

## MINUTES

Tuesday, October 11, 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 11:33 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 Engineering and Construction Xavier J. Irias (Item 1), Attorney Derek T. McDonald (Item 1), Director of Wastewater Bennett K. Horenstein (Item 2), Director of Water and Natural Resources Richard G. Sykes (Item 2), Assistant General Counsel Frederick S. Etheridge (Item 2), and Attorney Jonathan Salmon (Item 2).

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### PUBLIC COMMENT

Addressing the Board was Ruben Rodriguez, 1<sup>st</sup> Vice-President, AFSCME Local 444, who expressed concerns about staffing shortages in Wastewater and about the new "Live Scan" practice for screening new employees. He said the new practice will disproportionately impact minorities and suggested that staff report back to the Board on the number of candidate rejections. President Mellon recommended that the unions meet with the Human Resources Manager on this issue. Additionally, he requested staff provide the Board with an update on projected retirements in the Wastewater Department.

### ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Frank Mellon announced the closed session agenda. The Board convened to Conference Room 8 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**

There was no public comment.

## **CONSENT CALENDAR**

- Items 7 and 10 were removed from Consent Calendar for discussion.
  - Motion by Director Young, seconded by Director Patterson, to approve the recommended actions for Items 1-6 and 8-9 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. 170-16** – Approved the Regular Meeting Minutes of September 27, 2016.
  2. The following correspondence was filed with the Board: 1) Presentation entitled “Follow-up: Financing Plan for FY2017,” dated October 11, 2016; and 2) Presentation entitled “Orinda Water Treatment Plant Improvements Project, Advance Outreach,” dated October 11, 2016.
  3. **Motion No. 171-16** – Authorized an agreement beginning on or after October 15, 2016 with Blaisdell & Songey, Inc., dba Blaisdell’s Business Products, in an amount not to exceed \$500,000 annually for District-wide miscellaneous office supplies for three years with two options to renew for an additional one-year period for a total cost of \$2,500,000 under Request for Proposal No. PUR 098.
  - 4.1. **Motion No. 172-16** – Awarded a contract to the lowest responsive/responsible bidder, Disney Construction, Inc., in the amount of \$5,604,916 for construction of the Pump Station Q Force Main/Gravity Interceptor Reverse Flow Project under Specification SD-377.
  - 4.2. **Motion No. 173-16** – Authorized an amendment to the agreement with Schaaf & Wheeler Consulting Civil Engineers to increase the agreement value by \$249,411 to \$1,079,760 for design services during construction for the Pump Station Q Force Main/Gravity Interceptor Reverse Flow Project.
  5. **Motion No. 174-16** – Authorized an agreement beginning on or after October 12, 2016 with Altivon, LP, in an amount not to exceed \$511,000 for the first year and \$206,000 annually for years two through five, to provide Contact Center telephony services for five years with two options to renew for an additional one-year period for a total cost of \$1,747,000.

6. **Motion No. 175-16** – Authorized an agreement beginning on or after October 11, 2016 with Carollo Engineers, Inc., in an amount not to exceed \$449,892 for predesign review of the Walnut Creek Water Treatment Plant (WTP) and for pretreatment process evaluations of the District's inline WTPs.
7. **Motion No. 177-16** – Authorized the first amendment to the original agreement with the City of Oakland (City) to increase the authorization by \$498,930.98 to an amount not to exceed \$736,730.98 to reimburse the City for relocating approximately 685 feet of 8-inch and 12-inch diameter pipeline as part of the City's Latham Square Streetscape Improvements Project.
  - Director Coleman pulled Item 7 to ask clarifying questions about the cost increases. Staff responded and the Board requested an update on the negotiations at a future meeting.
  - Motion by Director Coleman, 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. 176-16** – Approved the Water Supply Assessment requested by the City of Richmond for the Richmond Bay Specific Plan pursuant to California Water Code, Sections 10910-10915.
9. **Resolution No. 35006-16** – Authorizing The Sale Of The Crossroads Reservoir Property In Orinda, California, To Mr. James Vaughn.
10. **Resolution No. 35007-16** – Appointing Jenesse E. Miller As Senior Public Information Representative (effective October 12, 2016).
  - Director Linney pulled Item 10 to welcome Ms. Miller and to comment on her breadth of experience. Ms. Miller thanked the Board for the opportunity to serve.
  - Motion by Director Linney, seconded by Director Patterson, to approve the recommended action for Item 10, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

#### **DETERMINATION AND DISCUSSION**

##### **11. Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine provided a summary of EBMUD position bills for the 2015-16 state legislative session, which concluded on August 31. She reported that 5,103 bills were introduced and of those Governor Brown signed 2,245 and vetoed 292.

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

Director of Finance Sophia D. Skoda reported that at the September 27, 2016 meeting during discussion of the District's Financing Plan for Fiscal Year 2017, staff recommended the District send a strong letter to Wells Fargo Bank expressing concern about the bank's practices and requesting that bank management hold themselves accountable to the highest standards of ethical behavior and transparency. Ms. Skoda highlighted the draft letter and presented information about the District's existing Standby Bond Purchase Agreement (SBPA) with Wells Fargo Bank. She noted that the bank is offering to extend the facility at the current annual rate which appears to be the most cost-effective option for the District, saving a minimum of \$250,000 and as much as \$1,000,000 or more. Any alternative to extending the agreement would require effectively a new bond issuance and incur additional costs of issuance of approximately \$250,000. Further, because of the timing of the expiration, until a new bond financing closed, the District likely would be required to draw down on the SBPA and incur interest costs at an 8 percent rate or approximately \$370,000 per month. Drawing down on the SBPA could also have a negative impact on the District's reputation with rating agencies, investors, and other market participants. For these reasons staff recommended extending the Wells Fargo SBPA; but noted that in order to send Wells Fargo a message about the District's disappointment with its actions, the Board could choose to take the same actions as those taken by the Treasurer of the State of California. There was considerable discussion about Wells Fargo banking practices and the District's business relationship with them.

- Motion by Director Young to extend the Standby Bond Purchase Agreement but suspend Wells Fargo from bidding on future requests for proposals and have staff return with a range of options. Director McIntosh offered a "friendly amendment" to request staff to come back with alternatives to express EBMUD's disappointment with Wells Fargo's actions. Director Young accepted the friendly amendment.

The motion, 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. 178-16** – Approved the staff recommendation to extend the existing Standby Bond Purchase Agreement with Wells Fargo Bank and requested staff to develop a range of alternatives for Board consideration in response to the District's disappointment with Wells Fargo's banking practices.

Next, Special Assistant to the General Manager Alison A. Kastama presented an update on the outreach addressing operational changes in advance of Orinda Water Treatment Plant Improvements Project. On November 1, the Orinda Water Treatment Plant (WTP) will be shutdown to accommodate reliability and process improvements. This \$22 million project, in planning for almost a decade, is critical to maintain the reliable operation of the Orinda WTP and to reduce the need for full plant maintenance shutdowns in the future. In early September, operational and source water changes necessary to support the Orinda WTP shutdown caused taste and smell concerns for affected customers. Concurrent with the start-up of the San Pablo WTP in September, the District posted consumer information on ebmud.com, responded to consumer and media inquiries, and

issued a media advisory on taste and smell concerns. Following monitoring of consumer concerns and source water quality, the San Pablo WTP was shut down on September 28. By mid-October, staff will restart the San Pablo WTP to support the planned November 1 shutdown of the Orinda WTP. Though raw water conditions in San Pablo Reservoir have improved, the possibility of taste and smell concerns remains. The District will also begin increasing output from the Sobrante and USL WTPs, as well as the Southern Loop pipeline, to support water delivery needs during the shutdown of the Orinda WTP.

Staff is actively working to maintain public awareness of the potential for taste and smell concerns. The District is also assessing the use of NextDoor to post advisories in affected areas. Beginning November 3, all account holders will receive the *Customer Pipeline* bill insert newsletter featuring the Orinda WTP Improvements Project and information on operational and source water changes.

General Manager Coate concluded with highlights from the Monthly Report – September 2016.

## **REPORTS AND DIRECTOR COMMENTS**

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

- Filed with the Board were the Finance/Administration Committee Minutes of September 27, 2016.

### **14. Other Items for Future Consideration.**

- Update on groundwater nitrate penetration and long-term ramifications
- Update on coordination of underground utilities

### **15. Director Comments.**

- Director Coleman reported attending/participating in the following events: ACWA teleconference meetings on September 3 in Oakland; Upper Mokelumne River Water Authority Board meeting and Pardee Barbeque on October 7 in Pardee; and a water and infrastructure presentation at Harvey Mudd College on October 8 in Claremont. He reported on plans to attend/participate in the following upcoming events: ACWA teleconference meetings on October 12, 17, and 24 in Oakland meeting with Sasha Harris-Lovett from U.C. Berkeley on October 13 in Oakland; Contra Costa County Mayors' Conference on October 13 in Martinez; and the East Bay Leadership Council on October 21 in Walnut Creek.
- Director Katz reported attending/participating in the following events: Presentation at Kensington Municipal Advisory Council on September 27 in Kensington; Alameda County Community Choice EEnergy Steering Committee meeting on September 28 in Hayward; Alameda County Board of Supervisors meeting on October 4 in Oakland; Green Job Summit hosted by EBMUD on October 5 in Oakland; and Ruth Atkins' Retirement event on October 9 in Emeryville.

- Director Linney had no report.
- Director McIntosh had no report.
- Director Patterson reported attending/participating in the following events: Inaugural Event of the National Museum of African-American History and Culture on September 28 through October 3 in Washington D.C.; Green Job Summit hosted by EBMUD on October 5 in Oakland; and the Pardee Barbeque on October 7 in Pardee. He reported on plans to attend/participate in the following upcoming events: Peralta Community College District Foundation Scholarship Banquet on October 20 in Oakland; Oakland Museum of California 50<sup>th</sup> Anniversary of the founding of the Black Panther Party on October 20-23 in Oakland; and the Oakland Civic Pride Annual Scholarship and Exhibit Event on October 27 in Oakland.
- Director Young had no report.
- President Mellon reported attending/participating in the following events: East Bay Economic Development Alliance fall membership meeting on September 29 in Dublin; San Ramon Mayor's Breakfast meeting on September 30 in San Ramon; Meeting with Waste Management on October 4 in Oakland; Green Job Summit hosted by EBMUD on October 5 in Oakland; 2016 Eden Area Ag Day on October 6 in Castro Valley; and the Pardee Barbeque on October 7 in Pardee.


### ADJOURNMENT

President Mellon adjourned the meeting at 2:33 p.m.

SUBMITTED BY:

  
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Lynelle M. Lewis, Secretary of the District

APPROVED: October 25, 2016

  
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Frank Mellon, President of the Board