

## MINUTES

Tuesday, June 14, 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 11:01 a.m. in the Administration Center Board Room.

### ROLL CALL

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and President Frank Mellon were present at roll call. Director Andy Katz was absent at roll call but arrived in Conference Room 8a/b.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Attorney Jonathan D. Salmon (Item 1), and Manager of Wastewater Engineering Vincent P. De Lange (Item 1).

President Mellon called for a moment of silence in remembrance of the victims and families affected by the mass shooting on June 12 in Orlando, Florida.

### PUBLIC COMMENT

- Addressing the Board were the following persons: 1) John Briceno, President, AFSCME Local 444, commented that he would be providing the Board with information on contracting out for outside services that was discussed at the May 24, 2016 Regular Meeting, and 2) Mark Foley, President AFSCME Local 2019, commented that the BD-1 regarding the Mid-Cycle Position Resolution does not accurately reflect the union's opposition to the new Dispatch Center Representative (DCR) classification.

### 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 1:15 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) Richard E. Looker, Oakland resident, recounted his frustration with the handling of his claim by the Risk Management staff. He asked the Board to reconsider his request for reimbursement for damage to his toilet from sediment following pipeline work on his street performed by EBMUD crews. The Board referred Mr. Looker to staff for assistance and requested a summary of the resolution; and 2) Mark Foley, President ASFCME Local 2019, thanked the Board for the moment of silence for the Orlando mass shooting victims and asked that the meeting be closed in their memory.

## **CONSENT CALENDAR**

- Items 5 and 7 were removed from the Consent Calendar for discussion.
  - Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 1-4, 6, and 8-12 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. 103-16** – Approved the Special Meeting and Regular Meeting Minutes of May 24, 2016.
  2. The following correspondence was filed with the Board: 1) Presentation entitled “Public Hearing FY17 Proposed Non-Prop 218 Rates, Charges & Regulations,” dated June 14, 2016; 2) Presentation entitled “Critical Drought Action Plan Update,” dated June 14, 2016; 3) Affidavit of Posting dated May 27, 2016 for the “Notice Of The Time And Place Of Public Hearing On The East Bay Municipal Utility District Report And Recommendation Of The General Manager For Revisions To Water And Wastewater System Schedules Of Rates And Charges, And Other Fees Not Subject To Proposition 218, And Regulations For Fiscal Year 2017;” 4) Proof of Publication, Oakland Tribune, Legal No. 0005734686, dated May 27, 2016 for the “Notice Of The Time And Place Of Public Hearing On The

East Bay Municipal Utility District Report And Recommendation Of The General Manager For Revisions To Water And Wastewater System Schedules Of Rates And Charges, And Other Fees Not Subject To Proposition 218, And Regulations For Fiscal Year 2017;" 5) Proof of Publication, Contra Costa Times, Legal No. 0005734686, dated May 27, 2016 for the "Notice Of The Time And Place Of Public Hearing On The East Bay Municipal Utility District Report And Recommendation Of The General Manager For Revisions To Water And Wastewater System Schedules Of Rates And Charges, And Other Fees Not Subject To Proposition 218, And Regulations For Fiscal Year 2017;" 6) Proof of Publication, Calaveras Enterprise, dated May 30, 2016 for the "Notice Of The Time And Place Of Public Hearing On The East Bay Municipal Utility District Report And Recommendation Of The General Manager For Revisions To Water And Wastewater System Schedules Of Rates And Charges, And Other Fees Not Subject To Proposition 218, And Regulations For Fiscal Year 2017;" 7) Proof of Publication, Amador Ledger Dispatch, dated May 27, 2016 for the "Notice Of The Time And Place Of Public Hearing On The East Bay Municipal Utility District Report And Recommendation Of The General Manager For Revisions To Water And Wastewater System Schedules Of Rates And Charges, And Other Fees Not Subject To Proposition 218, And Regulations For Fiscal Year 2017;" 8) Document submitted by John Briceno entitled "Paving, Striping, Sealing and Concrete Services;" 9) Document submitted by John Briceno entitled "FM&O (Fully Maintained and Operated) Backhoe Services Contract;" and 10) Document submitted by John Briceno entitled "FM&O Dump Truck Services Contract."

3. **Motion No. 104-16** – Awarded a contract to the lowest responsive/responsible bidder, Western Pacific Crane & Equipment, LLC, in the total amount of \$1,006,765, after the addition of taxes, for supplying six industrial cranes to the District under Request for Quotation No. 1616.
4. **Motion No. 105-16** – Awarded a contract to the lowest responsive/responsible bidder, Aztec Consultants, in the amount of \$1,514,998 for the rehabilitation of Gwin Pumping Plant and the demolition of Laguna No.1 Pumping Plant under Specification 2110.
5. **Motion No. 111-16** – Awarded a contract to the lowest responsive/responsible bidder, Canyon Springs Enterprises dba RSH Construction, in the amount of \$613,031 for the Berkeley View No. 2, Potrero, and Muir Reservoirs Demolitions Project under Specification 2113.
  - Director Coleman pulled Item 5 to ask questions of staff about the low bidder, and Engineering Manager Elizabeth Z. Bialek presented background information.
  - Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Item 5, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
6. **Motion No. 106-16** – Authorized an agreement with Amador County for law enforcement services at Pardee and Camanche Reservoirs and on adjacent District watershed lands for an annual amount not to exceed \$205,000 per year from July 1, 2016 through June 30, 2019, with a total amount not to exceed \$585,000 for the entire three-year period.

7. **Motion No. 112-16** – Authorized an agreement beginning on or after July 1, 2016 with the Civicorps (formerly East Bay Conservation Corps) in an amount not to exceed \$480,893 to provide vegetation control and related duties at various District properties.
  - Item 7 was removed from the Consent Calendar for comment.
  - Addressing the Board were Adam Cope and Labrette Crittison, representing Civicorps, who expressed appreciation for the contract over the years which has provided valuable job training and noted their support for the recommended action.
  - Motion by Director Young, seconded by Director Patterson, to approve the recommended action for Item 7, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
8. **Motion No. 107-16** – Authorized an agreement with Environmental Science Associates in an amount not to exceed \$160,000, for the development of a San Leandro Creek Fisheries Study Plan to satisfy California Department of Fish and Wildlife permit conditions for the Lake Chabot and Upper San Leandro Reservoir Seismic Upgrade Projects.
9. **Motion No. 108-16** – Authorized an agreement beginning on or after July 1, 2016 with Utilis Israel, Ltd. in an amount not to exceed \$96,000 to provide satellite leak detection services for the District's water distribution pipelines.
10. **Motion No. 109-16** – Authorized an amendment to the concession contract with Camanche Hills Hunting Preserve, Inc. to allow for a ten-year contract extension to June 30, 2026.
11. **Motion No. 110-16** – Authorized an amendment to the contract awarded to SR Bray LLC dba Power Plus under Board Motion No. 018-16 dated January 26, 2016 to increase the authorization by \$86,780 to an amount not to exceed \$222,930 for the rental of a standby generator at Lafayette Water Treatment Plant.
- 12.1. **Resolution No. 34085-16** – Ordering, Calling, Providing For And Directing That Notice Be Given Of An Election To Be Held In Wards Of The East Bay Municipal Utility District, State Of California, On Tuesday, November 8, 2016, For The Purpose Of Electing Three Directors And Consolidating Said Election With The General State Election To Be Held On The Same Date.
- 12.2. **Resolution No. 34086-16** – Requesting The Boards Of Supervisors Of Alameda And Contra Costa Counties To Consolidate With The General Election To Be Held On November 8, 2016, The East Bay Municipal Utility District Election To Be Held In Three Wards On The Same Date For The Election To Be Held In Three Wards On The Same Date For The Election of Directors.
- 12.3. **Resolution No. 34087-16** – Determining Criteria For Candidates' Statements To Be Filed By Candidates For The 2016 Election To The East Bay Municipal Utility District's Board Of Directors And Authorizing Secretary To Bill Candidates For Certain Costs.

## **PUBLIC HEARING**

### **13. Conduct a Public Hearing to Consider the Proposed Revisions to the Fiscal Year 2017 Rates, Charges, and Fees Not Subject to Proposition 218.**

President Mellon opened the public hearing at 1:34 p.m. Director of Finance Sophia D. Skoda presented an overview of the recommended revisions. These included updates to water account establishment charges, special service charges, real property use application fees, Public Records Act fees, and changes to water and wastewater capacity fees. The water and wastewater rates will take effect July 1 and the system capacity charge rates take effect August 15 following Board action.

There was Board discussion. The Board requested that staff provide an update on the history and mechanics of the system capacity charge and a comparison of EBMUD charges versus other water agencies. The Board also requested that staff consider how to provide a waiver or reduction of land lease fees for certain types of developments.

Next Ms. Skoda provided a summary of the recommended actions in the FY17 Mid-Cycle Position Resolution. She highlighted the proposed staff changes that include the addition of 1.0 Temporary Construction Inspector position for the Faria Pipeline Project. It also included the addition of two classifications: Real Estate Technician and Dispatch Center Representative (DCR).

- Addressing the Board were the following persons: 1) Jamie MacDonald, 2<sup>nd</sup> Vice-President of AFSCME Local 2019, expressed concern about the new DCR classification's proposed 12-month probationary period and asked the Board to retain the six-month probationary period established in the Memorandum of Understanding (MOU); 2) Sharon McAleavey, Business Agent for AFSCME Local 2019, expressed concern about the Telephone Radio Operators (TRO) being transferred to the new DCR classification and asked the Board to maintain the six-month probationary period; and 3) Mark Foley, President AFSCME Local 2019, commented that the TROs perform the same work as the DCRs, said that the reclassification action was an attempt to circumvent the MOU, and that the longer probationary period for DCRs was not justified.

Director of Operations and Maintenance Michael J. Wallis said that the duties required of the new DCR classification were more technical, required a higher level of decision making, and were more complex as a result of the various new work management systems. There was considerable discussion about the scope of work for the new DCR classification and the justification for the longer probationary period. Following discussion, the Board asked staff to present a comparison of the duties for the TRO versus the DCR classification along with a justification for the six-month versus the 12-month probationary period.

President Mellon closed the public hearing at 2:14 p.m.

**DETERMINATION AND DISCUSSION**

**14. Adopt the Water and Wastewater Systems Rates and Charges, Real Property Use Application Fees and Public Records Act Fees Recommended in 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 for Fiscal Year 2017 Submitted to the Board on May 10, 2016 and Reissued on June 14, 2016.**

- Motion by Director McIntosh, seconded by President Mellon, to approve the recommended action for Item 14, 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. 34088-16** – Adopting Revised Water And Wastewater System Schedules Of Rates And Charges & Other Fees Not Subject To Proposition 218 For Fiscal Year 2017, Approving An Exemption Under The California Environmental Quality Act, And Directing Staff To File A Notice of Exemption.

**15. Affirm Fiscal Year 2017 (FY17) Operating and Capital Budgets for the Water and Wastewater Systems as recommended in the Fiscal Year 2016 and 2017 Mid-Cycle Budget Update submitted to the Board of Directors on May 24, 2016.**

- Motion by Director Young, seconded by Director Linney, to approve the recommended action for Item 15, 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. 34089-16** – Affirming The Budget Of The East Bay Municipal Utility District Water And Wastewater Systems For Fiscal Year 2017 And Establishing The Terms And Condition For The Payment Of Demands Against The District.

**16. Revise Mid-Cycle Position Resolution for Fiscal Year 2017 to Implement Necessary Staffing and Classification Changes.**

- Motion by Director Katz, seconded by Director Patterson, to approve the Position Resolution with the exception of the new DCR classification and to continue discussions on June 28, 2016 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. 34090-16** – Mid-Cycle Position Resolution Amending Resolution No. 34041-15 For Fiscal Year 2017 And Authorizing The General Manager To Take Action In Connection Therewith.

**17. Adopt 2016 Update of the District's Strategic Plan.**

General Manager Coate announced that the 2016 Strategic Plan incorporates updates to reflect current practices and priorities along with changes requested by the Board during the May 24 budget workshop. Final copies of the Plan will be available in print and on the District's website.

- Motion by Director McIntosh, seconded by Director Young, to approve the recommended action for Item 17, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 113-16** – Adopted the 2016 Update of the District's Strategic Plan.

**18. General Manager's Report.**

General Manager Coate reported that staff had provided copies of the 2016 Critical Drought Action Plan Update along with the May 2016 Monthly Report. The Board requested a legislative update on SB163 (Hertzberg) related to wastewater recycling.

**REPORTS AND DIRECTOR COMMENTS:**

**19. Committee Reports.**

- Filed with the Board were the Finance/Administration Committee Minutes of May 24, 2016.

**20. Other Items for Future Consideration.**

None.

**21. Director Comments.**

- Director Coleman reported attending/participating in the following events: Association of California Water Agencies (ACWA) teleconference meeting on May 24 in Oakland; meeting with San Ramon City Council on May 24; Ward 2 breakfast and presentation to constituents on May 26 in Walnut Creek; SOS decree on May 31 in Oakland; ACWA teleconference meeting on May 31 in Oakland; economic update on June 1 in San Ramon; ACWA teleconference meetings on June 3 in Sacramento; audit meeting on June 6 in Oakland; ACWA teleconference meeting on June 6 in Oakland; Danville Town Council presentation; presentation on proposed fees to Shea Homes on June 10 in Lafayette; ACWA teleconference meeting on June 13 in Oakland; and the Upper Mokelumne River Watershed Authority Executive Committee teleconference meeting on June 14 in Oakland. He also reported on plans to attend/participate in the following upcoming events: East Bay Leadership Council on June 17 in Pleasant Hill; ACWA teleconference meeting on June 20 in Oakland; presentation to the Pleasant Hill City Council on June 20 in Pleasant Hill; Delta Stakeholders meeting on June 27 in Sacramento; and the ACWA teleconference meeting on June 27.

- Director Katz reported on his trip to Washington, D.C. where he met with the congressional staff of Senator Barbara Boxer, Congressman Jared Huffman, Senator Ben Cardin and Congresswoman Barbara Lee to discuss getting the lead out legislation on June 7.
- Director Linney had no comment.
- Director McIntosh requested a status update on the North Richmond Water Reclamation Plant and the West County Wastewater District project (including costs).
- Director Patterson reported receiving an award from the Boy Scouts of America San Francisco Bay Area Council for his long-standing community service at the 2016 Lifetime Achievement Awards Dinner on June 11 in Oakland.
- Director Young commented that she had been asked to serve on the board of Clean Water Action.
- President Mellon reported attending/participating in the following events: Alameda County Special Districts Association meeting on May 11 at East Bay Regional Park District in Oakland; Castro Valley/Eden Area Chamber of Commerce student recognition event on May 26; Lake Chabot 50<sup>th</sup> Anniversary Celebration Festival and Fishing Derby Kick-off on June 4 in Castro Valley; Alameda Mayors Conference on June 8 in Oakland; and the Boy Scouts of America 2016 Lifetime Achievement Awards Dinner on June 11 in Oakland where Director Patterson received an award for a lifetime of efforts on behalf of youth.

### ADJOURNMENT

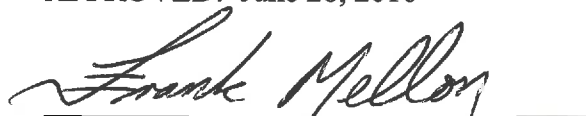
President Mellon closed the meeting in memory of the persons affected by the mass shooting on June 12 in Orlando, Florida.

President Mellon adjourned the meeting at 2:29 p.m.

SUBMITTED BY:

  
Lynelle M. Lewis, Secretary of the District

APPROVED: June 28, 2016

  
Frank Mellon, President of the Board