

MINUTES

Tuesday, January 24, 2017

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

Regular Closed Session Meeting

President Lesa R. McIntosh called to order the Regular Closed Session Meeting of the Board of Directors at 11:44 a.m. in the Administration Center Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Water and Natural Resources Richard G. Sykes (Item 1), Assistant General Counsel Frederick S. Etheridge (Item 1), Manager of Real Estate Services Matt Elawady (Item 2), Attorney Derek T. McDonald (Item 2), Director of Finance Sophia D. Skoda (Item 3), Manager of Human Resources Laura A. Brunson (Item 3), Attorney Lourdes Matthew (Item 3), and Industrial Employers Distributors Association representatives Glenn Berkheimer and Bruce Heid (Item 3).

PUBLIC COMMENT

- There was no comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Lesa R. McIntosh announced the closed session agenda. The Board convened to Conference Room 8 for discussion.

Regular Business Meeting

President McIntosh called to order the Regular Business Meeting of the Board of Directors at 1:27 p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney, Frank Mellon, William B. Patterson, Marguerite Young, and President Lesa R. McIntosh 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 McIntosh led the Pledge of Allegiance.

2017 Committee Assignments

President McIntosh announced amendments to the 2017 Board committee assignments as follows: EBMUD/EBRPD Liaison (Director Katz changed to an alternate; Director Mellon changed to a member); Special Districts Association of Alameda County (removed President McIntosh and added Director Mellon as a member); and the Freeport Regional Water Authority (removed Director Katz and added Director Linney as an alternate).

- Motion by Director Linney, seconded by Director Mellon, to approve the 2017 Committee Assignments, as amended, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 012-17 – Approved the following 2017 Board Committee assignments:

Planning

Director Mellon, Chair
Director Linney
Director Young

2nd Tuesday of the month at 9:15 a.m.

Administration Center Building
Training Resource Center, 2nd Floor
Training Resource Center, 2nd Floor

Legislative/Human Resources

Director Coleman, Chair
Director Patterson
Director Young

2nd Tuesday of the month at 10:15 a.m.

Administration Center Building
Training Resource Center, 2nd Floor

Finance/Administration

Director Patterson, Chair
Director Coleman
Director Mellon

4th Tuesday of the month at 10:00 a.m.

Administration Center Building
Training Resource Center, 2nd Floor

Sustainability/Energy

Director Young, Chair
Director Katz
Director Linney

Meets quarterly on 4th Tuesday

Administration Center Building
Training Resource Center, 2nd Floor

DSRSD/EBMUD Recycled Water Authority (DERWA)

Director Coleman
President Mellon
Director Linney, Alternate

4th Monday of even calendar months at 6:00 p.m.

Contact: Linda H. Hu, 287-1691

Freeport Regional Water Authority

Directors Coleman
Director Patterson
Director Linney, Alternate

*2nd Thursday at 10:00 a.m. on a quarterly basis,
with locations to be announced*

Retirement Board

Director Mellon
Director Young

3rd Thursday odd numbered months at 8:30 a.m.

Administration Center Building
Training Resource Center, 2nd Floor

Upper Mokelumne River Watershed

Authority

Director Coleman
Director Patterson
Director Young, Alternate
Director Katz, Alternate

4th Friday, quarterly at 1:30 p.m.

McLean Hall, Pardee Center

Business Forum (Ad Hoc)

Director Coleman
Director Katz
Director Patterson
Director Mellon, Alternate

Meeting dates, times, and location to be determined

EBMUD/EBRPD Liaison

Director Linney
Director Mellon
Director Katz, Alternate

Meeting dates, times, and location to be determined

Oakland Chamber of Commerce

Director Linney
Director Patterson, Alternate
Director Katz, Alternate

Special Districts Association of Alameda County/Special Districts Selection Committee

Director Mellon, Member
Director Katz, Alternate
Director Linney, Alternate

Special Districts Association of Contra Costa County

President McIntosh, Member
Director Mellon, Alternate
Director Young, Alternate

ANNOUNCEMENTS FROM CLOSED SESSION

President McIntosh announced that the Board, in closed session, by a unanimous vote of the Directors attending, authorized the General Counsel to initiate litigation in one matter. The actions, defendants and other particulars will be disclosed, upon inquiry, once the action has formally commenced.

PRESENTATION

General Manager Coate announced that the District received recognition as a "Utility of the Future Today" from a partnership of water sector organizations including the Water Environment Federation, National Association of Clean Water Agencies, Water Environment & Reuse Foundation, WateReuse,

and the United States Environmental Protection Agency. The District received this designation in recognition of multiple programs it has adopted, many of which are innovative and pioneering, including resource recovery, renewable energy generation, water recycling, biosolids management, commitment to workplace safety, values and organizational improvements, community partnerships, and pollution prevention.

General Manager Coate introduced the following Wastewater Department staff in acknowledgement of their roles in bringing this recognition to EBMUD: Manager of Wastewater Engineering Vincent P. De Lange, Manager of Wastewater Environmental Services Jackie Zipkin, Senior Civil Engineer Alicia R. Chakrabarti, Senior Civil Engineer John M. Hake, Senior Civil Engineer Yuyun Shang, Supervising Wastewater Control Representative Gabriel A. Dib, Assistant Wastewater Shift Supervisor Jeffrey M. Bruel, Power Plant Supervisor David A. Allen, Wastewater Treatment Superintendent Jeffery L. Cloherty, and Research Chemist Artem A. Dyachenko.

Vice-President Patterson presented the plaque and banner to staff on behalf of the Board and thanked them for providing reliable, affordable and responsible wastewater treatment to its ratepayers with innovative and exceptional practices. The Board applauded staff for its accomplishment.

PUBLIC COMMENT

- Addressing the Board were the following persons: 1) Ivette Rivera, Ratepayer, read a letter to the Board (filed) requesting amendments to clarify her comments in the Draft January 10, 2017 Regular Meeting Minutes; 2) Devina Ojascastro, Co-President of the Asian Pacific Employees Association (APEA), presented Senior Community Affairs Representative Gregory L. Chan with a Certificate of Appreciation honoring his numerous contributions to the organization and being a community champion, and wished him well in retirement; 3) Vivian Ling-Wong, representing APEA, commented on Senior Community Affairs Representative Gregory L. Chan's contributions to build a positive image for the District, visibility in the community, being a role model for the APEA members, and wished him well in retirement; 4) Maria S. Berbano, Human Resources Analyst, representing APEA, expressed appreciation and thanks to Senior Community Affairs Representative Gregory L. Chan for his legacy of building bridges and providing leadership to the APEA, the community and the District; 5) District Director Carolina Salazar Herrera representing Assemblymember Bill Quirk and Lorena Lopez Navarro representing Assemblymember Rob Bonta's office presented Senior Community Affairs Representative Gregory L. Chan a resolution on behalf of the State Legislature and the East Bay delegation to thank Mr. Chan for his work in keeping legislators and local officials informed on policy issues over the years. Board members expressed their appreciation and thanks to Mr. Chan for outstanding work in representing the District over the years, his role as a community liaison, and his support to Board members. Mr. Chan expressed thanks for the recognition, the accolades, and for the opportunity to work with everyone over the past 20 years. He encouraged the District to continue efforts to integrate the District's core values of stewardship, integrity, respect, and teamwork; and 6) Rosa Merced, EBMUD employee, read a letter (filed) regarding continued issues related to her personal workers' compensation job injury claim and ask the Board to look into why more District employees are requiring legal representation. The Board requested a response on the issues raised by Ms. Merced.

CONSENT CALENDAR

- Motion by Director Coleman, seconded by Director Linney, to approve the recommended actions for Items 1-8 on the Consent Calendar, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 013-17** – Approved the Regular Meeting Minutes of January 10, 2017.
 2. The following correspondence was filed with the Board: 02.1) Letter (with attachments) dated January 24, 2017, to Board of Directors from Ivette Rivera, regarding “Item #1 on the Agenda”; 02.2) Letter dated January 24, 2017, to Board of Directors et al from M. Rosa Merced, Emp. 14076, regarding “Continued Issues: Workers Comp/Job Injury Retiring Under Distress”; 02.3) Presentation entitled “Briones Aqueduct Emergency Landslide Repair,” dated January 24, 2017; 02.4) Presentation entitled “Water Supply Board Briefing,” dated January 24, 2017; and 02.5) Presentation entitled “EBMUD Board Member Succession Plan,” dated January 24, 2017.
 3. **Motion No. 014-17** – Awarded a contract to the lowest responsive/responsible bidder, Kiewit Infrastructure West Co., in the amount of \$6,495,000 for construction of Upper San Leandro Reservoir Tower Upgrade under Specification 2106.
 4. **Motion No. 015-17** – Authorized an agreement beginning on or after January 24, 2017 with RouteSmart Technologies, Inc., to provide RouteSmart software, analysis services, and training for one year in an amount not to exceed \$195,450, with four one-year options to renew for an average of \$31,939 annually thereafter, for a total cost of \$323,206.
 5. **Motion No. 016-17** – Approved a direct award contract to Philadelphia Mixing Solutions Limited in an amount not to exceed \$175,000, after addition of taxes and freight, for supplying two mixers for food waste processing at the Main Wastewater Treatment Plant.
 6. **Motion No. 017-17** – Authorized an amendment to the agreement with Construx Software Builders, Inc., beginning on or after January 25, 2017 to extend the agreement for four years for software training and consulting. This amendment increases the total agreement ceiling by \$300,000 to an amount not to exceed \$390,000.
 7. **Motion No. 018-17** – Authorized an amendment to the agreement with Kleinfelder, Inc., beginning on or after January 24, 2017 in an amount not to exceed \$799,798 for construction support services for the Chabot Dam Seismic Upgrade and Upper San Leandro Reservoir Tower Upgrade projects. The amendment will increase the agreement to a new maximum cost ceiling of \$2,519,798.
 8. **Resolution No. 35021-17** – Authorizing Application To The United States Department Of The Interior, Bureau Of Reclamation For A WaterSMART Drought Resiliency Grant To Fund The Bay Area Regional Reliability Regional Exchange Demonstration Project.

DETERMINATION AND DISCUSSION

9. Legislative Update.

Manager of Legislative Affairs Marlaine K. Dumaine reported that the new California Attorney General Xavier Becerra was sworn in early in the day. Governor Brown presented the 2017 State of the State Address which focused on immigration, health care, climate change and infrastructure. She highlighted components of California Budget 2017-18 and reported that Senator Hertzberg indicated that he does not intend to move the wastewater prohibition bill forward. On federal issues, Ms. Dumaine reported on infrastructure spending, proposed appointments for the Environmental Protection Agency, Department of the Interior, and U.S. Bureau of Reclamation, along with President Trump's Executive Orders. Ms. Dumaine said staff will report back to the Board as more information is received.

10. Briones Aqueduct Slide Declaration of Emergency.

Operations and Maintenance Department Manager Eileen M. White reported that following continued wet weather during the week of January 9th, the District identified a significant storm-induced slide on San Pablo Creek adjacent to the Briones Aqueduct. On January 13, 2017 the General Manager, in consultation with the Board President, declared the Briones Aqueduct Slide Repairs Emergency in accordance with Policy 7.03 (Emergency Preparedness/Business Continuity). The Policy authorizes suspension of the competitive bid process and the General Manager to enter into emergency contracts not to exceed \$350,000, per contract. It further requires that the General Manager report to the Board of Directors all expenditures made and contracts awarded in response to the emergency declaration.

Staff recommended ratifying the General Manager's January 13, 2017 declaration of a District emergency in accordance with Policy 7.03 as a result of a storm-induced slide in Orinda threatening the structural integrity of the Briones Aqueduct with possible resultant major damage to public safety, the environment, and the District's water facilities.

- Motion by Director Young, seconded by Director Patterson, to approve the recommended action for Item 10, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35022-17 – Resolution Ratifying General Manager's Declaration Of The Existence Of An East Bay Municipal Utility District Emergency.

11. Board's Annual Review of Directors' Compensation.

President McIntosh announced that this topic was referred to the Finance/Administration Committee meeting for deliberation. Director Coleman reported that the Committee voted 2-1 to support the recommendation to increase the Board's monthly compensation. General Manager Coate reported that at the request of the Board, staff conducted a salary survey of respective agencies. The results indicate that while there is some variability in

compensation, Bay Area water and wastewater agencies provide their Board of Directors compensation comparable to the District. There was Board discussion.

- Addressing the Board was Mark Foley, President, AFSCME Local 2019, who urged the Board to adopt an increase that is equal to what staff receives as a show of equality.
- Motion by Director Linney, seconded by Director Patterson, that effective February 1, 2017, the Board's monthly compensation be increased by \$45 per month or 3.7 percent, which will result in the Board's monthly compensation changing from \$1,218 to \$1,263. The motion carried (5-2) by the following roll call vote: AYES (Katz, Linney, Patterson, Young, and McIntosh); NOES (Coleman and Mellon); ABSTAIN (None); ABSENT (None).

Motion No. 019-17 – Approved increasing the Board of Directors' monthly compensation by \$45 per month or 3.7 percent, which will result in the Board's compensation changing from \$1,218 to \$1,263, effective February 1, 2017.

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

Attorney Derek T. McDonald presented findings on the legal authority for developing a Board Succession Plan. He provided details on what the law provides for appointing, seating and maintaining the services of standby officers. Next steps include: finalize the Board Succession Plan with staff; draft and adopt revisions to Policy 7.03 to include board succession; adopt a resolution approving the Board Succession Plan; proceed with the selection of Standby Officers; and adopt a resolution appointing Standby Officers. There was a question and answer period and the Board requested that staff provide the following additional information: 1) Explore whether nepotism exclusions exist for potential successors and whether the Municipal Utility District Act or California Emergency Services Act applies; and 2) clarify language describing "available" and "emergency".

General Manager Coate announced that discussion on appointing an Ad Hoc Committee to Negotiate Amendments to Employment Agreements with General Manager and General Counsel would be deferred. Next, Operations and Maintenance Department Manager Eileen M. White presented the Water Supply Briefing, which included updates on recent storms, flood control operations, water supply projections, water production, and water savings. She highlighted recent rain storm activity which significantly increased water supplies within the state and locally. From January 1 to January 22, state reservoir storage increased up to 25% of capacity and snow water content increased from 70% to 193% of average. Total system current storage is 670,820 acre feet with Pardee Reservoir at 99% capacity, Camanche Reservoir at 75% capacity, and East Bay reservoirs at 102% capacity. She pointed out that flooding occurred January 7 on Redwood Canyon Golf Course and a landslide on the Briones Aqueduct and the Sobrante Water Treatment Plant. In concluding, Ms. White presented a summary of Water Year 2017 which is 49% complete and noted that total system storage is 304,000 acre feet more than last year at this time.

REPORTS AND DIRECTOR COMMENTS

13. Committee Reports.

- Filed with the Board were the Planning and Legislative/Human Resources Committee Minutes of January 10, 2017.

14. Other Items for Future Consideration.

None.

15. Director Comments.

- Director Coleman reported attending/participating in the following events: EBMUD Recycled Water meeting on January 11 in Orinda; ACWA teleconference meeting on January 11 in Oakland; Happy Valley Pipeline meeting on January 11 in Lafayette; Contra Costa County Mayors' Conference on January 12 in Danville; ACWA teleconference meeting on January 17 in Oakland; East Bay Economic Development Alliance Legislative Reception on January 19 in Oakland; and an ACWA teleconference meeting on January 23 in Oakland. He reported on plans to attend/participate in the following upcoming events: Meeting with constituent David Bowlby on January 26 in Oakland; East Bay Leadership Council dinner on January 26 in Concord; Upper Mokelumne River Watershed Authority Board meeting on January 27 in Pardee; ACWA teleconference meeting on January 30 in Oakland; meeting with state legislators on February 1 in Sacramento; ACWA Board Workshop and Dinner on February 2 in Sacramento; ACWA Executive Committee and Board of Directors meeting on February 3 in Sacramento; and ACWA teleconference meeting on February 13 in Oakland.
- Director Katz had no comment.
- Director Linney had no comment.
- Director Mellon reported attending/participating in the following events: Alameda County Special Districts Association meeting on January 11 at Oro Loma Sanitary District in San Lorenzo; Alameda County Mayors' Conference on January 11 in Oakland; Contra Costa County Mayors' Conference meeting on January 12 in Danville; National Electrical Contractors Association Retirement Dinner for Darlene Best-Murrietta on January 13 in Livermore; and the East Bay Economic Development Alliance Legislative Reception on January 19 in Oakland.
- Director Patterson reported attending/participating in the following events: Peralta Colleges Foundation Board meeting on January 11 in Oakland; Freeport Regional Water Authority Board teleconference meeting on January 12 in Oakland; NAACP Executive Committee meeting on January 14 in Oakland; Martin Luther King, Jr. event on January 17 in Oakland; and a farewell banquet for Oakland Superintendent of Schools on January 18 in Oakland.

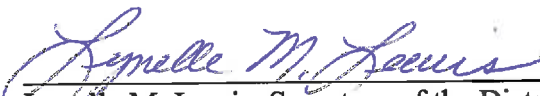
- Director Young reported attending/participating in the following events: Meeting with Annie Campbell Washington regarding lead and the Customer Assistance Program on January 6 in Oakland; Alameda County Mayors' Conference meeting on January 11 in Oakland; EBMUDER's meeting on January 19 in Oakland; and the Women's March on January 21 in Oakland.
- President McIntosh had no comment.

ADJOURNMENT

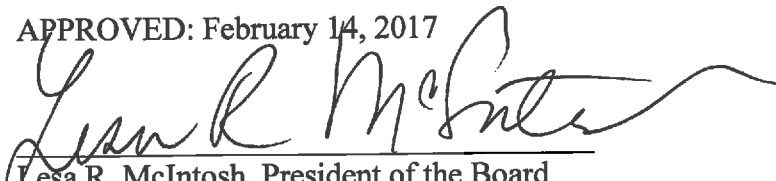
President McIntosh adjourned the meeting in recognition of the retirement of Senior Community Affairs Representative Gregory L. Chan after 22 years of service with the District.

President McIntosh adjourned the meeting at 3:29 p.m.

SUBMITTED BY:


Lynelle M. Lewis, Secretary of the District

APPROVED: February 14, 2017


Lesa R. McIntosh, President of the Board

