECTORS OF
UNION SANITARY DISTRICT
March 11, 2013**

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

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

ABSENT: None

STAFF: Richard Currie, General Manager/District Engineer
Sol Cooper, Mechanic
Richard Cortes, Business Services Manager
Jesse Gill, Technical Support & Customer Services Manager
Sami Ghossain, Capital Improvements Projects Coach
Dave Livingston, Treatment and Disposal Services Manager
Mike Mosley, Instrument Technician/Electrician
David O'Hara, Legal Counsel
Robert Simonich, Fabrication, Maintenance & Construction Manager
Tom Graves, Assistant to the General Manager/Board Secretary

CONSULTANTS: None

VISITORS: Bob Hoffman, Principal, Carollo Engineers, Inc.

4. APPROVAL OF THE MINUTES OF FEBRUARY 25, 2013

Action On a motion made by Director Lathi and seconded by Director Handley, the Minutes of the Board of Directors Meeting of February 25, 2013 were approved. The motion carried unanimously.

5. WRITTEN COMMUNICATIONS

There were no official written communications.

6. **ORAL COMMUNICATIONS**

There were no oral communications.

7. **AUTHORIZING THE GENERAL MANAGER TO EXECUTE AMENDMENT NO. 1 TO TASK ORDER NO. 1 WITH BROWN AND CALDWELL FOR PROVIDING CONSTRUCTION MANAGEMENT SERVICES FOR THE BOYCE ROAD LIFT STATION PROJECT**

TSCS Manager Jesse Gill presented this item. The Amendment to Task order No. 1 is in the amount of \$99,009 for providing construction management services for the Boyce Road Lift Station Project. In November 2010, staff executed an Agreement and Task Order No. 1 with Brown and Caldwell (B&C) in the amount of \$721,171 for providing construction management services for the Boyce Road Lift Station Project (Project). As a result of the unforeseen groundwater issue between June 28, 2011 and January 18, 2012, the Project's Contract Time was extended by a total of two hundred and four (204) calendar days.

The scope of services for Amendment No. 1 to Task Order No. 1 remains unchanged from the original Agreement executed by staff in November 2012. However, during the 204 calendar day delay, additional construction management services were required to provide oversight to work performed to resolve the unforeseen groundwater issue.

Action

On a motion made by Director Handley and seconded by Director Fernandez, the Board authorized the General Manager to execute Amendment No. 1 to Task Order No. 1 with Brown and Caldwell in the amount of \$99,009 for providing construction management services for the Boyce Road Lift Station Project. The motion carried unanimously.

8. **AWARDING THE CONSTRUCTION CONTRACT FOR THE COGENERATION PROJECT**

Mr. Gill also presented this item. The recommendation is that the Board award the construction contract for the Cogeneration Project to D. W. Nicholson Corporation in the amount of \$10,566,358. Funds for the Project have been budgeted in the Renewal and Replacement Fund and the Capacity Fund.

Staff advertised the Project for bids on January 22, 2013. Staff received and opened four (4) bids on February 28, 2013. The four bids came in below the Engineer's Estimate of \$12,330,000. DWN was the apparent low bidder with a bid of \$10,566,358, which is 18% below the Engineer's Estimate. Even though the three highest bids were within 4% of each other and were closer to the Engineer's Estimate, the bidding environment remains competitive and is reflected in DWN's bid.

Additionally, staff submitted an application to the Self-Generation Incentive Program (SGIP). The SGIP provides financial incentives for the installation of new, qualifying self-generation equipment installed to meet all or a portion of the electric energy needs of a facility and is administered by Pacific Gas and Electric. Staff anticipates a grant of approximately \$3.5 million from the SGIP for this Project.

The Project's construction period will be five hundred twenty five (525) calendar days with an estimated completion of all project elements by October 2014. However, the SGIP grant conditions will require the commissioning of the new engine generators within four hundred thirty five (435) calendar days, or July 2014. The Covello Group will provide construction management services.

Action

On a motion made by Director Fernandez and seconded by Director Toy, the Board awarded the construction contract for the Cogeneration Project to D. W. Nicholson Corporation in the amount of \$10,566,358. The motion carried unanimously.

9. **RESOLUTION NO. 2697, AUTHORIZING THE APPLICATION FOR STATE REVOLVING FUND FINANCIAL ASSISTANCE FOR THE THICKENER CONTROL BUILDING IMPROVEMENTS PROJECT AND DESIGNATING THE TSCS WORK GROUP MANAGER OR HIS DESIGNEE AS THE DISTRICT'S REPRESENTATIVE TO EXECUTE THE FINANCIAL ASSISTANCE APPLICATION FOR A FINANCING AGREEMENT**

Mr. Gill presented this item to the Board. On December 10, 2012 the Board authorized staff by Resolution 2689 to submit an application to the SWRCB for \$10,300,000 for the Project. After the application submission, staff and Carollo Engineers, the design consultant for the Project, revised the scope of the Project to add the demolition and replacement of the existing primary sludge splitter structure. This additional scope significantly improves the layout and access within the new Thickener Area but increases the cost of the project. The District's application package to the State Water Resources Control Board (SWRCB) for SRF financial assistance is being increased to \$12,200,000 for the design and construction of the Thickener Control Building Improvements Project.

The SRF application package requires the District's Governing Body to authorize, by resolution, the application for SRF financial assistance and designate a representative to file the financial assistance application and execute the documents.

Note: After consulting with Legal Counsel, the Board decided to take up Items 9 and 10 together in one vote.

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Resolution No. 2697

AUTHORIZED REPRESENTATIVE RESOLUTION

BE IT RESOLVED by the Board of Directors of the Union Sanitary District (District), in Alameda County, California, that the District's TSCS Work Group Manager or his/her designee is hereby authorized and directed to sign and file, for and on behalf of the Union Sanitary District, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of Thickener Control Building Improvements Project, and

BE IT RESOLVED that the Union Sanitary District hereby agrees and further does authorize the aforementioned representative or his/her designee to certify that the District has and will comply with all applicable state and federal statutory and regulatory requirements related to any financing or financial assistance received from the State Water Resources Control Board, and


BE IT FURTHER RESOLVED that the TSCS Work Group Manager or his/her designee of the Union Sanitary District is hereby authorized to negotiate and execute a financial assistance agreement from the State Water Resources Control Board and any amendments or change orders thereto and certify financing agreement disbursements on behalf of the Union Sanitary District. Except for grant awards, such financial assistance shall not exceed \$13,400,000.00.

BE IT FURTHER RESOLVED that Resolution No. 2689 of this Board adopted on December 10, 2012 is hereby rescinded.


CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the Board of Directors of the Union Sanitary District, in Alameda County, California, held on the 11th day of March 2013.

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



PAT KITE
President, Board of Directors
Union Sanitary District

Attest:


MANNY FERNANDEZ
Secretary, Board of Directors
Union Sanitary District

10. **RESOLUTION NO. 2698, REIMBURSING EXPENDITURES PAID PRIOR TO THE APPROVAL OF THE THICKENER CONTROL BUILDING IMPROVEMENTS PROJECT STATE REVOLVING FUND FINANCIAL ASSISTANCE BY THE STATE WATER RESOURCES CONTROL BOARD**

The SRF financial assistance program requires the District's governing board to adopt a "Reimbursement Resolution" that would allow the District to incur expenditures on the Thickener Control Building Improvements Project before the approval of the SRF financial assistance application. The "Reimbursement Resolution" meets this requirement and also states the District's intention to be reimbursed by SWRCB for expenditures incurred on the project before the approval of the SRF financial assistance application.

Action

On a motion made by Director Handley and seconded by Director Fernandez, the Board authorized the application for SRF financial assistance for the Thickener Control Building Improvements Project and designated the TSCS Work Group Manager or his designee as the District's representative to execute the financial assistance application for a financing agreement with the SWRCB in an amount not to exceed \$13,400,000; and the Board also adopted Resolution No. 2698, reimbursing expenditures paid prior to the approval of the Thickener Control Building Improvements Project State Revolving Fund financial assistance by the State Water Resources Control Board. The motion carried unanimously.

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RESOLUTION NO. 2698

REIMBURSE EXPENDITURES PAID PRIOR TO THE APPROVAL OF THE THICKENER CONTROL BUILDING IMPROVEMENTS PROJECT STATE REVOLVING FUND FINANCIAL ASSISTANCE BY THE STATE WATER RESOURCES CONTROL BOARD

WHEREAS, the Union Sanitary District (the "Agency") desires to finance the costs of constructing the Thickener Control Building Improvements Project (the "Project"); and

WHEREAS, the Agency intends to finance the construction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the Agency desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the Agency; and

WHEREAS, the Agency has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Agency for the Expenditures from the proceeds of the Obligations.

NOW, THEREFORE, THE AGENCY DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The Agency hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.

SECTION 2. The reasonably expected maximum principal amount of the Project Funds is \$13,400,000.00.

SECTION 3. This resolution is being adopted no later than 60 days after the date on which the Agency will expend moneys for the portion of the Project costs to be reimbursed with Project Funds.

SECTION 4. Each Agency expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

SECTION 5. To the best of our knowledge, this Agency is not aware of the previous adoption of official intents by the Agency that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 6. This resolution is adopted as official intent of the Agency in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

SECTION 7. All the recitals in this Resolution are true and correct and this Agency so finds, determines and represents.

BE IT FURTHER RESOLVED that Resolution No. 2690 of this Board adopted on December 10, 2012 is hereby rescinded

CERTIFICATION


I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the Board of Directors of the Union Sanitary District, in Alameda County, California, held on the 11th day of March 2013.

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: ----

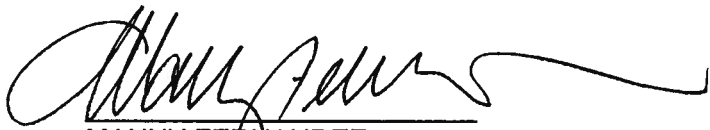
ABSTAIN: ----

ABSENT: ----



PAT KITE
President, Board of Directors
Union Sanitary District

Attest:



MANNY FERNANDEZ
Secretary, Board of Directors
Union Sanitary District

11. **RESOLUTION NO. 2699, ACCEPTING THE CONSTRUCTION OF THE CATHODIC PROTECTION IMPROVEMENTS PROJECT FROM AMERICAN CONSTRUCTION AND SUPPLY, INC. AND AUTHORIZING THE ATTORNEY FOR THE DISTRICT TO RECORD A NOTICE OF COMPLETION**

Jesse Gill presented this item. On February 27, 2012, the Board awarded the construction contract for the Cathodic Protection Improvements Project (Project) in the amount of \$236,605 to American Construction and Supply, Inc. (ACS). Staff issued the Notice to Proceed to ACS on April 20, 2012. The 130-day project was scheduled to be complete on August 27, 2012. ACS substantially completed the Project on October 15, 2012. Forty nine (49) days were added to the contract via Change Order No. 1. The District has assumed beneficial use of the cathodic protection systems installed as part of this Project. Two credit change orders were executed for the project, totaling \$8,605 credit to the District.

Action

On a motion made by Director Lathi and seconded by Director Fernandez, the Board accepted the construction of the Cathodic Protection Improvements Project from American Construction and Supply Inc. by Resolution, and authorized the Attorney for the District to file a Notice of Completion with the Alameda County Recorder's Office. The motion carried unanimously.

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RESOLUTION NO. 2699

**ACCEPTING PROJECT FROM
AMERICAN CONSTRUCTION AND SUPPLY, INC.
FOR
CATHODIC PROTECTION IMPROVEMENTS PROJECT
IN THE CITY OF UNION CITY, CALIFORNIA**

RESOLVED, by the Board of Directors of the UNION SANITARY DISTRICT that it hereby accepts the Cathodic Protection Improvements Project from American Construction and Supply, Inc. effective March 11, 2013.

Legal Counsel is hereby authorized to record a "Notice of Completion" for the project.

On motion duly made and seconded, this resolution was adopted by the following vote on March 11, 2013:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: ----

ABSENT: ----

ABSTAIN: ----



PAT KITE
President, Board of Directors
Union Sanitary District

Attest:



MANNY FERNANDEZ
Secretary, Board of Directors
Union Sanitary District

12. **AUTHORIZE THE GENERAL MANAGER TO EXECUTE A LICENSE AGREEMENT WITH THE SANTA CLARA VALLEY TRANSPORTATION AGENCY FOR THE KATO ROAD GRADE SEPARATION PROJECT.**

Mr. Gill stated that The Santa Clara Valley Transportation Authority (VTA) and the City of Fremont have initiated the project of extending BART service from Fremont to San Jose. The VTA's Silicon Valley Extension Project involves the construction and installation of tracks within their existing right-of-way to accommodate BART trains from the planned Warm Springs station to a future Milpitas station and Berryessa-San Jose station. The planned alignment crosses Kato Road between Warm Springs Boulevard and Milmont Drive.

To accommodate VTA's project, Kato Road is being lowered under the VTA tracks in order to alleviate traffic congestion and improve safety. Approximately 240 feet of existing 10-inch sewers crossing Kato Road is impacted by the grade separation project and was replaced with approximately 615 feet of new 10-inch sewers. The replacement sewers cross underneath the future BART tracks and the adjacent UPRR tracks, and culminate with a connection back to an existing 24-inch trunk sewer on Kato Road.

The Board approved a cost-sharing agreement with the City of Fremont on April 11, 2011. The City agreed to pay 60% of the sewer relocation design and construction costs and the District would pay 40% of these costs. Staff and legal counsel have reviewed the license agreement and recommend execution by the General Manager.

Action On a motion made by Director Fernandez and seconded by Director Handley, the Board authorized the General Manager to execute a License Agreement with the Santa Clara Valley Transportation Agency for the Kato Road Grade Separation Project. The motion carried unanimously.

13. **REVIEW AND APPROVE POLICY NO. 2920 COMPUTER PURCHASE AND STUDENT LOAN PROGRAM**

Business Services Manager Rich Cortes made this presentation. The Computer Purchase and Student Loan Program provides the opportunity to receive interest free loans for the purchase of approved technology-related equipment and to pay for job-related educational coursework. Minor changes were made to clarify conditions for purchase.

Action On a motion made by Director Lathi and seconded by Director Toy, Policy No, 2920 was approved. The motion carried unanimously.

14. REVIEW AND APPROVE BOARD POLICY # 3060 LETTERS TO MEDIA.

GM Currie presented this item. Board Policy 3060 addresses how individual Board members may communicate with the media depending on whether they are representing the Board of Directors or acting as an individual. The policy requires Board members to obtain approval from a majority of the Board when communicating a position as a representative of the Board. Staff is proposing changes to the policy to reflect that much of today's correspondence is through electronic media.

Director Fernandez stated that this policy does not preclude Board members from acting as individuals.

Director Lathi asked if there was another policy in the District that covers political endorsements, and Mr. Currie replied that there was not. Counsel O'Hara said that as this policy reads now, political endorsements would require prior approval of the Board if one of the Directors identified themselves as a Director of the District.

Director Kite asked Mr. Currie and Mr. O'Hara to check, since endorsements are frequently sought and frequently given.

The Board tabled this item and asked staff to research these concerns and return with this policy at a later date.

15. REVIEW AND APPROVE BOARD POLICY # 3200 BOARDMEMBER REQUESTS FOR INFORMATION

Board Policy #3200 addresses how individual Board members may request information to be provided by staff. The policy also describes the responsibility of the General Manager in responding to those requests. Staff is proposing minor changes to the policy to eliminate redundancy and provide clarification.

Director Handley inquired if requests should come to the GM directly, or to the GM and/or the AGM. Mr. Currie stated he would prefer the requests to come directly to the GM.

Action

On a motion made by Director Toy and seconded by Director Fernandez, the Board adopted the policy and established the next review for 2018. The motion carried unanimously.

16. REVIEW AND APPROVE BOARD POLICY # 4000 REPRESENTATION BY BOARD MEMBERS ON SPECIFIC ISSUES

Board Policy 4000 addresses how individual Board members may be designated to represent the position of the District on a specific issue. It also provides for preparation of a written summary of the Board's position. Staff is proposing minor changes to the policy to provide clarification.

Action

On a motion made by Director Fernandez and seconded by Director Handley, the Board adopted the policy. The motion carried unanimously.

INFORMATION ITEMS

17. LEGISLATIVE REPORT FOR MARCH 11, 2013.

GM Currie and Counsel O'Hara made presentations to the Board. GM Currie also announced a workshop for the Board on the Pension Reform Act in either April or May of 2013.

18. CHECK REGISTER

There were no questions from the Board.

19. COMMITTEE MEETING REPORTS

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

20. GENERAL MANAGER'S REPORT.

An update on the hypochlorite spill: a second hole was dug very close to where the spill occurred, and crews have been pulling quite a bit of water out of the hole with chlorine solution in it, which is being recovered and disposed of at the plant. The sites that are near the perimeter of the property are still not showing signs of chlorine.

There were 127 applicants for the vacant Assistant Storekeeper position.

The web address "unionsanitary.ca.gov" must be approved by the State, so it will probably not happen in time for the Prop. 218 notice, but we are continuing on with that conversion.

San Jose Wastewater Group did a site visit to USD recently to get tips on how we manage our warehouse operation.

There were no spills in February.

Mr. Currie also passed out Prop. 218 Notice drafts, one in a tri-fold and one in a postcard format. Boardmembers are encouraged to comment to Mr. Currie ahead of time, or at the Workshop about the format.

21. OTHER BUSINESS:

Director Lathi reported on her attendance at the CWEA P3S Conference in Napa. One presentation of note was the San Francisco Healthy Nail Salon Program. It was focused more around air and ventilation inside salons, but had tangential chemical discharge issues around acetone and toluene. While Director Lathi would like to see the District work toward implementing a similar program, she noted that the lead on this may have to come from the cities

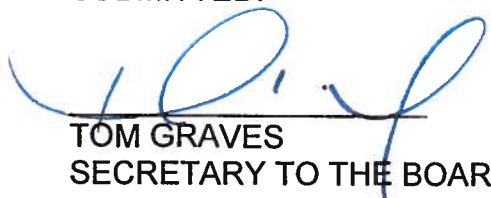
Environmental Outreach Coordinator Mike Auer was a co-presenter on a session titled, "I Had No Idea", about treatment plant tours. Another highlight was a presentation by the PR firm Goldstreet Designs titled, "How to Make Wastewater and Stormwater Sexy." Director Lathi would like to follow up with the GM once his schedule allows. The presentation included great ideas and examples, along with do's and don'ts for flyers, newsletters, PR campaigns and branding.

22. ADJOURNMENT:

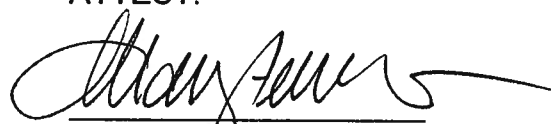
The Closed Session to discuss contract negotiations with SEIU Local 1021 was cancelled.

The Board adjourned to a Closed Session to discuss the Deputy General Manager position, and further adjourned to the Proposition 218 Workshop on March 18, 2013 at 6:30 p.m. in the Boardroom, and then to the next Regular Board Meeting on March 25, 2013 at 7:00 p.m. in the Boardroom.

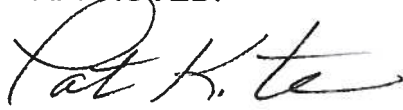
SUBMITTED:


TOM GRAVES
SECRETARY TO THE BOARD

ATTEST:


MANNY FERNANDEZ
SECRETARY

APPROVED:


PAT KITE
PRESIDENT

NOTICE OF CLOSED SESSION

The Board of Directors will then adjourn to a closed session to discuss the terms and terms of employment for the Deputy General Manager

It is my opinion as, District Legal Counsel, that a closed session to discuss this matter is allowed by Government Code Section 54957(b), authorizing closed sessions to privately consider these personnel matters.

Dated: March 11, 2013

Respectfully submitted,



David M. O'Hara

Attorney for Union Sanitary District