

## **MINUTES**

**Tuesday, September 24, 2013**

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

### **Regular Closed Session Meeting**

President Andy Katz called to order the Regular Closed Session Meeting of the Board of Directors at 11:07 a.m. in the Administration Center Board Room.

### **ROLL CALL**

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Andy Katz were present at roll call.

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Customer Services Manager Andrew L. Lee (Item 1a), Attorney Derek McDonald (Item 1a), Director of Finance Eric L. Sandler (Item 2), Director of Administration Carol Y. Nishita (Item 2), Manager of Human Resources Delores A. Turner (Item 2), Manager of Employee Relations Michael K. Rich (Item 2), Manager of Employee Services Lisa A. Sorani (Item 2), Attorney Lourdes Matthew (Item 2), and I.E.D.A. Representative Glenn Berkheimer (Item 2).

### **PUBLIC COMMENT**

The following persons addressed the Board: 1) Jae Park, representing AFSCME Local 2019, gave a brief presentation on the components of wages (Consumer Price Index [CPI] plus, floor, and ceiling) along with historical trends of wages, and he requested that the Board direct management to raise the ceiling to historical values; 2) Eric Fieberling, representing AFSCME Local 2019, commented that management must offer a meaningful wage increase that includes CPI; and 3) Antonio Martinez, President, IFTPE Local 21, commented on the status of negotiations and said that a proposal should include a decent health care benefit and a wage increase that includes CPI.

### **Regular Business Meeting**

President Andy Katz called to order the Regular Business Meeting of the Board of Directors at 1:20 p.m. in the Administration Center Board Room.

### **ROLL CALL**

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Andy Katz were present at roll call.

## **BOARD OF DIRECTORS**

President Katz led the Pledge of Allegiance.

## **PRESENTATION**

General Manager Alexander R. Coate announced that today marks the District's 4<sup>th</sup> Annual WaterSmart Business Certification event. He said that the purpose of the WaterSmart Certification Program is to help business customers identify and implement water-efficient measures. Mr. Coate introduced the following 2013 awardees: 1) Alameda County Environmental Health Department installed water-saving fixtures and devices at its own facilities and converted from lawn to drought-resistant landscaping; 2) Berkeley Mincar installed water-efficient aerators and toilets and uses water-free, non-toxic methods for cleaning their shop; 3) Blackhawk Master Association installed water-efficient irrigation technologies throughout their properties and replaced roadside lawns with drought-tolerant plants, saving over 19 million gallons of water per year; 4) Captain Vineyards who greatly reduced the amount of water needed through the innovative use of "dry-farming" methods qualifying them for re-certification; 5) Castro Valley Sanitary District converted to drought-tolerant landscaping and installed smart irrigation controllers qualifying them for a third re-certification; 6) Contra Costa Jewish Day School, Temple Issah implemented a number of ambitious water-saving initiatives decreasing its water use by 1 million gallons per year in 2011 and 2012; 7) Hollis Street Investors, LLC undertook a number of WaterSmart measures including the replacement of older toilets and urinal fixtures and installation of aerators on all of its faucets and received awards for two properties located in Emeryville; 8) West County Wastewater District Facility Plant implemented a number of indoor and landscape initiatives causing their water use to decline from almost 3,000 gallons per day in 2002 to a yearly average of 511 gallons per day over the past two years; and 9) Wind River Systems, Inc. reduced its water use to an average of six gallons per employee per day through indoor and outdoor conservation efforts. Two other businesses, Clif Bar and USE Credit Union, were unable to attend. Board President Katz presented awards and the Board congratulated all of the 2013 winners.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

## **PUBLIC COMMENT**

The following persons addressed the Board: 1) Gregory Tarbert, Hayward resident, commented on a dispute with EBMUD regarding the installation of a service lateral on his property; 2) Mark Foley, President, AFSCME Local 2019, commented that the recruitment for the Senior Administrative Clerk position should be kept in-house and commented that data was inaccurately presented in the September 12, 2013 memorandum to the Board on internal promotions; and 3) Rosa Merced, representing AFSCME Local 2019, commented that the information memo provided to the Board on September 12, 2013 reflected skewed statistics on internal promotional hires.

**CONSENT CALENDAR**

- Item 6 was removed from the Consent Calendar for discussion.
  - Motion by Director McIntosh, seconded by Director Mellon, to approve Items 1-5 and 7-8 on the Consent Calendar, carried (7-0) by voice vote.
1. **Motion No. 135-13** -- Approved the Regular Meeting Minutes of September 10, 2013.
  2. The following correspondence was filed with the Board: 1) Presentation entitled "CPI – Floor and Ceiling" along with speaking notes presented by Jae Park; 2) Speaking notes presented by Gregory Tarbert, dated September 24, 2013; 3) Memorandum dated September 24, 2013 to Board of Directors from Bennett K. Horenstein, Director of Wastewater, regarding EBMUD Pharmaceutical Take-Back Program and the Alameda County Safe Drug Disposal Ordinance Nexus; 4) Memorandum dated September 24, 2013 to Board of Directors from Alexander R. Coate, General Manager, regarding San Francisco Bay Gala Event – Thursday, October 3, 2013; 5) Presentation, entitled "Work in the Streets," dated September 24, 2013; and 6) Presentation, entitled "Variable and Fixed Rate Refundings and Remarketing Agent Replacement," dated September 24, 2013.
  3. **Motion No. 136-13** -- Awarded a contract to the lowest responsive/responsible bidder Monterey Mechanical Co., in the amount of \$539,992 for construction of Bryant No. 2 Pumping Plant Electrical Rehabilitation under Specification 2072.
  4. **Motion No. 137-13** -- Authorized an agreement with Jaspersoft Corporation in an amount not to exceed \$89,500 for software subscription renewal which provides licensing and technical support for Jasper Server which includes Jasper Reports and Jasper Analysis software during the five-year period October 13, 2013 to October 12, 2018.
  5. **Motion No. 138-13** -- Authorized agreements with A1 Truck Driving School and Western Pacific Truck School in an aggregate amount not to exceed \$41,000 annually for Commercial Driver License Training at the Pipeline Training Academy during the period of October 1, 2013 to October 1, 2014, with four options to renew for an additional one-year period for a total cost of \$205,000.
  6. **Motion No. 140-13** -- Authorized the General Manager to enter into a Memorandum of Agreement with San Joaquin County Flood Control and Water Conservation District to develop a groundwater banking demonstration project.
- Item 6 was pulled by President Katz to allow comments. General Manager Coate introduced San Joaquin County Director of Public Works Tom Gau and Water Resources Coordinator Brandon Nakagawa. He thanked them for their work in getting local support for the project.
  - Motion by Director Coleman, seconded by Director Foulkes, to approve the recommended action on Item 6, carried (7-0) by voice vote.

7. **Motion No. 139-13** -- Authorized the Office of General Counsel to continue the employment of the law firm of Best, Best & Krieger LLP in an additional amount not to exceed \$75,000 for specialized legal services related to federal water law, rates, charges, taxes, liens, and litigation involving such matters.
8. **Resolution No. 33941-13** -- Adopting Revised Policy 4.01, Employee Earnings And Payroll Determination; Policy 4.12, Purchasing And Materials Management; Policy 4.15, Reimbursement Of Employee Expenses; Policy 4.19, Travel; Policy 4.24, Internal Audit; And Policy 7.03, Emergency Preparedness/Business Continuity.

### **DETERMINATION AND DISCUSSION**

#### 9. **Legislative Update.**

Special Assistant to the General Manager Marlaigine K. Dumaine reported on a proposed amendment, S. Amendment 1913 (Paul), which would repeal the national plumbing efficiency product standards by eliminating maximum water flow standards for faucets, shower heads, toilets, and urinals and eliminating the current testing and labeling requirements for these fixtures. Ms. Dumaine pointed out that this measure would undermine state water conservation laws and regulations, including those governing the sale and use of water efficient plumbing fixtures. She noted that EBMUD has historically opposed similar measures to repeal the national plumbing efficiency product standards.

- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended position in Legislative Report No. 09-13, carried (7-0) by voice vote.

**Motion No. 141-13** -- Received Legislative Report No. 09-13 and approved the recommended position on the following bill: OPPOSE S. Amendment 1913 (Paul) Amendment to Repeal National Plumbing Efficiency Product Standards.

Next, Ms. Dumaine reported that staff will be presenting a summary report on all bills signed into law at an upcoming meeting of the Board.

#### 10. **Authorize and Approve EBMUD Water and Wastewater Financings For Variable and Fixed Rate Bonds.**

Finance/Administration Committee Chair John A. Coleman reported that the Committee voted unanimously to recommend approval of this item.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Item 10, carried (7-0) by voice vote.

Director Mellon requested that Internal Audit provide the Board with a report on the actual cost of refinancing in relation to the actual dollar savings to the District. General Manager Coate said he would have Internal Audit re-prioritize its schedule to accommodate this request.

**Resolution No. 33942-13** -- Authorize And Approve The Issuance And Sale From Time To Time Of One Or More Series Of Water System Revenue Refunding Bonds In Connection With The Potential Refunding Of Outstanding Variable Rate Bonds; Approve The Form Of, And Authorize, Certain Documents In Connection With The Issuance, Securing And Sale Of Such Bonds; And Approve Certain Actions Relating Thereto.

**Resolution No. 33943-13** -- Authorize And Approve The Issuance And Sale From Time To Time Of One Or More Series Of Wastewater System Revenue Refunding Bonds In Connection With The Potential Refunding Of Outstanding Variable Rate Bonds; Approve The Form Of, And Authorize, Certain Documents In Connection With The Issuance, Securing And Sale Of Such Bonds; And Approve Certain Actions Relating Thereto.

**Resolution No. 33944-13** -- Authorize And Approve The Issuance And Sale From Time To Time Of One Or More Series Of Water System Revenue Refunding Bonds In Connection With The Potential Refunding Of Outstanding Fixed Rate Bonds; Approve The Form Of, And Authorize, Certain Documents In Connection With The Issuance, Securing And Sale Of Such Bonds; And Approve Certain Actions Relating Thereto.

**Resolution No. 33945-13** -- Authorize And Approve The Issuance And Sale From Time To Time Of One Or More Series Of Wastewater System Revenue Refunding Bonds In Connection With The Potential Refunding Of Outstanding Fixed Rate Bonds; Approve The Form Of, And Authorize, Certain Documents In Connection With The Issuance, Securing And Sale Of Such Bonds; And Approve Certain Actions Relating Thereto.

11. **Replace Royal Bank of Canada and Barclays Bank as Remarketing Agents For The Water Series 2008A-1, 1008A-2 and 2008A-3 Bonds.**

Finance/Administration Committee Chair John A. Coleman reported that the Committee voted unanimously to recommend approval of this item.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Item 11, carried (7-0) by voice vote.

**Resolution No. 33946-13** -- Authorize The Execution And Delivery Of A First Amendment To The Thirteenth Supplemental Indenture And Two Or More Remarketing Agreements In Connection With The Water System Revenue Refunding Bonds, Series 2008A-1, Series 2008A-2 And Series 2008A-And Certain Other Actions Related Thereto And Authorize The Officers Of The District To Do All Other Things Deemed Necessary Or Advisable.

12. **General Manager's Report.**

Manager of Distribution Maintenance and Construction Leann M. Gustafson presented an update on the District's process to respond to and repair leaks. She reported that the District experiences an estimated 3,000 leaks per year that require excavation and repair. Most repairs are completed by the crew within six hours, at an average cost of \$7,250 compared to pipe replacement projects that cost \$2 million per mile. Ms. Gustafson also reported that recently

the District has made several improvements to repair and notification processes to mitigate customer impacts. The Board requested a copy of USA marking cards used to identify utility markings. Next, General Manager Coate noted that staff provided a memorandum on the Pharmaceutical Take Back Program and reminded the Board of the upcoming Pardee Barbeque event scheduled for October 4.

## **REPORTS AND DIRECTOR COMMENTS**

### **13. Committee Reports.**

- Filed with the Board were the Minutes of the September 10, 2013 Planning Committee.

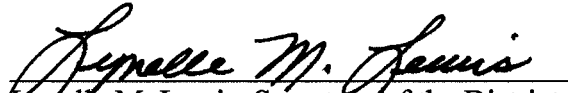
### **14. Director Comments.**

- Director Coleman reported attending/participating in the following events: Jobs Housing Legacy Event on September 12 in Oakland; ACWA statewide action plan meeting on September 13 at the Department of Water Resources office in Sacramento; ACWA Executive Committee teleconference meeting on September 16 in Oakland; ACWA Nomination Committee meeting on September 18 in Sacramento; ACWA JPIA Executive Committee teleconference meeting on September 19 in Oakland; EBMUD booth participant at the Lafayette Art & Wine Festival on September 21; and ACWA Executive Committee teleconference meeting on September 23 in Oakland. He reported on plans to attend/participate in the following upcoming events: ACWA tours of EBMUD facilities on September 26 in Oakland and in San Pablo; ACWA JPIA Executive Committee and Board meetings on September 27 in Oakland; ACWA JPIA Executive Committee teleconference meeting on September 30 in Carmel; CMAA Breakfast for San Francisco Public Utility Commission on October 3 in San Francisco; San Francisco Bay Gala on October 3 in San Francisco; Upper Mokelumne River Water Authority Board meeting and the Pardee BBQ on October 4; and the ACWA JPIA Executive Committee teleconference meeting on October 7.
- Director Foulkes reported participating on the ACWA Region 5 Board teleconference meeting on September 17 and attending the ACWA Region 5 conference on September 22 and 23 in Carmel.
- Director Linney had no comment.
- Director McIntosh had no comment.
- Director Mellon reported participating in the Castro Valley Fall Festival on September 14 and 15 and he thanked staff for its assistance. He also reported attending the EBMUD Retirement Board meeting on September 19 in Oakland.
- Director Patterson reported attending the Congressional Black Caucus Legislative Foundation Conference from September 18-21 in Washington, D.C.
- President Katz had no comment.


**ADJOURNMENT**

President Katz adjourned the meeting at 2:34 p.m.

SUBMITTED BY:

  
Lynelle M. Lewis, Secretary of the District

APPROVED: October 8, 2013

  
Andy Katz, President of the Board

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