

## **MINUTES**

**Tuesday, October 22, 2013**

**East Bay Municipal Utility District  
Board of Directors  
375 Eleventh Street  
Oakland, California**

### **Regular Closed Session Meeting**

Vice-President Katy Foulkes called to order the Regular Closed Session Meeting of the Board of Directors at 11:06 a.m. in the Administration Center Board Room.

### **ROLL CALL**

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon (via teleconference), and William B. Patterson were present at roll call. President Andy Katz arrived at 11:07 a.m.

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Director of Finance Eric L. Sandler (Item 1), Director of Administration Carol Y. Nishita (Item 1), Manager of Human Resources Delores A. Turner (Item 1), Manager of Employee Relations Michael K. Rich (Item 1), Manager of Employee Services Lisa A. Sorani (Item 1), Attorney Lourdes Matthew (Item 1), and I.E.D.A. Representative Glenn Berkheimer (Item 1).

### **PUBLIC COMMENT**

The following persons addressed the Board: 1) Cheryl Franklin, Chief Steward, AFSCME Local 444, urged the Board to direct staff to offer a decent proposal for consideration; 2) Brenda Wood, Business Agent, AFSCME Local 2019, commented that the Local 21 contract terms did not meet their members needs and urged the Board to become more involved; 3) Mark Foley, President, AFSCME Local 2019, said the union wants a contract offer that addresses health care costs, retirement contributions, and a reasonable wage ceiling; 4) Kasie Evans, representing AFSCME Local 2019, said that the District's proposal is an insult to employees who have made sacrifices over the past few years; 5) Paula Blackwell, EBMUD employee, said that employees want salary increases to help with the increased cost-of-living and said that promotional opportunities were not available for long-term employees; 6) Dorit Stern, EBMUD employee, said the latest offer was a slap in the face and that many employees are forced to work out of class without being paid for the extra workload; 7) George Cleveland, Chief Steward, AFSCME Local 2019, said that negotiations have been painfully slow, employees want a meaningful raise, and that the Local 21 contract does not fit their needs; 8) Timothy McGowan, representing AFSCME Local 2019, commented that the negotiation process has been slow, and the wage ceiling proposed is too low; 9) Cindy Hunt, EBMUD employee, said the current proposal sends out a message that employees work is not valued and that she doesn't agree with the low wage ceiling being proposed; 10) J. Marcell Hall, representing AFSCME Local 2019, said employees are tired of waiting and urged the Board to authorize a reasonable settlement offer; 11) Chuck Detzel, EBMUD employee, said that after

waiting two years employees want a fair wage adjustment and that negotiations are going in the wrong direction; 12) David Valenzuela, EBMUD employee, commented that the Local 21 agreement does not meet Local 2019's needs and urged the Board to offer a good contract; 13) Jae Park, representing AFSCME Local 2019, presented a comparison of salary adjustments since 2007 and asked the Board to authorize wage ceilings to 5% (historical minimum) and CPI+4% (2% offset and 2% raise); 14) Kenneth Gerstman, 1<sup>st</sup> Vice-President, AFSCME Local 2019, commented that a reasonable contract would show the District's appreciation for its workers and would also help support the local economy; 15) Jay Morgan, representing AFSCME Local 2019, said that Local 2019 would be holding a press conference in 48 hours and urged the Board to direct the negotiators to present a reasonable offer; and 16) Rosa Merced, representing AFSCME Local 2019, presented "unhappy milestones" which highlighted 6 months without a contract, 9 months in negotiations, and 42 months without a raise.

### **ANNOUNCEMENT OF CLOSED SESSION AGENDA**

President Katz announced the Closed Session agenda. The Board convened to Conference Room 8A/B for discussion.

### **Regular Business Meeting**

President Andy Katz called to order the Regular Business Meeting of the Board of Directors at 1:18 p.m. in the Administration Center Board Room.

### **ROLL CALL**

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, William B. Patterson, and President Andy Katz were present at roll call. Director Frank Mellon was absent but excused to attend the annual International Foundation of Employee Benefits Plans conference.

### **BOARD OF DIRECTORS**

President Katz led the Pledge of Allegiance.

### **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

### **PUBLIC COMMENT**

There was no public comment.

### **CONSENT CALENDAR**

- Item 3 was pulled from the Consent Calendar for separate discussion.
- Motion by Director Coleman, seconded by Director Patterson, to approve Items 1-2 and 4-5 on the Consent Calendar, carried (6-0) by voice vote. Director Frank Mellon was absent (excused).

1. **Motion No. 149-13** -- Approved the Regular Meeting Minutes of October 8, 2013.
2. The following correspondence was filed with the Board: 1) Presentation entitled "Comparison with 2007 Contract" submitted by Jae Park; and 2) Presentation entitled "SIFMA Bond Remarketing and Liquidity Facility Replacements."
3. **Motion No. 152-13** -- Awarded a contract to the lowest responsive/responsible bidder, NMI Industrial Holdings, Inc., in the amount of \$484,664 for the construction of the Sobrante and Upper San Leandro Water Treatment Plants Flocculator Rehabilitation under Specification 2080.
  - Item 3 was removed by Director Coleman to ask questions of staff.
  - Motion by Director Coleman, seconded by Director Foulkes, to approve the recommended action for Item 3, carried (6-0) by voice vote. Director Frank Mellon was absent (excused).
4. **Motion No. 150-13** -- Authorized an amendment to the agreement with the City of Albany in an amount not to exceed \$17,127 beyond the original authorization of \$93,600 for additional work associated with the installation of approximately 2,200 feet of 8-inch PVC recycled water pipeline along Buchanan Street and Marin Avenue.
5. **Motion No. 151-13** -- Authorized an agreement with Pacific Gas and Electric Company in an amount not to exceed \$70,000 annually for a cooperative weather modification program in the Mokelumne River watershed during the period beginning November 1, 2013 to October 31, 2014, with four options to renew for an additional one year period, for a total estimated cost of \$350,000.

#### **DETERMINATION AND DISCUSSION**

##### **6. Legislative Update.**

Special Assistant to the General Manager Marlaigne K. Dumaine reported that the first year of the 2013-2014 state legislative session concluded on September 12. The deadline for Governor Brown to act on all bills that passed through of the legislature was October 13, and 800 out of the 896 bills were signed. She provided highlights of the EBMUD sponsored bill AB 408 (Bonta) which amends the Municipal Utility District Act to allow the boards of municipal utility districts to appoint uncontested candidates in lieu of holding an election. She pointed out that this measure, which was chaptered in August 2013, will save EBMUD and its ratepayers the cost of elections for uncontested candidates when the appointment process is used.

Next, Ms. Dumaine provided status updates on EBMUD sponsored bills. She reported that EBMUD sought amendments to AB 145 (Perea) which would transfer the regulation and oversight of drinking water, and administration of the Safe Drinking Water State Revolving Fund, from the Department of Health to the State Resources Control Board. She noted that the amendments were not accepted by the author and said staff anticipates they will be handled administratively. Ms. Dumaine also reported on SB 727 (Jackson) relating to statewide pharmaceutical stewardship programs and SB 750 (Wolk) relating to sub metering multi-unit structures. These measures will continue into the 2014 legislative session.

Ms. Dumaine reported that the federal government is back to work but that negotiations on the debt ceiling will continue. She reported that hearings are ongoing regarding the Water Resources Development Act. Director Patterson requested that staff investigate the feasibility of obtaining a link to the Senate Water Committee hearings that were broadcasted in July. Ms. Dumaine said staff will research this and report back to the Board.

**7. Remarketing of Series 2009A-1 and 2009A-2 Water System Bonds.**

Finance/Administration Committee Chair John A. Coleman reported that this item was discussed earlier in the Committee and was unanimously recommended for approval. Staff recommended: 1) Approve the execution of remarketing agreements and related supporting documents for the outstanding \$41.04 million Water Series 2009A-1 Bonds and \$41.035 million Water Series 2009A-2 Bonds; 2) Approve the appointment of Morgan Stanley & Co. LLC and Barclays Capital Inc. as remarketing agents for the Water Series 2009A-1 Bonds, and E.J. De La Rosa & Co., Inc. and RBC Capital Markets, LLC as remarketing agents for the Water Series 2009A-2 Bonds; and 3) Approve the form of the preliminary reoffering circular related to the remarketing of the Water Series 2009A-1 and 2009A-2 Bonds.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Item 7 carried (6-0) by voice vote. Director Frank Mellon was absent (excused).

**Resolution No. 33947-13** -- Approve the Form And Authorize The Execution Of Remarketing Agreements In Connection With The District's Water System Revenue Refunding Bonds, Series 2009A-1 And Series 2009A-2; Authorize The Delivery Of A Preliminary Reoffering Circular And The Execution And Delivery Of A Final Reoffering Circular; And Authorize And Ratify Certain Related Actions.

**8. Replacement/Amendment of Liquidity Facilities.**

Finance/Administration Committee Chair John A. Coleman reported that this item was discussed earlier in the Committee and was unanimously recommended for approval. Staff recommended: 1) Authorize the execution of replacement liquidity facilities and related fee letter agreements for the Water Series 2008A-4, Water Series 2008B-3 and Wastewater Series 2008C Bonds, and extend the term of, and amend the commitment fee for the existing liquidity facility for the Water Series 2008A-1 Bonds; 2) Approve the forms of the remarketing memoranda related to the remarketing of the Water Series 2008A-4, Water Series 2008B-3 and Wastewater Series 2008C Bonds in connection with the delivery of the new liquidity facilities; and 3) Authorize the transfer of remarketing agent assignment for the Water 2008A-4 Bonds from Bank of America/ Merrill Lynch to Wells Fargo Bank, National Association (Wells Fargo) and approve the documents to execute the transfer.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Item 8, carried (6-0) by voice vote. Director Frank Mellon was absent (excused).

**Resolution No. 33948-13** -- Authorize The Execution And Delivery Of Certain Amendments To The Standby Bond Purchase Agreement And Certain Other Documents Relating To The District's Water System Revenue Refunding Bonds, Series 2008A-1; Authorize The Execution And Delivery Of Standby Bond Purchase Agreements And Certain Other Documents Relating To The District's Water System Revenue Refunding Bonds, Series 2008A-4 And Water System Revenue Refunding Bonds, Series 2008B-3; Authorize The Execution And Delivery Of A Remarketing Memorandum In Connection With The Remarketing Of Such Series 2008A-4 And Series 2008B-3 Bonds; And Approve Certain Other Actions Related Thereto.

**Resolution No. 33949-13** -- Authorize The Execution And Delivery Of A Standby Bond Purchase Agreement And Certain Other Documents Relating To The District's Wastewater System Revenue Refunding Bonds, Series 2008C; Authorize The Execution And Delivery Of A Remarketing Memorandum In Connection With The Remarketing Of Such Bonds; And Approve Certain Other Actions Related Thereto.

9. **General Manager's Report.**

Environmental Affairs Officer Douglas I. Wallace provided a status update on the ongoing efforts of various entities to craft a comprehensive water plan for the state intended to be used by Governor Brown as he prepares his own plan. He reported that Association of California Water Agencies (ACWA) initiated discussion with upstream diverter members, including EBMUD, to address their concerns with potential impacts from the Bay Delta Conservation Plan (BDCP) and their needs as the BDCP progressed. These discussion resulted in the development of the Statewide Water Action Plan (SWAP) document and that ACWA Board of Directors transmitted the SWAP to Governor Brown on October 2. Mr. Wallace said that ACWA requested that letters of support from its members for the SWAP be provided. He noted that the District's letter expresses strong support and commitment to the process, but qualified support for the SWAP document and points out that EBMUD has taken no position on the water bond and is still evaluating the BDCP.

- Motion by Director Coleman, seconded by Director Foulkes, to approve the District's letter to ACWA on the SWAP, carried (6-0) by voice vote. Director Mellon was absent (excused).

**Motion No. 153-13** -- Authorized a letter to ACWA expressing strong support for and commitment to the State Water Action Plan (SWAP) process but qualified support for the SWAP document.

**REPORTS AND DIRECTOR COMMENTS:**

10. **Committee Reports.**

Filed with the Board were the Minutes of the October 8, 2013 Planning and the Legislative/Human Resources Committees.

11. **Director Comments.**

Director Coleman reported attending/participating in the following events: San Ramon Valley Exchange Club as speaker for EBMUD on October 9 in Danville; Freeport Regional Water

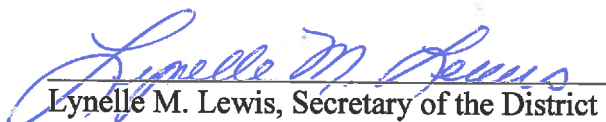
Authority Board teleconference meeting on October 10; ACWA "Best of Blue Judging" teleconference call on October 14; ACWA Executive Committee teleconference meeting on October 14; Breakfast meeting with Adam Hodess of the Plumbers Union on October 17 in Walnut Creek; and an ACWA Executive Committee teleconference meeting on October 21. He reported on plans to attend/participate in the following upcoming events: ACWA Executive Committee teleconference meeting on October 28; DERWA Board meeting on October 28 in Dublin; ACWA/JPIA Executive Committee video conference meeting on October 29; ACWA Region 9 meeting on October 30 in Perris, California; ACWA Executive Committee teleconference meeting on November 4; and ACWA Regions 5 and 8 meetings on November 5.

- Director Foulkes reported attending the Freeport Regional Water Authority Board teleconference on October 10.
- Director Linney had no comment.
- Director McIntosh had no comment.
- Director Mellon had no comment.
- Director Patterson had no comment.
- President Katz had no comment

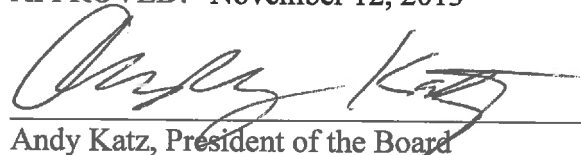
### **ADJOURNMENT**

President Katz adjourned the meeting at 1:51 p.m.

SUBMITTED BY:

  
Lynelle M. Lewis, Secretary of the District

APPROVED: November 12, 2013

  
Andy Katz, President of the Board