

MINUTES

Tuesday, January 13, 2015

**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 11:08 a.m. in the Administration Center Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Attorney Lourdes Matthew (Item 1a), and Attorney Xanthe M. Berry (Item 2a).

PUBLIC COMMENT

Addressing the Board was Eric O. Larsen, representing AFSCME Local 444, who commented that he worked on Director Young's election campaign and was encouraged by her commitment to great water, the environment, and fair rates. He said that Local 444 wished Director Young much success on the EBMUD Board.

BROWN ACT BRIEFING

Attorney Saji T. Pierce presented the annual Brown Act and ethics update. She highlighted the Ethics Policy of the EBMUD Board of Directors (Policy 6.04) and the laws covered by this policy. She summarized recent legal developments with The Brown Act, the Public Records Act, Conflict of Interest Code, and the Political Reform Act.

Ms. Pierce pointed out that State Constitutional Amendment 3 (Leno), approved by voters in 2014, amended the Constitution to require that local governments fund the entire cost of Brown Act and Public Records Act compliance, with no state reimbursement. She highlighted SB 952 (Fong) and its provisions for violations to Government Code 1090 pertaining to public officials' approval of contracts. Director Mellon asked staff to provide the Board with an updated listing of Board approved contracts/agreements. In concluding, Ms. Pierce summarized the recent changes to the Fair Political Practices Commission gift limits.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Katz announced the Closed Session agenda. The Board convened to Conference Room 8A/B for discussion.

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

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins and Secretary of the District Lynelle M. Lewis.

BOARD OF DIRECTORS

President Katz led the Pledge of Allegiance.

Oath of Office

Secretary Lewis administered a ceremonial Oath of Office to newly appointed and elected Directors John A. Coleman (Ward 2), Marguerite R. Young (Ward 3), Andy Katz (Ward 4) and Frank Mellon (Ward 7).

- Addressing the Board were the following persons: 1) Mark Foley, President, AFSCME Local 2019, congratulated the newly appointed Directors and welcomed Director Young, and said he looked forward to working with the Board in 2015; 2) Rueben Rodriguez, 1st Vice-President, AFSCME Local 444, welcomed Director Young to the Board and said he looked forward to working with the Board and staff in the new year.

Board members remarked that they looked forward to working through the challenges facing the District.

Election of President of the Board

President Katz opened the floor for nominations for President of the Board for 2015.

- Motion by Director Coleman, seconded by Director McIntosh, to nominate Director Frank Mellon for President of the Board of Directors.

President Katz called for additional nominations, none came forward, and he closed the nomination period.

The motion to elect Director Frank Mellon as President of the Board of Directors for 2015 carried, (7-0) by the following voice vote: AYES (Coleman, Linney, McIntosh, Mellon, Patterson, Young, and Katz); NOES (None); ABSTAINED (None); ABSENT (None).

Motion No. 001-15 -- Elected Director Frank Mellon as President of the Board of Directors for 2015.

Director Mellon thanked the Board for the opportunity to serve as the Board's President for the coming year and said he looks forward to working with the Board. He announced his plan to meet with mayors of each city within the EBMUD service area and with East Bay legislators.

Election of Vice-President of the Board

President Mellon opened the floor for nominations for Vice-President of the Board.

- Motion by President Mellon, seconded by Director Linney, to nominate Director William B. Patterson for Vice-President of the Board.

President Mellon called for additional nominations, none came forward, and he closed the nomination period.

The motion to elect Director William B. Patterson as Vice-President of the Board of Directors for 2015, carried (7-0) by the following voice vote: AYES (Coleman, Linney, McIntosh, Mellon, Patterson, Young, and Katz); NOES (None); ABSTAINED (None); ABSENT (None).

Motion No. 002-15 -- Elected Director William B. Patterson as Vice-President of the Board of Directors for 2015.

Committee Assignments

President Frank Mellon announced that a memorandum had been provided regarding 2015 Committee Assignment preferences. He requested that Board members submit their committee assignment preferences to Secretary Lewis. Committee assignments will be presented for Board approval on January 27.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PRESENTATION

President Mellon announced that staff had drafted a resolution honoring outgoing Director Katy Foulkes for 20 years of dedicated public service to EBMUD.

- Motion by Director McIntosh, seconded by Director Patterson, to adopt a resolution commending Katy Foulkes and acknowledging her public service achievements, carried (7-0) by the following voice vote: AYES (Coleman, Linney, McIntosh, Mellon, Patterson, Young, and Katz); NOES (None); ABSTAINED (None); ABSENT (None).

Resolution No. 34016-15 -- Commending Ward 3 Director Katy Foulkes And Acknowledging Her Public Service Achievements.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Item 9 was removed from the Consent Calendar for discussion.
 - Motion by Director Coleman, seconded by Director Patterson, to approve 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. 003-15** -- Approved the Special Meeting Minutes (Drought Workshops) of October 23, 2014, October 29, 2014, November 5, 2014, and November 19, 2014; the Special Meeting Minutes of November 25, 2014; Regular Meeting Minutes of December 9, 2014; and the Special Meeting Minutes of December 19, 2014.
 2. The following correspondence was filed with the Board: 1) Presentation entitled "Annual Brown Act and Ethics Update," dated January 2015; 2) Memorandum dated January 13, 2015 to Board of Directors, from Andy Katz, President regarding 2015 Board Committee Assignment Preferences; 3) Presentation entitled "Water Supply Briefing," dated January 13, 2015; 4) Memorandum dated January 13, 2015, to Board of Directors from Alexander R. Coate, General Manager, regarding Drought Supplemental Supply Status Update; and 5) Document entitled "Recent Main Breaks," dated Tues., 13 Jan. 2015, 9:00 AM.
 3. **Motion No. 004-15** -- Authorized an agreement amendment with Consolidated CM, Inc. in an amount not to exceed \$332,563 for a new not to exceed amount of \$1,049,554 to provide construction management assistance for the Dingee Pipeline and Claremont Center Aqueducts Replacements Project.
 4. **Motion No. 005-15** -- Authorized an agreement with Perforce Software, Inc. in an amount not to exceed \$17,000 annually for software licensing and technical support, for a period of five years beginning on January 14, 2015 for a total cost not to exceed \$85,000.
 5. **Motion No. 006-15** -- Authorized renewal of an agreement with 8x8, Inc. for one year beginning on or after February 1, 2015 in an amount not to exceed \$20,000 annually for disaster recovery services for the Contact Center, with one option to renew for an additional one-year period for a total cost of \$40,000. The additional \$40,000 will increase the total costs for the 8x8, Inc.'s services under the agreement to \$106,000.
 6. **Resolution No. 34017-15** -- Approving The East Bay Municipal Utility District Employee Service Recognition Award Program.

7. **Motion No. 007-15** -- Authorized an agreement beginning January 14, 2015 with O. C. Tanner Recognition Company in an amount not to exceed \$120,000 annually to provide employee service recognition awards for one year with one option to renew for an additional one-year period for a total cost of \$240,000.
8. **Resolution No. 34018-15** -- Amending The East Bay Municipal Utility District 401(a) Tax Deferred Savings Plan To Make Changes Effective January 1, 2015.

Resolution No. 34019-15 -- Amending The East Bay Municipal Utility District 401(k) Tax Deferred Savings Plan To Make Changes Effective January 1, 2015.

Resolution No. 34020-15 -- Amending The East Bay Municipal Utility District 457 Deferred Compensation Plan And Trust To Make Changes Effective January 1, 2015.

9. **Resolution No. 34021-15** -- Appointing Craig S. Spencer As General Counsel Of East Bay Municipal Utility District And Authorizing Execution Of Employment Agreement.

Director Mellon pulled Item 9 to recognize Mr. Spencer and board members congratulated Mr. Spencer on his appointment. Mr. Spencer said it was an honor and privilege to work for the District for the past 20 years and he thanked the Board for the opportunity to serve as General Counsel. He also thanked General Counsel Collins for her mentorship.

- Motion by Director Mellon, seconded by Director Katz, to approve the recommended action for Item 9, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAINED (None); ABSENT (None).

DETERMINATION AND DISCUSSION

10. Legislative Update.

Legislative/Human Resources Committee Chair Lesa R. McIntosh reported that the Committee met this morning and voted unanimously to support the three federal initiatives proposed by staff.

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

Motion No. 008-15 -- Approved three EBMUD 2015 Federal Legislative Initiatives: 1) Seeking federal funding opportunities for EBMUD projects via any new and existing federal programs; 2) Advancing EBMUD's interests in the context of federal drought legislation; and 3) Advancing EBMUD's Delta needs.

Manager of Legislative Affairs Marlaigne K. Dumaine reported that Senator Hancock has agreed to introduce legislation that would remove the sunset date on EBMUD's authority to place liens on residential property for delinquent charges. Next, she reported that Assemblyman Frank Bigelow and Senator Tom Berryhill introduced AB 142 that centers on Wild and Scenic designation for the Mokelumne River. Staff will keep the Board apprised as more information becomes available on these measures. In concluding, Ms. Dumaine reported that the Governor's proposed 2015-16 Budget was introduced and it includes a five-year infrastructure plan.

11. Approve Adjusting the Board of Directors Monthly Compensation by \$32 Per Month (2.8 percent) Effective February 1, 2015.

General Manager Coate reported that as part of Board Motion No. 011-14 approving a salary increase for EBMUD Directors, the Board voted to conduct an annual review of its compensation during the first Board meeting of the calendar year and to use the staff salary adjustment information from the prior year as the basis for the Board's discussion. The proposed 2015 adjustment of \$32 per month (2.8 percent) would change the monthly compensation from \$1,154 to \$1,186.

- Motion by Director Mellon, seconded by Director McIntosh, to adjust the Board of Directors compensation by \$26 to round out the monthly compensation to \$1,180.
- Substitute Motion by Director Linney, seconded by Director Patterson, that effective February 1, 2015, the Board's monthly compensation be increased by \$32 per month (2.8 percent), which will result in the Board's monthly compensation changing from \$1,154 to \$1,186.

The vote on the "Substitute Motion" passed (5-2) by the following voice vote: AYES (Katz, Linney, McIntosh, Patterson, and Young); NOES (Coleman and Mellon); ABSTAINED (None); ABSENT (None).

Motion No. 009-15 -- Approved adjusting the Board of Directors monthly compensation by \$32 per month or 2.8 percent effective February 1, 2015 which will result in the Board's monthly compensation changing from \$1,154 to \$1,186.

12. General Manager's Report.

General Manager Coate reported that during the November 12, 2014 Board meeting, a member of the Board inquired into the process necessary to amend the District's Retirement Ordinance to extend the vesting period for members of the Board of Directors from five to ten years. General Counsel Jylana Collins pointed out that new changes

would not impact current Board members. Board members presented their viewpoints on maintaining, modifying or eliminating the pension benefit. Following the discussion, there was a consensus by the Board to refer this matter to the Retirement Board for analysis and have a recommendation presented to the full Board.

- Addressing the Board was Eric O. Larsen, representing AFSCME Local 444, commented that the District should provide a pension plans that attracts and retains talented and skilled candidates.

Operations and Maintenance Department Manager Eileen M. White presented the water supply update. She reported that staff provided a memorandum providing the Board with an update on the drought supplemental supply. The memorandum outlined a staff recommendation that the District defer action on taking supplemental supplies until April 2015. She pointed out that the decision to further defer action until later in the water year is based on a careful assessment of current and projected supplies and anticipated customer support for 15 percent voluntary conservation. Based on the statewide drought challenges and the uncertain local supply picture, EBMUD will continue asking customers for 15 percent voluntary conservation. EBMUD will keep this request in place until the Board receives the annual water supply availability and deficiency report in late April. In addition, staff will continue to make preparations to take up to 65,000 acre feet of supplemental supplies if needed based on April projections to meet end of year storage targets.

General Manager Coate reported that the following documents were provided in the Board's packet: 2015 Water Shortage Emergency Action Plan January Update memo, the Monthly Report for December 2014, Six-Month Forecast of Board Committee and Workshop Agenda Topics and Summary of 2014 Committee and Workshop Topics, and 2014 Interdepartmental Committees Annual Reports. General Manager Coate reported that staff also provided a copy of the Recent Main Breaks report. Director Coleman requested that staff add a column to the main break report showing the estimated gallons of water lost per day and Director Young requested adding a column showing the length of time it takes to repair a main break. Director Coleman noted that the Monthly Report highlighted Chinook salmon success and suggested that the District promote the District's successful salmon program.

REPORTS AND DIRECTOR COMMENTS

13. Committee Reports.

- Filed with the Board were the Minutes of the December 9, 2014 Planning and the Legislative/Human Resources Committees and the Minutes of the November 10, 2014 EBMUD/EBRPD Liaison Committee.

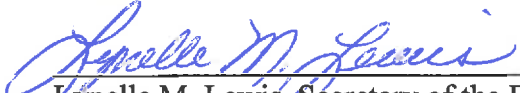
14. **Director Comments.**

- Director Coleman reported attending/participating in the following events: Upper Mokelumne River Water Authority (UMRWA) Executive Board meeting on December 9, 2014; special meeting to conduct General Counsel interviews on December 19 in Oakland; ACWA Executive Committee teleconference meeting on December 22; ACWA Executive Committee teleconference meeting on January 5, 2015; Contra Costa Leadership on January 8; EDAB Legislative Committee on January 9; and ACWA Executive Committee Meeting on January 12. He reported on plans to attend/ participate in the following upcoming events: ACWA meeting on January 14 in Long Beach; ACWA Executive Committee Meeting on January 20; East Bay Leadership Council meeting on January 22 in Concord; UMRWA Board meeting on January 23 at Pardee; and ACWA Executive Committee Meeting on January 26.
- Director Katz thanked Helen Burke for encouraging him to run for the Board and thanked her for attending today's meeting.
- Director Linney had no comment.
- Director McIntosh had no comment.
- Director Patterson reported attending several memorials for members of the Oakland community and encouraged the spirit of togetherness.
- Director Young recognized former EBMUD Directors Helen Burke and Mary Selkirk and thanked them for attending today's meeting. She also thanked David Nesmith who is responsible for encouraging her to run for the Board. Director Young introduced her son and sister who were in the audience.
- President Mellon had no comment.

ADJOURNMENT


The meeting was adjourned at 2:43 p.m.

SUBMITTED BY:



Lynelle M. Lewis, Secretary of the District

APPROVED: January 27, 2015



Frank Mellon, President of the Board