

# CITY/UVSD LAWSUIT

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FINANCIAL UPDATE

DECEMBER 7, 2016

# TOPICS

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1. FY 2016-17 joint budget process update
2. Lawsuit expenditure update
3. Lawsuit cost analysis
4. Concerns from last UVSD Board meeting
5. Moving forward

# BUDGET UPDATE

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Joint Process Between City and UVSD

# RECENT ACTIVITIES

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- Monday, August 15<sup>th</sup>:
  - Continuing resolution passed by both City Council and UVSD Board for FY 2016-17 Budget
- Tuesday, August 16<sup>th</sup>:
  - City Manager and UVSD General Manager communicated
  - UVSD General Manager responded that the District would provide questions within short order
- Thursday, November 10<sup>th</sup>:
  - City Manager sent email to UVSD General Manager inquiring about District's progress on the budget review process
- Friday, November 11<sup>th</sup>:
  - Received communication with UVSD financial consultant listing general topics of discussion regarding budget
- Monday, November 14<sup>th</sup>:
  - Received specific questions from financial consultant for Tuesday meeting

# RECENT ACTIVITIES (CONT)

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- Tuesday, November 15<sup>th</sup>:
  - Met with UVSD financial consultant
  - Reviewed each issue identified in detail
  - Several issues remained unclear after discussion
    - City committed to researching them further and respond back as quickly as possible
- Thursday, November 17<sup>th</sup>:
  - UVSD financial consultant presented “budget report” to UVSD Board
  - Report focused on joint operating budget
    - primarily on cost allocation plan and indirect costs
- Saturday, December 3<sup>rd</sup>:
  - City responded to remaining items on financial consultant list

# ADMIN BUDGETS

## FISCAL YEAR 2016-17

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### CITY – WASTEWATER

- \$1,619,994
  - Billing and collection
  - Dispatch
  - Insurance
  - Planning studies
  - Department administration
  - City overhead

### UVSD

- \$320,850
  - Personnel
  - Office expenses
  - Professional services
  - Legal
  - Travel and training

# ADMINISTRATIVE BUDGET, FY 2016-17 (CONT)

City

<b>CITY WASTEWATER ADMIN</b>	<b>Amount</b>	<b>% of Total Wastewater Operating Budget</b>
Administrative Activities:		
Department administration	\$ 329,616	6.85%
Billing and collections	320,669	6.67%
Planning studies	275,000	5.72%
Insurance	243,125	5.06%
City overhead	240,588	5.00%
Contracted services	95,000	1.98%
IT	63,139	1.31%
Purchasing use	26,043	0.54%
Dispatch	14,597	0.30%
Corporation yard use	12,217	0.25%
Total administrative budget	\$ 1,619,994	33.68%
Total wastewater operating budget	\$ 4,809,486	
Assets under management	\$ 95,504,470	
Admin as % of assets under management	1.70%	

# ADMINISTRATIVE BUDGET, FY 2016-17 (CONT)

UVSD

<b>UVSD ADMIN</b>	<b>Budget</b>	<b>% of Total UVSD Operating Budget</b>
Administrative Activities:		
Personnel	\$ 126,000	39.27%
Auditing and fiscal services	80,000	24.93%
Other	65,400	20.38%
Legal fees	25,000	7.79%
Office supplies, services, & materials	21,450	6.69%
Travel and training	3,000	0.94%
Total administrative budget	\$ 320,850	100.00%
Total wastewater operating budget	\$ 320,850	
Assets under management*	\$ 8,510,962	
Admin as % of assets under management		3.77%

\*Excludes cash assets held by County Treasurer and in private bank account



# ADMIN BUDGETS

## FISCAL YEAR 2016-17

(CONT)

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### CITY – WASTEWATER

- \$1,619,994 in administrative costs
- 33.6% of total operating costs
  - Excluding capital expenditures, debt service, and transfers
- 1.7% of assets under management

### UVSD

- \$320,850 in administrative costs
- 100% of total operating costs
- 3.77% of assets under management

# LAWSUIT EXPENDITURE UPDATE

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City/UVSD Lawsuit-related Expenditures

LEGAL COST  
YEAR-TO-DATE  
(OCTOBER 31, 2016)

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UVSD

Date	(Multiple Items)
July - October 2016	
Row Labels	Sum of Amount
☐ 2016	
DANIEL CROWLEY	61,411.13
DUNCAN JAMES LAW OFC	236,711.41
SETEC SECURITY TECH	1,072.50
SHARP JOHN	16,485.00
<b>Grand Total</b>	<b>315,680.04</b>

LEGAL COST  
YEAR-TO-DATE  
(OCTOBER 31, 2016)

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City

FY 2017	Boutin Jones, Inc.	26,434.57
	David Rapport	39,338.29
	Geary, Shea,O'Donnell	<u>115,952.23</u>
	S/T	181,725.09

# LEGAL COST TOTAL

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## CITY

- \$499,818.01

## UVSD\*

- \$2,800,458.36
  - \$2,525,047.65 to Duncan James

\*Source: Mendocino County Auditor-Controller

LEGAL COST COMBINED TOTAL  
OCTOBER 31, 2016

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**\$3,300,276.37**

# LAWSUIT COST ANALYSIS

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**EFFECTS OF LAWSUIT  
(ESTIMATED)**

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**\$51.2 – \$65.4 million in cost**



# EFFECTS OF LAWSUIT (CONT)

<b>AFFECTED ACTIVITIES</b>	<b>POTENTIAL COSTS (in millions)</b>	
	<b>Public/Private Placement</b>	<b>Public Offering</b>
Opportunities:		
Refunding (refinancing) existing wastewater bond	\$ 8.1	\$ 8.1
Loss of grant funding	16.0	16.0
Inability to secure favorable financing terms for required projects	19.1	33.3
Total opportunity costs	43.2	57.4
Estimated litigation costs:		
City	3.0	3.0
UVSD	5.0	5.0
Total estimated litigation costs	8.0	8.0
Total estimated costs	\$ 51.2	\$ 65.4

# CONCERNS FROM LAST UVSD MEETING

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# UNREPORTED EXPENDITURES

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- District is required to report all expenditures in the published minutes of its meetings.
- Minutes from prior meetings are open for discussion on subsequent agenda prior to approval and adoption

# UVSD ADMIN BUDGET

## REPORTED NOVEMBER 17, 2016


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<b>UVSD ADMIN</b>	<b>Budget</b>	<b>% of Total UVSD Operating Budget</b>	<b>Actual 10/31/16</b>	<b>% of Budget</b>
Administrative Activities:				
Personnel	\$ 126,000	39.27%	\$ 33,267	26.40%
Auditing and fiscal services	80,000	24.93%	16,800	21.00%
Other	65,400	20.38%	3,693	5.65%
Legal fees	25,000	7.79%	1,025	4.10%
Office supplies, services, & materials	21,450	6.69%	2,830	13.19%
Travel and training	3,000	0.94%	-	0.00%
<b>Total administrative budget</b>	<b>\$ 320,850</b>	<b>100.00%</b>	<b>\$ 57,615</b>	<b>17.96%</b>

# UVSD BUDGET UNREPORTED EXPENDITURES

July - October 2016

**Row Labels**

 **Sum of Amount**

 **2016**

DANIEL CROWLEY	61,411.13
DUNCAN JAMES LAW OFC	236,711.41
SETEC SECURITY TECH	1,072.50
SHARP JOHN	16,485.00
UVSD	75,000.00

**Grand Total**

**390,680.04**

## UNREPORTED EXPENDITURES (CONT)

July 2008 to October 31, 2016

July 2008 to October 31, 2016	
Row Labels	Sum of Amount
<b>- Legal (2013-Present)</b>	<b>\$ 2,800,458.36</b>
ARBITRATION & MEDIA	1,980.00
BRELJE & RACE CONSUL	16,542.50
DANIEL CROWLEY	92,995.38
DUNCAN JAMES LAW OFC	2,525,047.65
SARGEANT KIMBALL	34,345.60
SHARP JOHN	103,730.23
SQUAR MILNER	25,817.00
<b>- Legal (Pre-2013)</b>	<b>\$ 75.00</b>
HOOPER JASON	75.00
<b>+ Other</b>	<b>\$ 706,624.98</b>
<b>Grand Total</b>	<b>\$ 3,507,158.34</b>

# UNREPORTED EXPENDITURES

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- District possesses two accounts outside of the City treasury
  - County Treasurer
  - Private bank
- Based on a limited review, the District does not appear to be following California law when expending District resources from County Treasury
  - California Health and Safety Code, Section 6794 requires:
    - *The [county] treasurer shall pay out money of the district only upon the written order of the board, signed by the president and countersigned by the secretary. The order shall specify the name of the person to whom the money is to be paid, the fund from which it is to be paid, and shall state generally the purpose for which the payment is to be made. **The order shall be entered in the minutes of the board.** (Emphasis added.)*
- Based on a limited review, no immediate record was identified of District expenditures from County Treasurer meeting this requirement
  - Legal and other professional services fees paid
  - Payments to Board members
  - These amounts do not appear to be reported to the State Controller for the legally required Special District Annual Report

# UNREPORTED EXPENDITURES (CONT)

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- Remedies for consideration:
  - A demand that they start complying with the law and do so retroactively to the beginning of this fiscal year
  - A complaint to the civil grand jury
  - A law suit to compel them to comply with the law
  - If there are any Brown Act violations, a complaint to the DA



# MOVING FORWARD

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# STEPS

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- Budget
  - Continuing resolution
  - Final consideration of FY 2016-17 wastewater budget
- Strategies moving forward with recycled water
  - Shift to water
- UVSD expenditure concerns