

## MINUTES

Tuesday, May 10, 2016

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

### Regular Closed Session Meeting

President Frank Mellon called to order the Regular Closed Session Meeting of the Board of Directors at 11:45 a.m. in the Administration Center Board Room.

### ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Water and Natural Resources Richard G. Sykes (Item 1), Director of Wastewater Bennett K. Horenstein (Item 1), Assistant General Counsel Frederick S. Etheridge (Item 1), Attorney Jonathan D. Salmon (Item 1), and Attorney Saji T. Pierce (Item 1).

### PUBLIC COMMENT

- Addressing the Board was Antonio Martinez, President, IFPTE Local 21, who commented that the District needs to improve its messaging to customers about upcoming rate increases despite achievements in conservation. The message should inform customers that the rates will support many system improvements and should highlight the benefits of the various programs and projects (i.e. more robust system, reliable water supply, etc.). He said this information was missing from the staff presentations at the morning's Water Conservation Workshop.

### ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Frank Mellon announced the closed session agenda. The Board convened to Conference Room 8a/b for discussion.

### Regular Business Meeting

President Mellon called to order the Regular Business Meeting of the Board of Directors at 1:24 p.m. in the Administration Center Board Room.

### ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, and Secretary of the District Lynelle M. Lewis.

## **BOARD OF DIRECTORS**

President Mellon led the Pledge of Allegiance.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board were the following persons: 1) Mike Vukelich, customer, commented that the District's water meter charge is too low and should be increased to \$40 a month; 2) Alesia Stauch, volunteer for the Parks and Recreation Department in Danville, asked the Board to reconsider water restrictions for recreational spray parks because they provide a valuable recreational activity for families in the community; and 3) John Wilson commented on the Water Conservation Workshop presentation about data loggers and leak detection (Slide #32). [In response to Ms. Stauch's comments, the Board suggested that staff provide her with contact information for local, state and federal legislators to discuss water regulations for water spray parks.]

## **CONSENT CALENDAR**

- Motion by Director McIntosh, seconded by Director Coleman, to approve the recommended actions for Items 1-8 on the Consent Calendar, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 079-16** – Approved the Regular Meeting Minutes of April 26, 2016.
  2. The following correspondence was filed with the Board: 1) Presentation entitled "Water Supply Availability & Deficiency Report" dated May 10, 2016; 2) Presentation entitled "FY17 Proposed Non-Prop 218 Rates, Charges & Regulations" dated May 10, 2016; 3) Presentation entitled "Suspend Drought Surcharge and Declare Stage 0 Drought" dated May 10, 2016; 4) Presentation entitled "Rescission of Drought Actions" dated May 10, 2016; 5) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Amador Ledger (R452), dated April 8, 2016; 6) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Contra Costa Times (Legal No. 0005701442), dated April 8, 2016; 7) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Oakland Tribune (Legal No. 0005701430), dated April 8, 2016; 8) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, The Sacramento Bee (No. 302), dated April 8, 2016; 9) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Calaveras Enterprise, dated April 12, 2016; 10) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Lodi News-Sentinel (No. 159661), dated April 12, 2016; 11) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water

Management Plan 2015, 2015 Contingency Plan, The Record (No. 0001065853), dated April 12, 2016; and 12) Memorandum dated May 10, 2016, to Board of Directors from Alison A. Kastama, Special Assistant to the General Manager, regarding Friends of the River Capital River Awards-Wednesday, May 18, 2016.

3. **Motion No. 080-16** – Awarded a contract to the lowest responsive/responsible bidder, SUEZ Treatment Solutions, Inc., in the total amount, after the addition of taxes, not to exceed \$5,500,000 for supplying six ozone generators, ozone gas destruct units, and ancillary equipment for Sobrante and Upper San Leandro Water Treatment Plants under Request for Quotation No. 1618.
4. **Motion No. 081-16** – Awarded a contract to the lowest responsive/responsible bidder, State Pipe and Supply, Inc. (DBA West Coast Pipe), in the estimated annual amount, after the addition of taxes, of \$1,015,245 for supplying steel pipe consisting of mortar-lined/mortar-coated and mortar-lined/plastic-coated pipe for the District's Oakport Distribution facility for two years, beginning on or after May 16, 2016, with three options to renew for an additional one-year period for a total cost of \$5,076,225 under Request for Quotation No. 1619.
5. **Motion No. 082-16** – Awarded a contract to the lowest responsive/responsible bidder, Give Something Back, Inc., in the estimated annual amount, after the addition of taxes, of \$73,455 for supplying recycled paper for printing the *Customer Pipeline* newsletter for the District's Print Shop for two years, beginning on or after May 16, 2016, with an option to renew for an additional one-year period for a total cost of \$220,365 under Request for Quotation No. 1621.
6. **Motion No. 083-16** – Awarded a contract to the lowest responsive/responsible bidder, Triple S Electric Co., in the amount of \$156,700 for construction of the Main Wastewater Treatment Plant Digester Lighting Project under Specification SD-378.
7. **Motion No. 084-16** – Authorized an amendment to the contract awarded to CH2M Hill Engineers, Inc. under Board Motion No. 048-15 dated April 14, 2015 to extend the term to December 30, 2016, and increase the value by \$165,000, for a total amount not to exceed \$290,000, to develop risk management strategies and implementation plans.
8. **Motion No. 085-16** – Approved the Water Supply Assessment requested by the City of Hayward for the Lincoln Landing Mixed-Use Development Project pursuant to California Water Code, Sections 10910-10915.

#### **PUBLIC HEARING**

9. **Public Hearing to Accept Comments on the Draft Urban Water Management Plan 2015 in Compliance with the Urban Water Management Planning Act of the California Water Code.**

President Mellon opened the public hearing at 1:37 p.m. There was no comment. President Mellon closed the public hearing at 1:37 p.m.

## **DETERMINATION AND DISCUSSION**

### **10. Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine reported that activity on federal water legislation should pick up this summer, and at the state level release of the Governor's revised budget is anticipated. Staff will keep the Board apprised on policy-related matters that arise.

### **11. File a Report and Set a Public Hearing for the Water and Wastewater System Schedule of Rates and Charges, and Other Fees Not Subject to Proposition 218, and Regulations for Fiscal Year 2017.**

Director of Finance Sophia D. Skoda presented an overview of the recommended actions for Item 11. For FY17, staff is proposing to update the fees and charges that are not subject to the requirements of Proposition 218. These include: Water System Account Establishment Charge, Charges for Special Services, System Capacity Charges, Standard Participation Charge and Water Mitigation Fees, Public Records Act Fee Schedule, Real Property Use Application Fees, along with Wastewater Capacity Fees. The proposed changes will be reviewed as a part of the Strategic Plan Update and Mid-cycle Budget workshop scheduled for May 24, 2016. Adoption of the FY17 proposed rates and charges and other fees and regulations is also scheduled for the Board's consideration at its meeting on June 14, 2016. Following a question from the Board regarding the basis for "additional demand," Ms. Skoda said that upcoming reports would provide a reference for the source of customer demand numbers (i.e. biennial budget).

- Motion by Director Patterson, seconded by Director Linney, to approve the recommended actions for Items 11.1 and 11.2, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

11.1. **Motion No. 086-16** – Filed the Report and Recommendation of the General Manager for Revisions to the Water and Wastewater System Schedule of Rates and Charges, and Other Fees Not Subject to Proposition 218, and Regulations for Fiscal Year 2017.

11.2. **Motion No. 087-16** – Set a Public Hearing for Tuesday, June 14, 2016, during the Board's regular meeting to consider the report and recommendation.

### **12. Consider Actions Relating to the District's Drought Stage and Drought Surcharge.**

- Addressing the Board was Heinrich Albert, representing the Sierra Club, who urged the Board to wait until after the State Water Resources Control Board's (SWRCB) decision on water use reduction requirements before considering easing the District's drought level.

Director of Finance Sophia D. Skoda reviewed the proposed recommended actions and alternatives. Staff recommended: 1) Declaring a Stage 0 drought, effective July 1, 2016, based on the "Total System Storage Scenario" contained in the District's Drought Management Program Guidelines; and 2) Suspending the Stage 4 drought surcharge for Fiscal Year 2017, effective June 30, 2016. These recommendations are due to an improved water supply outlook because of increased precipitation and snowpack levels.

There was discussion about use of the rate stabilization fund, drought recovery costs, and lessons learned. There was Board consensus to support the staff recommendations; however, Board members provided the following direction to staff: Use current customer water savings data to determine future demand projections; examine the rate stabilization fund to ensure it is appropriately sized; and review surcharge percentages and drought recovery costs based on experience. Ms. Skoda said that staff is preparing a lessons-learned document that will be shared with the Board).

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 12.1 and 12.2, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

12.1. **Motion No. 088-16** – Declared a Stage 0 drought, effective July 1, 2016, based on the Total System Storage Scenario contained in the District’s Drought Management Program Guidelines.

12.2. **Motion No. 089-16** – Suspended Stage 4 drought surcharge for Fiscal Year 2017, effective June 30, 2016.

13. **Consider Actions Relating to the District’s Water Shortage Emergency.**

Director of Water and Natural Resources Richard G. Sykes presented the following recommended actions: 1) Rescind District’s Water Shortage Emergency Declaration, effective June 30, 2016; 2) Rescind Section 28 of the EBMUD Regulations Governing Water Service to Customers, which established temporary water use prohibitions and restrictions, effective June 30, 2016; and 3) Rescind District-wide mandatory 20 percent water use reduction goal, effective June 30, 2016. Section 29 of EBMUD’s Regulations, “Prohibiting Wasteful Use of Water,” will remain in effect until the final conservation rules are issued by the SWRCB later in May and staff will return to the Board with recommendations. In response to the public comment about water spray parks, the Board requested that staff seek clarity from the SWRCB on water use guidelines for recirculating decorative water fountains versus water spray parks. There was discussion about how to encourage customers to continue to follow the prohibitions in Sections 28 and 29. The Board commended staff on their work to guide the District through this multi-year drought period.

- Motion by Director McIntosh, seconded by Director Young, to approve the recommended actions for Item 13 with the anticipation that there will be modifications to Section 29, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

**Resolution No. 34082-16** – Rescind The Water Shortage Emergency Within The District’s Service Area, Rescind Section 28, “Water Use During Water Shortage Emergency Condition,” And Rescind District-Wide Mandatory Twenty Percent Water Use Reduction Goal (effective June 30, 2016).

**14. General Manager's Report.**

General Manager Coate reported that staff provided the 2016 Critical Drought Action Plan Update for May and the Monthly Report for April 2016. Director Coleman asked for an update on succession planning for Board members in an emergency declaration, and General Counsel Spencer said an update will be provided at the May 24<sup>th</sup> meeting. Director Coleman suggested that EBMUD discontinue purchasing nylon bags, which contain micro/plastics, and switch to recycled bags which have less environmental impacts. General Manager Coate said he would relay this information to staff.

**REPORTS AND DIRECTOR COMMENTS**

**15. Committee Reports.**

- Filed with the Board were the Sustainability/Energy and Finance/Administration Committee Minutes of April 26, 2016.

**16. Other Items for Future Consideration.**

None.

**17. Director Comments.**

- Director Coleman reported attending/participating in the following events: Guest speaker for Boy Scout Troop 243 Eagle Court on April 30 in Lafayette; ACWA Spring Conference on May 4 in Monterey; meeting with San Joaquin County on water issues on May 4 in Monterey; Contra Costa County Mayors' Conference on May 5 in Pleasant Hill; and ACWA teleconference meeting on May 9 in Oakland. He reported on plans to attend/participate in the following upcoming events: East Bay Leadership Council Board of Directors meeting on May 10 in Moraga, and ACWA teleconference meeting on May 23 in Oakland.
- Director Katz had no comment.
- Director Linney had no comment.
- Director McIntosh had no comment.
- Director Patterson reported attending/participating in the following events: ACWA Spring Conference on May 4 in Monterey.
- Director Young reported attending the Upper Mokelumne River Water Authority meeting on April 22 and the Rose Foundation Wild and Scenic Film Festival on April 30 in Oakland. She reported on plans to attend/participate in the Friends of the River Capitol Awards on May 18 in Sacramento.
- President Mellon reported attending/participating in the following events: Chabot Dam Community meeting on April 28 in San Leandro; Danville High School Mountain Biking Club

meeting on April 28 in Danville; and the Town Hall meeting on May 9 in San Leandro. He commented that retiree Jake Dalton passed away this past week.

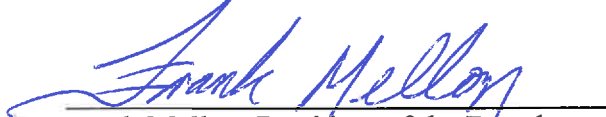
**ADJOURNMENT**

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

SUBMITTED BY:

  
Lynelle M. Lewis, Secretary of the District

APPROVED: May 24, 2016

  
Frank Mellon, President of the Board

