

## MINUTES

**Tuesday, December 13, 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 11:35 a.m. in the Administration Center Board Room.

### ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney, Lesa R. McIntosh (teleconference), 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, Assistant General Counsel Xanthe Berry (Items 1a, 1b, 2a, and 3), Risk Manager Karen K. Curry (Items 1a, 1b, and 2a), Assistant General Counsel Fred S. Etheridge (Item 2b), Director of Water and Natural Resources Richard G. Sykes (Item 2b), Attorney Derek T. McDonald (Item 3), Director of Operations and Maintenance Michael J. Wallis (Item 3), Attorney Rachel R. Jones (Item 3), Director of Engineering and Construction Xavier J. Irias (Item 3), Engineering Manager David J. Rehnstrom (Item 3), Attorney Lourdes Matthew (Item 4), Manager of Human Resources Laura A. Brunson (Item 4), Director of Finance Sophia D. Skoda (Item 4), IDEA representative Bruce Heid (Item 4), and IDEA representative Glenn Berkheimer (Item 4).

### PUBLIC COMMENT

- Addressing the Board were the following persons: 1) John M. Briceno, President, AFSCME Local 444, commented that only four of the 17 union's requests for classification studies had been completed, and Human Resources staff refuses to meet and confer about salary adjustments; 2) Boris Noss, Wastewater Instrument Technician, requested reopening of the Wastewater Instrument Technician classification study because the job duties have changed; 3) Damadar D. Devine, Treatment Plant Specialist, requested a review of compensation and an equity adjustment citing increased job responsibilities; 4) Kevin D. Osborn, Maintenance Specialist, requested a classification study and an equity adjustment citing increased duties and specialized skills; 5) Jaswan P. Mahabali, Meter Mechanic/Backflow Tester, requested that the job title be updated as a result of new duties for the Recycled Water Program along with a salary adjustment; 6) Tim P. Collins, Senior Meter Mechanic/Backflow Tester, said his job title and class description does not reflect current duties and should be updated; 7) Louis A. Bell, Paving Crew Foreman, commented that the equity adjustment process is unfair, that classification revisions were made without the meet and confer process, asked for a response from Human Resources, and requested an equity adjustment; 8) Adam D. Berchem, Heavy Equipment Mechanic, said this the request for an equity adjustment has been ignored despite additional job duties, urged the Board to speak with Human Resources, and said that management's actions do not reflect the District values; 9) Juan C. Valencia, Gardener, commented that a job audit

of the Gardner II classification should be completed because they are not getting credit for added duties; 10) Eric O. Larsen, Wastewater Plant Operator, commented that the class description has not been updated since 1995 despite greater responsibilities and the upcoming job audit should reflect the new duties; 11) Mark Foley, President, AFSCME Local 2019, commented that class descriptions for Local 2019 members do not reflect the current duties and that Human Resources should conduct comparative studies of other water agencies; and 12) Ruben F. Rodriguez, 1<sup>st</sup> Vice-President, AFSCME Local 444, commented on the District's values and said that management is not listening to and giving respect to union employees.

### **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 1:45 p.m. in the Administration Center Board Room.

### **ROLL CALL**

Directors John A. Coleman, Andy Katz, Doug Linney, Lesa R. McIntosh (teleconference), 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) Mark Foley, President, AFSCME Local 2019, asked that the Board close the meeting in memory of the 36 people who lost their lives in the Ghost Ship fire on December 2 in Oakland; 2) Lauren Westreich, business owner, West Oakland Business Association, invited Board members and staff to attend their meetings to discuss issues that impact development in the West Oakland area; and 3) Julia R. Halsne, EBMUD Manager of Business Continuity, commented that designated smoking areas are contrary to the District's wellness program and requested elimination of these areas on District properties to ensure a smoke-free environment.

### CONSENT CALENDAR

- Items 7, 9 and 10 were removed from the Consent Calendar for discussion.
  - Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 1-6 and 8 on the Consent Calendar, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 201-16** – Approved the Regular Meeting and Special Meeting Minutes of November 22, 2016.
  2. The following correspondence was filed with the Board: 1) Letter dated December 13, 2016 from Meter Mechanic/Backflow Tester Jaswan Mahabali regarding the outdated job title for Meter Mechanic/Backflow Tester (with attachments including a Memorandum dated October 14, 2015 to Michael Rich, Manager of Employee Relations, from Lori Worden, Senior Human Resources Analyst, regarding Class Description Updates, Meter Mechanic/Backflow Tester and Senior Meter Mechanic/Backflow Tester; draft class descriptions for Cross-Connection Specialist and Senior Cross-Connection Specialist/Meter Technician); 2) Job Audit Request Survey for EBMUD Paving Crew Foreman submitted by Paving Crew Foreman Louis A. Bell (with attachments including Classification Study for the Classification of Paving Crew Foreman, dated March 2015 and an email to Richard Jung from Lori Worden dated March 17, 2015 regarding Classification Study-Paving Crew Foreman); 3) Presentation entitled “Alameda-North Bay Farm Island Pipeline Crossings Environmental Impact Report Project Approval” dated December 13, 2016; 4) Letter dated December 12, 2016 to Chair Mellon, et al, from Kathy Neal, CEO, Viridis Fuels, regarding a request to defer the monthly “Additional Value” payment related to the lease/rental site at the District’s West End property; 5) Presentation entitled “East Bay Watershed Master Plan Update” dated December 13, 2016; 6) Letter dated December 13, 2016 to Frank Mellon, President, from Pam Young, Chair, Golden Gate Audubon Society, East Bay Conservation Committee, regarding EBMUD draft Watershed Master Plan and proposed mountain bike pilot; 7) Presentation entitled “State Draft Framework for Long-term Urban Water Conservation Policy” dated December 13, 2016; 8) Presentation entitled “Water Supply Board Briefing” dated December 13, 2016; 9) Letter dated November 28, 2016, to Frank Mellon, President, from Mary Lou Lopez, Vice-President Relationship Manager, Wells Fargo Bank, regarding Acknowledgment to Wells Fargo Management Letter; and 10) Memorandum dated December 13, 2016 to Board of Directors from Rischa S. Cole, Assistant to the General Manager, regarding Emergency Notification System Testing-Tuesday, December 20, 2016.
  3. **Motion No. 202-16** – Awarded a contract to the lowest responsive/responsible bidder Jifco, Inc., in the total amount of \$157,512, after the addition of taxes, for supplying two 30-foot segments of 66-inch outside diameter pipe for the Bixler Maintenance Center Yard under Request for Quotation No. 1701.
  4. **Motion No. 203-16** – Awarded a contract to the lowest responsive/responsible bidder Ferguson Waterworks in an amount, after the addition of taxes, not to exceed \$143,000 for supplying 5,700 feet of restrained joint ductile iron pipe and fittings for a pilot pipeline replacement project beginning on or after December 13, 2016 under Request for Quotation No. 1707.

5. **Motion No. 204-16** – Authorized an agreement beginning on or after December 15, 2016 with LCPtracker, Inc., for a cloud-based, prevailing wage and local workforce compliance and management software for three years, with two options to renew for an additional one year period for a total cost of \$150,000.
6. **Motion No. 205-16** – Authorized execution of an agreement with San Joaquin County and North San Joaquin Water Conservation District to amend the existing Protest Dismissal Agreement (PDA) between the District and five San Joaquin County parties to extend the deadline from December 31, 2016 to June 30, 2017 regarding San Joaquin County's issuance of the export permit under Section 5.e. of the PDA.
7. **Motion No. 207-16** – Authorized a Power Purchase Agreement with SolarCity that provides for the purchase of approximately 380 kilowatts of photovoltaic-generated electricity at the Camanche Dam at a fixed purchase price of \$0.101 per kilowatt hour. The agreement has an initial term of 15 years with three five-year options to renew for up to an additional 15 years.
  - Item 7 was removed from the Consent Calendar by Director Coleman to thank staff for bringing this project to fruition.
  - Motion by Director Coleman, seconded by Director Katz, to approve the recommended action for Item 7, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
8. **Motion No. 206-16** – Authorized the District to discontinue participation in the Statewide Community Infrastructure Program after completion of the work being done to accommodate the current applicant.
9. **Resolution No. 35018-16** – Declaring Results Of Election Held On November 8, 2016 For The Election Of Directors Of The East Bay Municipal Utility District.
  - Item 9 was removed from the Consent Calendar by President Mellon to offer congratulatory remarks to Directors Linney, McIntosh, and Patterson on being re-elected to the Board.
  - Motion by Director Mellon, seconded by Director Young, to approve the recommended action for Item 9, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
10. **Resolution No. 35019-16** – Appointing Antonio Martinez As Manager Of Distribution Maintenance & Construction.
  - Item 10 was removed from the Consent Calendar by President Mellon to offer congratulatory remarks. Mr. Martinez thanked the Board for the opportunity to serve in this capacity.
  - Motion by Director Mellon, seconded by Director Young, to approve the recommended action for Item 10, carried (7-0) by the following roll call 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 highlighted the four proposed state legislative initiatives for the 2017 Legislative Year: 1) Legislation to impose a point of sale requirement on residential homes for the installation of smart water meters compatible with advanced metering infrastructure (AMI); 2) Advance EBMUD’s interests in any efforts to impose a statewide surcharge or public goods charge on water; 3) Protect EBMUD-sponsored water supply assessment law; and 4) Advance EBMUD’s interests in any efforts to impose a water recycling mandate. There was discussion about the policy issues surrounding technology for AMI and there was consensus to refer this issue to the Planning Committee in the latter part of 2017. There was also considerable discussion regarding Legislative Proposal No. 2 and EBMUD’s role in advocating for solutions to the right to water for disadvantaged communities and who should pay for this.

- Motion by Director McIntosh, seconded by Director Mellon, to approve the staff recommendation with an amendment to Legislative Proposal No. 2 to advocate for alternative statewide solutions to address the affordability issue for disadvantaged communities and low income ratepayers throughout the state, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 208-16** – Approved the following state legislative initiatives for the 2017 Legislative Year with amendments:

<b>LEGISLATIVE PROPOSAL</b>	<b>2017 RECOMMENDATIONS</b>
<p>1. Legislation to impose a point of sale requirement on residential homes for the installation of smart water meters compatible with advanced metering infrastructure.</p>	<p><b><u>Do not pursue legislation at this time; evaluate a point of sale requirement as part of a detailed Advanced Metering Infrastructure (AMI) plan that is being developed</u></b> – This proposal would impose a point of sale requirement on all municipal and industrial properties for the installation of AMI-compatible smart water meters. EBMUD is in the process of evaluating the feasibility of using AMI throughout its service area and will be implementing two grant-funded pilot projects which will inform the development of a detailed AMI plan for the District.</p> <p>Staff will include an evaluation of a point of sale requirement for AMI-compatible smart water meters as part of the AMI plan being developed for the District.</p>
<p>2. Advance EBMUD’s interests in any efforts to impose a statewide water surcharge or public goods charge.</p>	<p><b><u>Proceed</u></b> – The issue of providing a steady source of funding for water-related projects and programs, such as a statewide low-income rate assistance program, is expected to be discussed in the Legislature in 2017. Discussions will likely include the feasibility of some type of statewide surcharge or public goods charge on</p>

	<p>water to fund such a statewide low-income rate assistance program.</p> <ol style="list-style-type: none"> <li>1. Staff will represent EBMUD's interests in any effort to impose a statewide surcharge on water.</li> <li>2. Staff will advocate for a balanced approach that considers the root causes of water affordability and accessibility issues as well as comprehensive solutions, and takes existing local programs into account.</li> <li>3. <i>Staff will advocate for alternative statewide solutions to address the affordability issue for disadvantaged communities and low income ratepayers throughout the state.</i></li> </ol>
<p>3. Protect EBMUD-sponsored water supply assessment law.</p>	<p><b>Proceed</b> – The Legislature will discuss the 2001 EBMUD-sponsored water supply assessment law, in the context of continuing an exemption for solar photovoltaic and wind energy projects using less than 75 acre-feet/year of water.</p> <ol style="list-style-type: none"> <li>1. Staff will represent EBMUD's interests in any efforts to amend the water supply assessment law, including efforts to extend or make permanent the exemption for solar photovoltaic and wind energy projects.</li> <li>2. Staff will seek opportunities to lead the discussion via a proactive approach.</li> <li>3. Staff will advocate for a reasonable approach that balances the important priorities of renewable energy and reliable water supply.</li> </ol>
<p>4. Advance EBMUD's interests in any efforts to impose a water recycling mandate.</p>	<p><b>Proceed</b> – The Legislature will continue to discuss the issue of a statewide mandate requiring wastewater agencies that discharge to the ocean and bays to recycle a specified amount of their wastewater.</p> <ol style="list-style-type: none"> <li>1. Staff will represent EBMUD's interests in any effort to impose a statewide mandate to eliminate wastewater discharges to the ocean and bays.</li> <li>2. Staff will advocate for a balanced approach that facilitates increasing the production and use of recycled water while providing a clear path forward to overcome the significant barriers that currently exist.</li> </ol>

Next, Ms. Dumaine highlighted 2017 state and federal legislative issues including transportation, affordable housing, water policy, and marijuana legalization. Following Board comments, staff was asked to explore what would be involved in leasing EBMUD watershed land to marijuana growers. The Board also asked staff to coordinate with federal lobbyist Eric Saperstein to provide an update on policy issues related to the Safe Drinking Water Act, Clean Water Act, Endangered Species Act, Water Infrastructure Improvement Act and other water policy issues that could impact EBMUD.

12. **Approve Actions Related to the Alameda-North Bay Farm Island Pipeline Crossings Project Final Environmental Impact Report.**

Associate Civil Engineer Aaron L. Hope presented the following recommended actions: 1) Certify the Final Environmental Impact Report for the Alameda-North Bay Farm Island Pipeline Crossings Project; 2) Make findings in accordance with the California Environmental Quality Act (CEQA) including a Statement of Overriding Considerations; 3) Adopt the Mitigation Monitoring and Reporting Plan in accordance with CEQA; and 4) Approve the Project. He reviewed the Draft EIR analyses, public outreach, Draft EIR comments, along with the schedule and next steps. There was discussion about sea level rise requirements, the potential for contaminated soils, collection of system capacity charges, and the cost of the project. General Manager Coate said staff would look into this and report back to the Board.

- Motion by Director Linney, seconded by Director Patterson, to approve the recommended action for Item 12, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

**Resolution No. 35020-16 – Certifying The Final Environmental Impact Report For The Alameda-North Bay Farm Island Pipeline Crossings Project, Making Findings, Adopting The Mitigation Monitoring And Reporting Plan, And Approving The Project.**

13. **Viridis Fuels, LLC Lease Amendment.**

Kathy Neal, CEO Viridis Fuels, presented a request that the District defer for a period not to exceed six months the monthly “Additional Value” payment of \$21,666.67 due under the Lease Agreement between Viridis and the District for a portion of the District’s West End property. There was a question and answer period regarding Ms. Neal’s request.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Item 13, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 209-16 – Approved a request from Viridis Fuels, LLC (Viridis), to defer for a period not to exceed six months the monthly “Additional Value” payment of \$21,666.67 due under the Lease Agreement between Viridis and the District for a portion of the District’s West End property.**

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

Environmental Affairs Officer Douglas I. Wallace presented a status update on the East Bay Watershed Master Plan (EBWMP) and highlighted the staff proposal for a limited opening of trails in the Pinole Valley and San Pablo watershed. He also presented issues related to the California Environmental Quality Act (CEQA) compliance and next steps (i.e. board direction, funding for specialized consulting, conducting studies, and final Board review in spring 2018).

- Addressing the Board were the following persons: 1) Helen Burke, representing Safe Trails Environmental Protection, expressed general support for mountain bike access but recommended rerouting the trail between Pinole Valley and El Sobrante Preserve, adding language to Biodiversity Guideline #10 (identify key habitat areas to protect special status plants and animals), encouraging stakeholder meetings to discuss enforcement and baseline monitoring, provide full cost of pilot project to ratepayers, and review adequacy of CEQA report; 2) Jim Hanson, Richmond resident, urged the Board to reconsider allowing bicyclists on the Sobrante Ridge Trail segment; 3) Norman LaForce, representing the Sierra Club, commented that the EBWMP should include additional enforcement, analysis of habitat destruction from rogue bicycle activity, a full environmental impact report, and an additional vegetation management plan; 4) Pam Young, representing the Golden Gate Audubon Society, commented that mountain biking is inconsistent with EBMUD's commitment to protect the biodiversity in the watershed and urged strict oversight of mountain bike activity to avoid impacts to sensitive habitats, recommended undertaking a baseline study to evaluate the ecosystem of the trail area, and to prepare a cost analysis for studying this two-year pilot project; and 5) Glen Schneider, California Native Plant Society, commented on the work performed to protect the Skyline Garden Project and said he looked forward to continued collaboration in the area.

There was Board comment and discussion regarding the pros and cons of allowing bicyclists on watershed lands. Board members expressed concerns about enforcement on watershed lands, protection of biodiversity, and the need for a full environmental impact report. Board members also expressed support for alternative options to accommodate biking as a recreational use on watershed lands. The Board provided direction to staff which included performing an assessment of trail impacts, conducting a full environmental impact report, performing analysis of alternative trails for biking activity, establishing thresholds for acceptable impacts, and providing photos and topography of single use trails in Pinole Valley.

Next, Manager of Water Conservation Richard W. Harris presented an update on the State of California Framework for Long-term Urban Water Conservation Policy – Executive Order B-37-16. He reported that the District had provided written and oral comments on the four basic elements: use water more wisely, eliminate water waste, strengthen local drought resilience, and improve agricultural water use efficiency and drought planning. He pointed out that the District is generally well prepared for compliance.



Next, Operations and Maintenance Department Manager Eileen M. White reported that our water supply is good, we have received increased revenue from hydropower generation, and we will be carefully managing our water supply. General Manager Coate announced two Wastewater System storm related compliance incidents as a result of two recent large rain events. Staff is investigating these incidents and will provide all necessary regulatory reporting. He also announced that the Office of the General Manager will conduct a test of the District's Emergency Notification System on December 20 which will include Board members. In concluding, Mr. Coate noted that staff provided a memorandum regarding the Six Month Forecast of Board Committee and Workshop Agenda Topics and Summary of 2016 Committee and Workshop Topics along with the November 2016 Monthly Report.

### **REPORTS AND DIRECTOR COMMENTS**

**15. Committee Reports.**

- Filed with the Board were the Finance/Administration Committee Minutes of November 22, 2016.

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

- Advanced Metering Infrastructure Update
- Food waste funding

**17. Director Comments.**

- Director Coleman reported attending/participating in the following events: Scoping meeting for Leland Reservoir on November 28 in Lafayette; ACWA Fall Conference from November 29-December 1 in Anaheim; ACWA teleconference meeting on December 5 in Oakland; R2D2 Resilience Workgroup on December 7 in Oakland; and ACWA teleconference meeting on December 12 in Oakland.
- Director Katz reported attending/participating in the following events: Building and Construction Trades Council of Alameda County's 42nd Annual Holiday Luncheon on December 2 in Oakland; Alameda County Community Choice Aggregation Steering Committee on December 7 in Castro Valley; and the Northern California Carpenters Council meeting on December 9 in San Francisco.
- Director Linney reported attending the West Oakland Commerce Association luncheon meeting on December 7 in Oakland.
- Director McIntosh had no comment.

- Director Patterson reported attending/participating in the following events: ACWA Fall Conference from November 29-December 2 in Anaheim; retirement reception for East Bay Regional Park District Board Members Doug Siden and John Sutter on December 1 in Oakland; and meeting with David Harris of the Oakland Urban Council on December 5 in Oakland.
- Director Young had no comment.
- President Mellon reported attending/participating in the following events: Retirement reception for East Bay Regional Park District Board Members Doug Siden and John Sutter at on December 1 in Oakland; and the Building and Construction Trades Council of Alameda County's 42nd Annual Holiday Luncheon on December 2 in Oakland.

### **ADJOURNMENT**

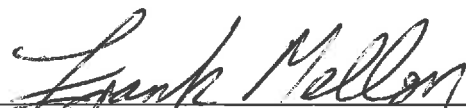
President Mellon closed the meeting in memory of the 36 lives lost in the Ghost Ship Warehouse Building fire on December 2.

President Mellon adjourned the meeting at 5:04 p.m.

SUBMITTED BY:

  
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Lynelle M. Lewis, Secretary of the District

APPROVED: January 10, 2017

  
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Frank Mellon, President of the Board