

MINUTES

Tuesday, July 10, 2012

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

Regular Closed Session Meeting

President John A. Coleman called to order the Regular Closed Session Meeting of the Board of Directors at 11:03 a.m. in the Administration Center Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Director of Engineering and Construction Xavier J. Irias (Item 1a), and Attorney Xanthe Berry (Item 1a).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

President John A. Coleman called to order the Regular Business Meeting of the Board of Directors at 1:18 p.m. in the Administration Center Board Room.

ROLL CALL

Directors Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President John A. Coleman were present at roll call. Director Andy Katz arrived at 1:20 p.m.

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

BOARD OF DIRECTORS

President John A. Coleman led the Pledge of Allegiance.

PUBLIC COMMENT

Addressing the Board was Jeff Wede, Quartermaster–Veterans of Foreign Wars Post 9601, Castro Valley, who presented a proposal seeking EBMUD sponsorship for a Castro Valley Veterans Memorial plaque. President Coleman requested that Director Mellon work with staff and the unions to determine if EBMUD can participate.

CONSENT CALENDAR

- Motion by Director Linney, seconded by Director Patterson, to approve Items 1-3 and 5-12 on the Consent Calendar, carried (7-0) by voice vote.
1. **Motion No. 090-12** -- Approved the Regular Meeting Minutes of June 26, 2012.
 2. The following correspondence was filed with the Board: 1) Castro Valley Veterans Memorial Proposal for East Bay Municipal Utility District, submitted by Jeff Wede, Quartermaster–Veterans of Foreign Wars Post 9601, Castro Valley; 2) Photos of a Ghilotti Construction Company's project in Castro Valley submitted by Director Frank Mellon; 3) Letter dated July 10, 2012 to Board Members, from Alan C. Miller, Director, Stege Sanitary District, regarding the Richmond Joint Wastewater Services Implementation Study and the Potential Impacts of Wet Weather Flows to the System; and 4) Memorandum dated March 8, 2012 to Board of Directors, from Marlaine Dumaine, Manager of Legislative Affairs, regarding Corporate Accountability International Campaign on Water Issues.
 3. **Motion No. 091-12** -- Awarded a contract to the lowest responsive/responsible bidder, Monterey Mechanical Co., in the amount of \$1,868,000 for construction of the Sobrante Water Treatment Plant Electrical Upgrade under Specification 2037.
 4. **Motion No. 102-12** -- Awarded a contract to the lowest responsive/responsible bidder, Ghilotti Construction Company, Inc., in the amount of \$1,333,333 for construction of the Lafayette Reservoir Parking Improvements under Specification 2043.
 - Director Mellon pulled Item 4 to express concerns about the safety practices of Ghilotti Construction at a worksite in Castro Valley. He presented pictures of a worksite in Castro Valley and pointed out areas that he believed posed safety risks to the public.
 - Motion by Director Mellon to reject the bid of Ghilotti Construction Company and award the contract to the next lowest bidder. The motion died for lack of a second.

Director of Engineering and Construction Xavier J. Irias said that Ghilotti's bid complied with contracting and specification requirements. Regarding safety concerns, Mr. Irias noted that District inspectors would provide oversight to ensure compliance with contract specific safety requirements. Director Mellon said that he believed the contractor was irresponsible and should be watched carefully.

President Coleman pointed out that there is a process which would need to be undertaken if the bid was rejected. Board members commented that while they

appreciated Director Mellon's concerns, there was consensus that the project should move forward and that staff should be diligent in monitoring the work of Ghilotti Construction Company. Mr. Irias said that staff would address the issues raised by the Board at the pre-construction meeting with the contractor.

- Motion by Director Foulkes, seconded by Director McIntosh, to approve the recommended action, carried (6-1) by the following roll call vote:

YES:	Foulkes, Katz, Linney, McIntosh, Patterson, Coleman
NOES:	Mellon
ABSTAINED:	None
ABSENT:	None

5. **Motion No. 092-12** -- Awarded a contract to the lowest responsive/responsible bidder, C. Overaa & Co., in the amount of \$559,000 for construction of the Bryant No. 1, Leland and Colorado Pumping Plants Electrical Rehabilitation Project under Specification 2044.
6. **Motion No. 093-12** -- Authorized the Office of General Counsel to continue employment of the law firm of Barg, Coffin, Lewis & Trapp for services of special counsel related to environmental regulation and litigation in an additional amount not to exceed \$200,000.
7. **Motion No. 094-12** -- Authorized an agreement with Wallaby Yogurt Company effective July 10, 2012 for the acceptance, treatment and disposal of yogurt process waste by the District according to the following rate schedule: \$0.0125 per gallon for up to 720,000 gallons per month and \$0.009 per gallon for any additional volume. The term of the agreement is five years.
8. **Motion No. 095-12** -- Authorized an amendment to an agreement with Alta Vista Systems in the amount of \$180,000, for a new not to exceed amount of \$330,000, to provide coding support for the District's Customer Information System.
9. **Motion No. 096-12** -- Authorized an amendment to the agreement with Wiss, Janney, Elstner Associates, Inc., in the amount of \$120,000, for a new not to exceed amount of \$734,829, for engineering design services for the Mokelumne Aqueduct Nos. 1 and 2 Temperature Anchor Upgrade.
10. **Motion No. 097-12** -- Approved the Water Supply Assessment requested by the City of Oakland for the Central Estuary Implementation Guide pursuant to California Water Code, Sections 10910-10915.
- 11.1. **Motion No. 098-12** -- Awarded a contract to the lowest responsive/responsible bidder, J.R. Pipeline Co., Inc., in the amount of \$9,655,630 for construction of the South Interceptor Wood Street Rehabilitation – Phase 2 under Specification SD 342.

- 11.2. **Motion No. 099-12** -- Authorized an agreement with EPC Consultants, Inc. in an amount not to exceed \$343,475 for supplemental construction inspection services on the South Interceptor Wood Street Rehabilitation – Phase 2 Project.
- 11.3. **Motion No. 100-12** -- Authorized an agreement with Brown and Caldwell, Inc. in an amount not to exceed \$250,000 for design services during construction of the South Interceptor Wood Street Rehabilitation – Phase 2 Project.
12. **Motion No. 101-12** -- Filed the General Manager's Report and Recommendation to Transfer Unpaid Liens for Delinquent EBMUD Charges to the 2012-2013 Property Tax Rolls.
- 13.1. **Motion No. 103-12** -- Authorized an agreement with the City of Richmond for completion of a Joint Wastewater Services Implementation Study with reimbursement to the District for its costs in an amount not to exceed \$250,000 during the period July 10, 2012 to July 10, 2013.
 - Addressing the Board was Alan C. Miller, Director, Stege Sanitary District, who requested that EBMUD delay the initiation of the Wastewater Services Implementation Study until EBMUD, the cities of Albany, Berkeley, Emeryville, Oakland, Piedmont, and Alameda along with Stege Sanitary District have collectively achieved an approved plan to comply with the Clean Water Act requirements. He said that if EBMUD decides to proceed with the study, it should consider only those options that do not involve additional wet weather flows from Richmond into EBMUD's system. Director of Wastewater David R. Williams said staff will be investigating the wet weather flow issue as part of the study and will work with all agencies to address their concerns.
 - Motion by Director McIntosh, seconded by Director Foulkes, to approve the recommended actions for Items 13.1 and 13.2, carried (7-0) by voice vote.
- 13.2. **Resolution No. 33887-12** -- Amending Mid-Cycle Position Resolution No. 33885-12 For Fiscal Year 2013 To Add One Temporary Construction Senior Civil Engineer To Support The Joint Wastewater Implementation Study For The Richmond Wastewater Services Project.

DETERMINATION AND DISCUSSION

14. Legislative Update.

Special Assistant to the General Manager Marlaigne K. Dumaine reported that prior to the summer recess, the Legislature considered several issues including the mortgage crisis, high-speed rail, delay of water bonds to 2014, Bay-Delta financing, and pension reform. She said that while Governor Brown continues to seek a solution to pension reform, there has been no agreement on the Governor's hybrid plan that has elements of both defined benefit and defined contribution plans.

Next, Ms. Dumaine reported on Bay-Delta developments and said that Governor Brown's proposed plan on the project would be revealed in late July. She also reported that AB2443 (Williams) Vessels: Registration Fee: Quagga and Zebra Mussel Infestation prevention bill is moving forward.

15. Consideration of a Resolution in Support of Drinking Tap Water.

President Coleman said the Association of California Water Agencies (ACWA) has launched a campaign to encourage public awareness of the health, economic and environmental benefits of making tap water the public's drink of choice. Legislative/Human Resources Committee Chair Lesa R. McIntosh reported that the Committee voted unanimously to support the resolution.

- Motion by Director McIntosh, seconded by Director Patterson, to adopt a resolution encouraging residents and businesses in the service area to join the Board of Directors in making tap water their drink of choice, carried (7-0) by voice vote.

Resolution No. 33888-12 – Declaring Tap Water As The Drink Of Choice In The East Bay Municipal Utility District's Service Area.

REPORTS AND DIRECTOR COMMENTS

16. Committee Reports.

- Filed with the Board were the Minutes of the June 26, 2012 Sustainability/Energy and Finance/Administration Committees.

17. General Manager's Report.

General Manager Alexander R. Coate noted that the Monthly Report for June 2012 had been provided. There were no questions from the Board.

REPORTS AND DIRECTOR COMMENTS

18. Director Comments.

- Director Foulkes reported attending the Bay Area Chapter meeting of the Association of Women in Water, Energy & Environment on June 28 held at the District, and she thanked staff members for their presentations. She also reported attending the City of Piedmont's Fourth of July Parade.
- Director Katz had no comment.
- Director Linney had no comment.
- Director McIntosh had no comment.

- Director Mellon commented on an article he read regarding a Wild and Scenic River designation at Yosemite and its impact on three historic bridges. He asked if there are similarities or differences regarding the Middle Bar Bridge on the Mokelumne River. General Manager Coate said that staff would provide an information memo on this issue.
- Director Patterson commented that the Board had received a nice letter regarding the Turner Construction Management Program 2012 graduation ceremony held on June 19. President Coleman commended Director Patterson and Contract Equity Administrator Beverly Johnson for their work with the program.
- President Coleman reported attending/participating in the following events: Breakfast meeting with John Cain on June 27 in Oakland; conference call with ACWA Executive Committee on June 27 and July 3; agenda review meeting with General Manager Coate on July 5 in Oakland; and an ACWA/JPIA Executive Committee meeting on July 9. He reported on plans to attend the following upcoming events: Webinar meeting with ACWA/JPIA Executive Committee on July 10; meeting with Vijak Kumar of CH2M Hill on July 11 in San Francisco; ACWA Regions 6 and 7 meeting on July 13 in Fresno; agenda review meeting with General Manager Coate on July 19 in Oakland; and ACWA/JPIA Executive Committee meeting on July 20. President Coleman reminded the Board that their semi-annual campaign filings are due to the Fair Political Practices Commission and to District Secretary Lewis on July 31.

Next, President Coleman commented on the status of the FY12-13 budget which ended June 30, 2012. He expressed thanks to staff for their cost-saving efforts which helped offset the revenue short fall this year. He noted that fiscal challenges are anticipated to continue in FY13. He said that in FY13 EBMUD will focus on infrastructure projects which are essential for health, safety and regulatory compliance. Over the long term, the Board will work with staff to develop a FY13-14 budget which will fund the essential work of the District, fairly compensate employees and ensure that rates which customers are paying for water and wastewater remain affordable.

ADJOURNMENT

The meeting was adjourned at 2:13 p.m.

SUBMITTED BY:


Lynelle M. Lewis, Secretary of the District

APPROVED: July 24, 2012


John A. Coleman, President of the Board