

UKIAH VALLEY SANITATION DISTRICT BOARD OF DIRECTORS

RESOLUTION 2016-03

RESOLUTION OF THE UKIAH VALLEY SANITATION DISTRICT BOARD OF DIRECTORS CONTINUING THE FY 2016-2017 JOINT WASTEWATER SYSTEM BUDGET PROCESS UNTIL AFTER AUGUST 15, 2016.

WHEREAS, Ukiah Valley Sanitation District and the City of Ukiah have a contractual relationship known as a Participation Agreement that provides that the City shall provide certain services to the District; and

WHEREAS, the Participation Agreement has been amended twice by agreement of the two agencies; and

WHEREAS, among the services the City is to provide via this contract are maintenance of the District's collection system, billing of District customers, collection of revenues from the billing process, accounting of the revenues and expenses, administration and management of the entire sewer system and development of an annual budget for the entire sewer system; and

WHEREAS, Amendment No. 1 indicates: "The City shall prepare a proposed budget for the sewer system which must receive approval from both the City Council and the Ukiah Valley Sanitation District Board of Directors."; and

WHEREAS, the City and the District are required by the Participation Agreement (Amendment No. 1) to meet "at least once a year, prior to the commencement of the fiscal year (July 1-June 30) for, among other purposes, approval of the annual budget for the sewer system operations."; and

WHEREAS, the District Board has a fiduciary duty to District ratepayers to fully understand the proposed annual budget before providing approval; and

WHEREAS, in order to properly conduct its fiduciary duty, the Board has developed a budget review process to ensure that proposed budget is sufficiently understood before providing approval; and

WHEREAS, the District's budget review process includes the following: Review by District staff; follow-up with City staff with questions and requests for additional information as needed; review of the proposed budget and recommendation by the Board's Finance Committee; a District Board Workshop for the full Board so that the Board may understand the proposed budget and determine any concerns that it may have about the proposed budget; and finally a joint meeting with the City Council for review and possible approval of the proposed budget; and

WHEREAS, in order to perform its fiduciary duty the District Board must receive the final proposed budget from the City before the beginning of the fiscal year; and

WHEREAS, a reasonable interpretation of the above requirements as provided in Amendment No. 1 is that the City must present the final proposed budget to the District Board in sufficient time that a proper review by the District Board can occur prior to any joint meeting for approval; and

WHEREAS, the District budget review process has been utilized in prior fiscal year's budget review processes and City staff was well aware of the District's budget review process; and

WHEREAS, in prior fiscal years, the then City Finance Director agreed that the District should receive the draft final proposed budget by mid-April so that the District would have necessary time to conduct its review process; and

WHEREAS, for the FY 15-16 fiscal year the City reviewed a proposed budget that was not presented to the District until after the beginning of the fiscal year; and

WHEREAS, in August of 2015 the City Council in opposition to the contractual requirements of Amendment No. 1 unilaterally adopted the FY 15-16 sewer system budget that had not been presented to the District Board; and

WHEREAS, in other recent fiscal years the City did not provide a final proposed budget before the beginning of the fiscal years; and

WHEREAS, the City's failure to perform to the requirements of the Participation Agreement represents a breach of the contract by the City; and

WHEREAS, for Fiscal Year 2016-17 the City indicated to the District Board that they would not be able to provide a final draft proposed budget to the District Board before the beginning of the fiscal year; and

WHEREAS, the City requested that the District Board agree to extend the budget development, review and approval process until after July 1, 2016; and

WHEREAS, at a joint meeting held on June 21, 2016 the District Board adopted Resolution 2016 – 01 continuing the FY 2016-2017 wastewater system budget process until after July 1, 2016; and

WHEREAS, the City Council adopted a substantially similar resolution; and

WHEREAS, both Resolutions resolved that: "The Board of Directors and the Ukiah City Council shall meet in joint session after July 1, 2016 but not later than August 15th, 2016 to consider approval of the 2016-2017 Wastewater System Budget"; and

WHEREAS, the date of August 15, 2016 was chosen by the City Manager as providing sufficient time to finish development of the Budget by mid-July which would allow time for the District Board to conduct its budget review process; and

WHEREAS, for the FY 16-17 budget process in several meetings with City staff, District staff re-articulated and re-emphasized the need to follow the District budget review process as described above; and

WHEREAS, by mid-July a draft proposed budget had not been received by the District; and

WHEREAS, on July 26, 2016 District Manager McMichael sent an email to Director Sean White indicating concern about the non-receipt of a final proposed budget and indicating the problematic ability complete the District's budget review process so as to meet the August 15, 2016 deadline as provided in the adopted Resolutions; and

WHEREAS, the District did not receive a final proposed budget from the City until August 8, 2016, one week before closure of the extension period provided in the joint Resolutions; and

WHEREAS, the District received the final proposed budget by email from Mr. Sean White who indicated the need for extending the dates in the previous adopted Resolutions; and

WHEREAS, the City Manager sent a letter dated August 11, 2016 to the District Manager making several statements about the budget review process that the District disputes; and

WHEREAS in a letter dated August 12, 2016 (incorporated into this Resolution by reference) the Chair of the District sent a response letter to the City Manager's letter. The Chair's letter provided statements about the budget process, provided certain limited observations about the proposed budget and disputed certain statements made in the City Manager's August 11th letter to the District Manager; and

WHEREAS, while the District Board believes that the City's delay in providing the draft proposed budget until August 8, 2016 represents a failure to perform, the District is willing to agree to extend the review and approval period because this would be the best decision for the ratepayers and the continued operation of the wastewater treatment until the FY 16-17 Budget is finalized. And

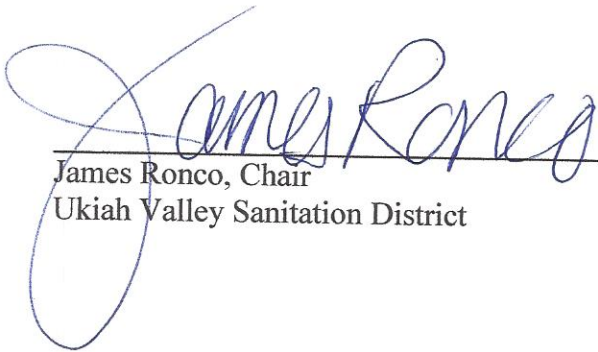
WHEREAS, the Board believes that the extension period should be of sufficient time to allow complete cooperative discussion and review between the District Board and the City as well as to allow for the completion of other District commitments.

NOW THEREFORE, BE IT HEREBY RESOLVED as follows:

1. The Board of Directors and the Ukiah City Council shall meet in joint session after August 15, 2016 but not later than December 31, 2016 to consider approval of the FY 16-17 Wastewater System Budget.
2. Recognizing that operations of the sewer system must continue while the CITY and the District complete the FY 16-17 budget review process, the DISTRICT accepts Item 3 below for the limited purpose of being able to proceed with budget deliberations. This acceptance does not in any way indicate acceptance of the City's unilateral approval of the FY 15-16 Wastewater System Budget or parts therein.
3. Until the Budget is approved by the DISTRICT and CITY OF UKIAH, ordinary operation and maintenance and emergency response may be provided by the CITY OF UKIAH for the WWTP and collection system in accordance with the 2015-2016 Wastewater System Budget unilaterally approved by the City Council.
4. Ordinary care and maintenance does not include non-routine contracts and capital expenditures other than routine or emergency repairs or replacements.

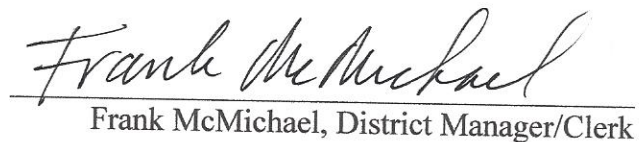
The forgoing Resolution was introduced by Chair Ronco followed by a motion to adopt the Resolution from Director McNerlin and seconded by Director Page. Motion carried this 15th day of Augusts, 2016 by the following roll call vote: Ayes: Directors McNerlin, Page, Marshall, Forrester and Chair Ronco; Nays: None; Abstain: None; Absent: None.

WHEREUPON, the Chair declared the Resolution **ADOPTED AND SO ORDERED** for the **DISTRICT**.



James Ronco, Chair
Ukiah Valley Sanitation District

Attest:



Frank McMichael, District Manager/Clerk