

## **MINUTES**

**Tuesday, September 10, 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 11:04 a.m. in the Administration Center Board Room.

### **ROLL CALL**

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon, and President Andy Katz were present at roll call. Director William B. Patterson arrived at 11:10 a.m.

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Attorney Xanthe Berry (Item 1a), Director of Engineering and Construction Xavier J. Irias (Item 1a), Attorney Jonathan D. Salmon (Item 1b), Director of Wastewater Bennett K. Horenstein (Item 1b), 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), and I.E.D.A. Representative Glenn Berkheimer (Item 2).

### **PUBLIC COMMENT**

The following persons addressed the Board: 1) Felicia Collier, resident of Oakland, asked the Board to review documents pertaining to her termination of employment; 2) Kenneth Gerstman, representing AFSCME Local 2019, commented that the union is disappointed with contract negotiations and urged the Board to direct the negotiating team to rethink the health care proposal and authority issues; 3) Antonio Martinez, President, IFTPE Local 21, commented that the Board should break ties with the current negotiators and said the union is opposed to the health care and holiday take away proposals; 4) Eric Larsen, representing AFSCME Local 444, commented that the new contract should offer a cost of living benefit and pointed out that employee commitment has helped the District meet or exceed its key performance indicators over the past year; 5) John M. Briceno, President, AFSCME Local 444, urged the Board to direct negotiators to offer a fair and equitable contract; 6) Cheryl Franklin, Chief Steward, AFSCME Local 444, said that the current proposal is an attempt to strip employees of their current benefits and she urged the Board to send negotiators back to the table; 7) M. Rosa Merced, representing AFSCME Local 2019, commented that promotional opportunities are non-existent and said that internal recruitment efforts must be improved; 8) Gerald Hunter, 1<sup>st</sup> Vice-President AFSCME Local 444, urged the Board to send a message to the negotiators to offer a fair and equitable contract; and 9) Jay Morgan, representing AFSCME Local 2019, asked the Board to have negotiators respond to the union's on equity adjustment proposals.

### **Regular Business Meeting**

President Andy Katz called to order the Regular Business Meeting of the Board of Directors at 1:30 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 Coate announced that the District received the 2012 Outstanding Small Project Award from the American Society of Civil Engineers (Region 9) for the Mokelumne Watershed Headquarters Replacement Project. The project team from the Engineering and Construction and Water and Natural Resources Departments were recognized for their contribution to developing a sustainable building.

On behalf of the Board, Director Coleman presented the award to the following team members who contributed to the success of the project: Director of Engineering and Construction Xavier J. Irias, Director of Water and Natural Resources Richard G. Sykes, Engineering Manager Elizabeth Z. Bialek, Senior Civil Engineer Dean A. DiGiovanni, Associate Civil Engineer Bill Jeng, Associate Architect Agnes Y. Wan, Manager of Mokelumne Watershed and Recreation Division Kent W. Lambert, Ranger Supervisor Christopher R. Swann, and Contractor Jeff Luchetti (not present). The Board and staff congratulated the team for its outstanding achievement.

### **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

### **PUBLIC COMMENT**

The following persons addressed the Board: 1) Felicia Collier, resident of Oakland, asked the Board to review documents pertaining to her termination of employment; 2) Sara Cleveland, retired employee, commented that her retirement base pay was impacted by the wage freeze and said that EBMUD can afford to offer a fair contract; 3) Eric West, representing AFSCME Local 2019, commented that the wage freeze helped EBMUD through its financial challenges but the hiring freeze caused employees to do more work with less pay; and he urged the District to make a decent offer; 4) M. Rosa Merced, representing AFSCME Local 2019, commented on the lack of internal promotions and the need for career development; 5) Mark Foley, President, AFSCME Local 2019, commented that the latest contract offer is an insult to employees who have taken a wage freeze

and he urged the Board to take control of negotiations; 6) Cheryl Franklin, Chief Steward, AFSCME Local 444, commented that the wage freeze helped stabilized EBMUD during lean years and said that retroactive pay, holidays, and affordable health care should be part of the new contract; 7) Kenneth Gerstman, representing AFSCME Local 2019, commented that contract issues regarding wages, health care, and retirement need to be settled soon; 8) Brian Mulhern, representing AFSCME Local 2019, commented that the union is frustrated with contract negotiations while employees must continue to provide good customer service for the District; and 9) Vinella Garcia, representing AFSCME Local 2019, commented that internal promotional opportunities are not available.

### **CONSENT CALENDAR**

- Motion by Director Coleman, seconded by Director Patterson, to approve Items 1-11 on the Consent Calendar, carried (7-0) by voice vote.
1. **Motion No. 125-13** -- Approved the Regular Meeting Minutes of August 13, 2013.
  2. The following correspondence was filed with the Board: 1) Proof of Publication, Oakland Tribune, Legal No. 0004927638, regarding Summary of East Bay Municipal Utility District Ordinance No. 358-13 Entitled “An Ordinance Amending Ordinance No. 355-11, Establishing Regulations for the Interception, Treatment, and Disposal of Wastewater and Industrial Wastes and the Control of Wastewater, Requiring Charges to be Made Therefor, and Fixing Penalties for the Violation of Said Regulations,” published July 31 and August 7, 2013; 2) Proof of Publication, Oakland Tribune, Legal No. 0004945649, regarding Summary of East Bay Municipal Utility District Ordinance No. 359-13 Entitled “An Ordinance Establishing Regulations for Private Sewer Laterals and Authorizing Charges to be Made Therefor,” published July 31 and August 7, 2013; 3) Proof of Publication, Oakland Tribune, Legal No. 0004945691, regarding Summary of East Bay Municipal Utility District Ordinance No. 360-13, “An Ordinance Amending Subsections 2(dd), 11(b), and 36(j)(3) of Ordinance No. 40, Which is the Employees’ Retirement System Ordinance,” published August 20 and 27, 2013; and 4) Slide presentation entitled “Proposed Financings for FY14,” dated September 10, 2013.
  3. **Motion No. 126-13** -- Authorized an amendment to the contract with Jim Myers & Sons, Inc., in the amount of \$115,540, for a new not to exceed amount of \$1,070,217, to provide upgraded stainless steel cast bearings with the previously authorized replacement horizontal flocculator equipment for Upper San Leandro Water Treatment Plant and Sobrante Water Treatment Plant awarded under Proposal 1402.
  4. **Motion No. 127-13** -- Awarded a contract to the lowest responsive/responsible bidder Aramark Uniform Services, a division of Aramark Uniform and Career Apparel, LLC, in the estimated annual amount of \$74,460.96 for rental and laundry service of garments and for miscellaneous items used throughout the District for the period beginning September 10, 2013, and ending September 9, 2016, with two options to renew for an additional one-year period for a total estimated cost of \$372,304.80 under Proposal No. 1403.
  5. **Motion No. 128-13** -- Awarded a contract to the lowest responsive/responsible bidder,

Aramark Uniform Services, a division of Aramark Uniform & Career Apparel, LLC, in the estimated annual amount of \$20,989.76 for supplying rental and laundry service of flame resistant garments used throughout the District during the period of September 10, 2013 through September 9, 2016, with two options to extend the contract for an additional one-year period, for a total estimated amount of \$104,948.80 under Proposal No. 1405.

6. **Motion No. 129-13** -- Approved the assignment of the contract for the Interceptor Cleaning Phase 2B Services, previously awarded under Board Motion No. 078-12, from Proven Management, Inc. to Pipe and Plant Solutions, Inc.
7. **Motion No. 130-13** -- Authorized the General Manager to enter into a wheeling agreement with Contra Costa Water District (CCWD) to facilitate the delivery of 2,000 acre-feet of water from the Woodbridge Irrigation District to CCWD.
8. **Resolution No. 33940-13** -- Supporting Yuba County Water Agency's Change Petition To Add The Freeport Project Intake As A Point Of Rediversion.
9. **Motion No. 131-13** -- Authorized the Office of General Counsel to continue the employment of the law firm of Foster Employment Law in an additional amount not to exceed \$80,000 for specialized legal services related to labor and employment law and litigation matters.
10. **Motion No. 132-13** -- Authorized the Office of General Counsel to continue the employment of the law office of Ginn & Crosby, LLP, in an additional amount not to exceed \$140,000 for specialized legal services related to construction, contract, claims and litigation matters.
11. **Motion No. 133-13** -- Authorized the Office of General Counsel to continue the employment of the law office of Hanson Bridgett, LLP, in an additional amount not to exceed \$600,000 for specialized legal services related to construction, contract, claims and litigation matters.

#### **DETERMINATION AND DISCUSSION**

12. **Legislative Update.**

Special Assistant to the General Manager Marlaigne K. Dumaine reported that the state has identified funding for a proposal that would move prisoners from state to county facilities. Property tax revenues from special enterprise districts are no longer being considered for this proposal, but Ms. Dumaine said that she would keep the Board apprised of any new developments. Next, she reported that the water bond measure will be placed on the November 2014 ballot and that AB 145 (Perea) related to transfer of various duties to the State Water Resources Control Board been amended. Ms. Dumaine said staff will keep the Board apprised on legislative matters as more information becomes available.

**13. Approve the Proposed Financing Schedule for Fiscal Year 2014.**

Director of Finance Eric L. Sandler presented an overview of proposed financings for Fiscal Year 2014. He reported that over the next several months, the District will be undertaking a significant number of debt-related transactions. The proposed financings fall into the following three basic categories:

- **Market Opportunities**—Changes in the interest rate markets may afford the District a number of opportunities to achieve debt service savings and/or reduce certain risks of the portfolio.
- **Administration of Existing Debt Portfolio**—The District’s debt portfolio requires periodic refinancing/remarketing transactions, and renewal or replacement of existing liquidity facilities.
- **New Money Needs**—The District finances its capital plan through a combination of cash and the issuance of debt. Periodically the District enters the debt markets to raise funds for “new money” capital needs.

Next, he highlighted the schedule of the financing transactions that are proposed for FY14. These actions will come to the Board for consideration over the next 6-8 months. The Board raised no questions.

- Motion by Director Foulkes, seconded by Director Mellon, to approve the recommended action in Item 13, carried (7-0) by voice vote.

**Motion No. 134-13 --** Approved the proposed financing schedule for Fiscal Year 2014.

**14. General Manager’s Report.**

General Manager Coate noted that the August 2013 Monthly Report was included in the Board’s packet.

**REPORTS AND DIRECTOR COMMENTS**

**15. Committee Reports.**

- Filed with the Board were the Minutes of the August 13, 2013 Planning Committee.

**16. Director Comments.**

- Director Coleman reported attending/participating in the following events: ACWA Regulatory Summit on August 14 in Oxnard, CA; ACWA Executive Committee meeting on August 16 in Sacramento; ACWA Executive Committee teleconference meeting on August 16 in Oakland; Cal Shakes event on August 20 in Orinda; meeting with Luc Aribaud and touring the water and wastewater treatment plants on August 29 in Cannes, France; ACWA Executive Committee teleconference meeting on September 9 in Oakland; Mt. Diablo

Silverado-Boy Scouts Executive Committee meeting on September 9 in Pleasant Hill; and UMRWA Executive Committee teleconference meeting on September 10. He reported on plans to attend/participate in the following upcoming events: ACWA State Water Action Plan meeting on September 13 in Sacramento; ACWA Nominations Committee interview on September 18 in Sacramento; ACWA JPIA Executive Committee teleconference meeting on September 19 in Oakland; the Lafayette Art & Wine Festival on September 21; and ACWA Executive Committee teleconference meeting on September 23 in Oakland.

- Director Foulkes had no comment.
- Director Linney had no comment.
- Director McIntosh had no comment.
- Director Mellon reported attending the Cal Shakes event on August 20 in Orinda; Guiding Eyes Charity event on August 23; the Castro Valley Sports Foundation fundraiser on August 26; and the Christian Church Homes fundraiser dinner on September 6.
- Director Patterson had no comment.
- President Katz had no comment.

### **ADJOURNMENT**

President Katz adjourned the meeting at 2:22 p.m.

SUBMITTED BY:

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Lynelle M. Lewis, Secretary of the District

APPROVED: September 24, 2013

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Andy Katz, President of the Board