

MINUTES

Tuesday, December 10, 2019

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

Regular Closed Session Meeting

President Marguerite Young called to order the Regular Closed Session Meeting of the Board of Directors at 11:02 a.m. in the Administration Building Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Attorney Jonathan D. Salmon (Item 1a), Attorney Anna P. Gunderson (Item 1a), and Director of Wastewater Eileen M. White (Item 1a).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Marguerite Young announced the closed session agenda and stated item 1b had been removed from the agenda. The Board convened to Conference Room 8 for discussion.

Regular Business Meeting

President Marguerite Young called to order the Regular Business Meeting of the Board of Directors at 1:16 p.m. in the Administration Building Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Marguerite Young led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PRESENTATION

General Manager Alexander R. Coate announced the District received the American Public Works Association's 2019 Northern California Rodeo Competition Award. The Rodeo is a backhoe competition for Heavy Equipment Operators to safely demonstrate their skills on a timed course. Mr. Coate noted this was staff's first time competing in this event and a short video of the competition was shown to the Board. On behalf of the Board of Directors, Director Frank Mellon congratulated staff and presented the award to the following team members: Heavy Equipment Operators – Christopher M. Gaines, Michael R. Maddocks, Chris G. Plowman, and Kevin D. Skinner; Coach – Assistant Construction and Maintenance Superintendent Jimmy Rangel; and Team Captains – Manager of Pipeline Construction and Equipment Laura J. Johnson and Construction and Maintenance Superintendents Mobil L. Cox, Timothy J. Harris, and John C. Hayden.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

The following persons addressed the Board: 1) Ivette Rivera, EBMUD Gardener Foreman commented on the December 6, 2019 U.S. 9th Circuit Appellate proceedings in the matter of Rivera vs. EBMUD et al. and submitted two documents to be entered into the EBMUD public record; 2) Justin Young, 1st Vice-President, AFSCME Local 2019, commented on an equity adjustment for the District's Associate Electrical Engineer classification; 3) Oliver Raisner commented on an email he sent to Board members and urged the Board to rescind the lease with Verizon to locate a cell tower at Berryman Reservoir in Berkeley; 4) Angelina De Antonis commented on the December 5, 2019 memo from Customer and Community Services Manager Andrew L. Lee to the Board of Directors regarding the Berryman Reservoir Telecommunication Lease and urged the Board to rescind the lease with Verizon; 5) Christian Raisner commented on the December 5, 2019 memo from Customer and Community Services Manager Andrew L. Lee to the Board of Directors regarding the Berryman Reservoir Telecommunication Lease and urged the Board to rescind the lease with Verizon; and 6) Lloyd Morgan commented on how the California Environmental Quality Act should apply to the lease proceedings and urged the Board to rescind the lease with Verizon.

General Counsel Craig S. Spencer responded to comments made by the speakers regarding the status of the telecommunications lease between the District and Verizon. Mr. Spencer explained if Verizon is unable to obtain all necessary permits from the City of Berkeley, the proposed cell tower would not be permitted under the terms of the lease, and Verizon would be allowed to terminate the lease.

CONSENT CALENDAR

- Item 13 was removed from the Consent Calendar for separate discussion.
 - Motion by Director Coleman, seconded by Director Linney, to approve the recommended actions for Items 1-12, on the Consent Calendar, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 195-19** – Approved the Regular and Special Meeting Minutes of November 26, 2019.
 2. The following correspondence was filed with the Board: **1)** Document entitled, “December 10, 2019 (Delivered to afternoon EBMUD Public Board Meeting, by Ivette Rivera) re: Please enter into the EBMUD Public Record; The United States 9th Circuit Appellate YouTube link for the 12/6/19 proceeding of “17-16891, Ivette Rivera v EBMUD et al,” (&AFSCME 444);” **2)** Letter from Oliver Raisner to EBMUD Board members regarding rescinding the lease between EBMUD and Verizon at the Berryman Reservoir at 0 Euclid Avenue, Berkeley, CA 94708; **3)** 20 pages of photos submitted by Angelina De Antonis of the City of Berkeley Landmark Designated Rose Walk, Codornices Park and playing fields, Berryman Reservoir and various City of Berkeley streets; **4)** Presentation entitled, “Public Safety Power Shutoff 2019 Review,” dated December 10, 2019; and **5)** Speakers’ Bureau and Outreach Record CY19, dated December 10, 2019.
 3. **Motion No. 196-19** – Awarded a contract to the lowest responsive/responsible bidder, R & B Company, in an annual amount, after the addition of taxes, not to exceed \$978,000 for supplying wet barrel fire hydrants for three years, beginning on or after January 1, 2020 with two options to renew for additional one-year periods for a total cost of \$4,890,000 under Request for Quotation No. 2001.
 4. **Motion No. 197-19** – Awarded a contract to the lowest responsive/responsible bidder, Teichert Energy & Utilities Group, Inc., doing business as Teichert Utilities, in the amount of \$2,859,790 for construction of the Westside Pumping Plant Replacement – El Toyonal/La Encinal Pipeline Improvements under Specification 2149.
 5. **Motion No. 198-19** – Awarded a contract to Dynamic Systems, Inc., in an amount, after the addition of taxes, not to exceed \$565,000 for supplying Oracle hardware and software maintenance and support services for one year beginning on or after December 10, 2019.
 6. **Motion No. 199-19** – Authorized an agreement with Fidelity Workplace Services, LLC for the recordkeeping services for the District’s 401(a), 401(k) and 457 Plans beginning January 1, 2020 for three years with the option to extend for two additional one-year periods; and to approve mutual indemnification.
 7. **Motion No. 200-19** – Authorized an agreement beginning on or after December 10, 2019 with the Peralta Community College District in an amount not to exceed \$104,672 for tuition, student support services, and appropriate materials required for the Cohort Learning Program.

8. **Motion No. 201-19** – Authorized an agreement beginning on or after December 10, 2019 with Towill, Inc., in an amount not to exceed \$455,000 to complete an internal survey of Lafayette Aqueduct No. 1.
9. **Motion No. 202-19** – Authorized an agreement beginning on or after December 10, 2019 with WaterSmart Software, Inc., in an amount not to exceed \$399,900 annually for two years with three options to renew for additional one-year periods for a total cost of \$1,999,500 for continuing customer water consumption reporting and engagement services.
10. **Motion No. 203-19** – Authorized an amendment to the agreement awarded under Board Motion No. 138-18 with Brown and Caldwell to increase the amount by \$299,913 to a total amount not to exceed \$1,074,991 for additional engineering services for the San Pablo Reservoir Hypolimnetic Oxygenation System Project.
- 11.1-11.4. **Motion No. 204-19** – Authorized an agreement with the Bay Area Water Supply and Conservation Agency (BAWSCA) setting forth the terms and conditions upon which the District will, on a non-precedential one-time basis, convey up to 1,000 acre-feet of raw water to be purchased by BAWSCA from the Amador Water Agency (AWA) from the Mokelumne River watershed to the District's service area, treat the water conveyed to potable standards, and make the treated water, less agreed conveyance losses, available to BAWSCA at the Hayward Intertie for use by BAWSCA or its member agencies; authorized a memorandum of understanding with AWA setting forth the District's conditional non-opposition to the Short-Term Pilot Water Transfer Project (Project), reserving the District's legal rights with respect to future water sales or transfers by AWA, and establishing a dispute resolution process to address legal and water rights issues relating to the transferability of the AWA's water supplies; authorized an agreement among the District, the City of Hayward, and the San Francisco Public Utilities Commission consenting to the one-time use of the Hayward Intertie for the Project; and determined the Project is exempt from the requirements of the California Environmental Quality Act.
12. **Motion No. 205-19** – Authorized a one-time payment of \$105,000 to the Town of Moraga as consideration for entering into a Mutual Tolling Agreement with the District beginning on or after December 11, 2019.
13. **Resolution No. 35160-19** – Appointing Debra Michel As Special Assistant I In The Office Of Intergovernmental Affairs (*effective January 6, 2020*).
 - Director Mellon welcomed Ms. Michel and Ms. Michel thanked the Board for the opportunity to serve at the District.
 - Motion by Director Mellon, seconded by Director Linney, to approve the recommended action for Item 13, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

DETERMINATION AND DISCUSSION

14. Legislative Update.

Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met this morning and supported the staff recommendations for the proposed initiatives. In addition, he said the Committee also recommended staff evaluate the General Manager's current spending authority during a District-declared emergency to determine if the dollar amount should be increased. Next, Manager of Legislative Affairs Marlaigne K. Dumaine summarized each of the proposed initiatives for the 2020 state legislative year and responded to Board questions. In reference to initiative #6, the Board asked staff to engage with Assemblymember Bonta on a proposed Green New Deal concept bill as it relates to workforce development.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Item 14, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 206-19 – Approved State Legislative Initiatives for the 2020 Legislative Year for the following initiatives: 1) Investigate the feasibility of updating the statutory requirements for reaching a Board quorum to declare an emergency; 2) Protect and advance EBMUD's interests in the context of its water supply reliability and the Mokelumne River fishery as the administration and legislature continue to consider water-related issues; 3) Advance EBMUD's interests in efforts to address wildfire preparedness, response, and recovery in the context of water and wastewater service; 4) Advance EBMUD's interests in any efforts to eliminate or reduce the discharge of treated wastewater to the ocean and bays; 5) Advance EBMUD's interests in legislative efforts to address forest health; and 6) Seek constructive ways to advance EBMUD's interests as the administration and the legislature consider ways to provide assistance to low-income water customers.

15. General Manager's Report.

Director of Operations and Maintenance Clifford C. Chan presented an overview of the District's response to PG&E's Public Safety Power Shutoff (PSPS) events in October and November. He reviewed the scope of the PSPS impact, costs, labor hours, communications plans, opportunity costs, and the total number of impacted District facilities and recreation areas. He explained that although PG&E canceled a couple of events, the District still spent resources responding and demobilizing. In total, costs were approximately \$1.46 million and staff expended around 8,100 labor hours responding to PSPS events. Because the District began preparing for PSPS events in 2018, he said there were no impacts to customers and employees remained safe. Staff began returning rental generators in November and is already preparing for rentals in 2020. Lessons learned will be incorporated into the District's emergency operations plans and staff will continue coordinating with PG&E. Additionally, the District will continue participating in the California Public Utilities Commission process to address wildfires and PSPS events. The Board commended staff on their work and pre-planning. Mr. Chan responded to Board questions on potential impacts to reservoirs if PSPS events go on for extended periods of time; future communication plans for customers

including those who may not be immediately impacted by a PSPS event; the feasibility of setting up some of our facilities to be off the grid to address emergencies; and plans for generator rentals in 2020. The Board asked for a future update on preparations for 2020 PSPS events including generator rentals and for staff to consider sharing the costs the District incurred responding to events with the legislature, the media, and other stakeholders.

General Manager Coate announced the November Monthly Report as well as a memo summarizing 2019 Board committee and workshop topics and forecasting committee and workshop topics for 2020 had been provided in the agenda packet. Legislative/Human Resources Committee member Lesa R. McIntosh asked staff to consider consolidating three reports regarding Diversity and Inclusion currently scheduled to be presented to the Committee in January and February 2020. Next, General Manager Coate asked Board members to advise staff if they had questions on the latest Speakers' Bureau and Outreach Record provided at their places.

President Young left the meeting at 2:08 p.m. and returned at 2:09 p.m.

REPORTS AND DIRECTOR COMMENTS

16. Committee Reports.

- Filed with the Board were the Finance/Administration Committee Minutes of November 26, 2019.

Planning Committee Chair Doug Linney reported the Committee met at 9:45 a.m. and received information on the District's response to mandates in Senate Bill 998 and a proposed facility landscape maintenance agreement.

Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met at 10:15 a.m. and received information on the State Legislative Initiatives for the 2020 Legislative Year and the Deferred Compensation Plan Recordkeeping Agreement.

17. Other Items for Future Consideration.

None.

18. Director Comments.

- Director Coleman reported attending the ACWA Fall Conference on December 3-4 in San Diego and the FRWA Board meeting via teleconference on December 9 in Oakland.
- Director Mellon reported attending the the ACWA Fall Conference on December 3-4 in San Diego.
- President Young reported presenting to the Commonwealth Club on November 26 in San Francisco.
- Directors Katz, Linney, McIntosh, and Patterson had no report.

ADJOURNMENT

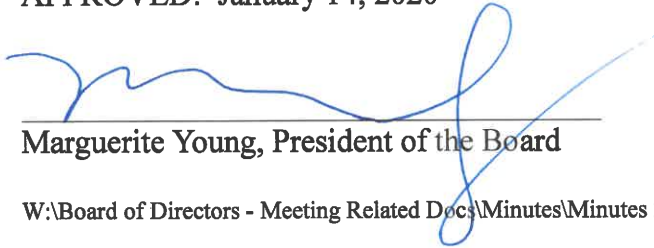
President Young adjourned the meeting at 2:41 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: January 14, 2020



Marguerite Young, President of the Board