

**MINUTES OF THE SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF
UNION SANITARY DISTRICT
October 16, 2017**

CALL TO ORDER

President Kite called the special meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Pat Kite, President
Anjali Lathi, Vice President
Manny Fernandez, Secretary
Tom Handley, Director
Jennifer Toy, Director (arrived at 6:03 p.m.)

STAFF: Paul Eldredge, General Manager
Sami Ghossain, Technical Services Manager
Rollie Arbolante, Customer Service Team Coach
Karen Murphy, District Counsel
Regina McEvoy, Executive Assistant to the General Manager/Board Clerk

ORAL COMMUNICATIONS

There were no oral communications.

FORCE MAIN RELOCATION AT THE TORIAN PROPERTY DEVELOPMENT IN NEWARK:

- a. **Informational Update**
- b. **Consider a Resolution to Approve Pipeline Relocation Agreement with William Lyon Homes**

General Manager Eldredge stated the City of Newark approved the Dumbarton Transit-Oriented Development Specific Plan in September of 2011. The Plan includes construction of residential units, a retail center, transit station, and necessary infrastructure to support these uses. William Lyon Homes (WLH) is the developer proposing to begin construction of 553 residential units for a portion of the development known as the Torian property.

The District owns and operates twin 33-inch diameter reinforced concrete force mains that convey wastewater flows from the Irvington Pump Station to the Alvarado Treatment Plant in Union City. The force mains traverse the development, and a portion of the force mains run beneath a proposed Wetland Reserve. The Regional Water Quality Control Board's 401 permit condition requires the developer to obtain authorization from the District Board. District staff required WLH to submit a feasibility report to investigate the impacts of the development on the existing force mains. The report was reviewed and presented to the Board at a Workshop held March 9, 2015, and a Board resolution was adopted on April 13, 2015.

Much of the pipeline alignment has since been finalized, and the project was split into two phases. Phase II includes remediation efforts being performed by FMC and its consultants consistent with a Site Cleanup Requirements Order of the California Regional Water Quality Control Board. A new alignment and easement was proposed to avoid certain areas of contamination. Remediation is expected to be completed to allow Phase II completion by October 15, 2018, though this may be extended to October 15, 2019 depending upon remediation. The existing easement will be utilized for Phase II work, and developers adjacent to the easement have agreed to provide a 10-foot setback from the District's existing easement. Staff recommended the Board adopt a resolution authorizing execution of a pipeline relocation agreement with William Lyon Homes.

Scott Hilk spoke on behalf of William Lyon Homes, and thanked District staff for their efforts to move the project forward.

It was moved by Director Handley, seconded by Vice President Lathi, to Adopt Resolution No. 2819, Authorizing Execution of a Pipeline Relocation Agreement with William Lyon Homes. Motion carried unanimously.

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RESOLUTION NO. 2819

A RESOLUTION OF THE BOARD OF DIRECTORS APPROVING AND AUTHORIZING EXECUTION OF A PIPELINE RELOCATION AGREEMENT WITH WILLIAM LYON HOMES

WHEREAS, the District owns and operates twin 33-inch reinforced concrete pipe force mains that are designed to convey Peak Wet Weather Flows from the Irvington Pump Station to the District's treatment plant in Union City. The District force mains traverse the City of Newark's Dumbarton Transit-Oriented Development Specific Plan area from south to north within existing easements and right of ways; and

WHEREAS, relying on the Specific Plan EIR, on November 29, 2012, the City approved Tentative Tract Map 8085 for a 553 residential unit development on the Torian parcels (the "Torian Project"). On February 28, 2013 the City approved an addendum to the Specific Plan EIR to analyze minor revisions to the Torian Project, which included a contemplated wetland connection through, and the abandonment of, Hickory Street and a total of 547 units, and other minor site plan revisions ("Addendum"); and

WHEREAS, as part of the Torian Project, a wetland preserve will be created and managed in perpetuity for the benefit of the ecological and habitat values of the area (the "Wetland Reserve"). A portion of the USD force main runs beneath the Wetland Reserve. As a condition of the development under the Regional Water Quality Control Board (Water Board) 401 permit, the Water Board required the developer to submit authorization by the Union Sanitary District Board to allow portions of the USD force mains running beneath the Wetland Reserve to be abandoned in place (RWQCB Site No. 02-01-C1123(BKW)); and

WHEREAS, on April 13, 2015, the Board adopted Resolution No. 2755 authorizing the abandonment of the existing pipelines and their replacement with new force mains beginning south of the Specific Plan area boundary, going under the Alameda County Flood Control District ("ACFCD") F1 Channel, through Tract 8085, then within the existing Hickory Street right of way and within the existing District easement in the Integral Communities property and FMC properties; and

WHEREAS, since this last meeting, much of the pipeline alignment has been finalized, the project has been split into two different phases, and the parties have been negotiating the terms of a Pipeline Relocation Agreement between the District and William Lyon Homes (WLH), which, among other things, obligates WLH to complete the pipeline relocation at its cost and expense (the "Agreement"); and

WHEREAS, Phase II, which is the northerly section of the project, is complicated due to a multitude of variables that are beyond the control of the District and WLH. In particular, there are remediation efforts currently taking place on the FMC property along a majority of the Phase II alignment; and

WHEREAS, the remediation is being completed by FMC and its consultants consistent with a Site Cleanup Requirements Order of the California Regional Water Quality Control Board (RWQCB). A new alignment and easement is proposed along a portion of the Phase II alignment to avoid certain areas of contamination in the District's existing 30-foot easement area. Although these areas will be mitigated per the RWQCB

plan, a realignment is necessary due to the proposed mitigation that is incompatible with the force mains and could provide significant O&M challenges in the future; and

WHEREAS, current indications are that the remediation will be completed to allow for Phase II to be completed by October 15, 2018. However, should the remediation take longer than currently anticipated, the Agreement provides that the District, in consultation with WLH, has the option to extend Phase II completion until October 15, 2019, or later. The proposed Agreement requires WLH to provide the District a security deposit to ensure the timely completion of the Phase II work that equals 150% of the estimated value; and

WHEREAS, a majority of the existing easement will be utilized for the Phase II work. The developers adjacent to this section of easement have provided correspondence agreeing to provide a 10 setback from the Districts existing 30-foot easement to minimize possible challenges with future O&M and land uses.

NOW, THEREFORE, BE IT RESOLVED BY THE UNION SANITARY DISTRICT BOARD OF DIRECTORS, AS FOLLOWS:

1. The Pipeline Relocation Agreement is hereby approved. The General Manager is authorized to execute the Pipeline Relocation Agreement in the form attached to the staff report, subject to minor revisions or amendments that may be approved by the General Manager, in consultation with the General Counsel.
2. The General Manager or his designee, in consultation with the General Counsel, is hereby authorized to take any and all actions and execute documents, including executing Grants of Easements and accepting interests in real property, necessary to effectuate the terms and conditions of the Pipeline Relocation Agreement.

PASSED, APPROVED, AND ADOPTED this 16th day of October, 2017.

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None

ABSENT: None

ABSTAIN: None



PAT KITE
President, Board of Directors
Union Sanitary District

Attest:



MANNY FERNANDEZ
Secretary, Board of Directors
Union Sanitary District

CLOSED SESSION

The Board adjourned to Closed Session at 6:25 p.m. to confer with legal counsel as follows:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: One potential case

The Board reconvened to Open Session at 7:30 p.m. President Kite reported there was no reportable action.

ADJOURNMENT:

The special meeting was adjourned at approximately 7:31 p.m. to the next Regular Board Meeting in the Boardroom on Monday, October 23, 2017, at 7:00 p.m.


SUBMITTED:

ATTEST:


REGINA McEVOY
BOARD CLERK


MANNY FERNANDEZ
SECRETARY

APPROVED:


PAT KITE
PRESIDENT

Adopted this 23rd day of October, 2017