

## MINUTES

**Tuesday, March 12, 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 11:18 a.m. in the Administration Center Boardroom.

### ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Assistant General Counsel Frederick Etheridge (Item 1a), Assistant General Counsel Xanthe M. Berry (Items 1b, 2a and 2b), Director of Water and Natural Resources Michael T. Tognolini (Item 1a), Engineering Manager Elizabeth Z. Bialek (Items 1b, 2a and 2b), Engineering Manager Carlton D. Chan (Item 3), and Attorney Derek T. McDonald (Items 1a, 1b, 2a, 2b and 3).

### PUBLIC COMMENT

There was no public comment.

### ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

### Regular Business Meeting

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

### ROLL CALL

Directors Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call. Director Andy Katz arrived at 1:23 p.m. Director John A. Coleman was absent (excused).

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 Young led the Pledge of Allegiance.

President Young acknowledged Director Lesa R. McIntosh for her 20 years of service to the District. She highlighted Director McIntosh's numerous contributions to the Board and her constituents over the years. On behalf of the Board, President Young presented Director McIntosh with her 20-year service pin and water drop plaque. Director McIntosh thanked the Board and staff for the recognition and for their continued support.

## **PRESENTATION**

General Manager Alexander R. Coate announced the District received the National Association of Clean Water Agencies' (NACWA) 2019 Public Information and Education Award for the "Watershed to Bay" 12-page insert published in the East Bay Express on September 5, 2018. The award was presented at the NACWA Winter Annual Conference on February 6, 2019. The "Watershed to Bay" insert was paired with complementary bus and billboard advertising that encouraged the public to take action and keep the bay free of pollution. General Manager Coate recognized the following staff representing the various departments that worked together to produce and promote the award-winning insert: Senior Public Information Representative Andrea Pook; Community Affairs Representative II Sharla Sullivan; Senior Graphic Designer Michael Bergstrom; Graphic Designer II Camilo Rojas-Lavado; Manager of Wastewater Environmental Services Alicia Chakrabarti; Wastewater Control Representative Kristen Font; Wastewater Control Inspector II George Chow; Assistant Engineer Jose Lopez; and Administrative Clerk Aaron McClain. Director Linney presented the award and on behalf of the Board, thanked the contributors for their efforts.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

President Young announced that in closed session this morning, the Board, by unanimous vote of the Directors attending, authorized the General Counsel to initiate litigation in one matter. The action, defendants and other particulars will be disclosed, upon inquiry, once the action is formally commenced. She stated there were no other announcements required from closed session.

## **PUBLIC COMMENT**

There was no public comment.

## **CONSENT CALENDAR**

- Motion by Director Mellon, seconded by Director McIntosh, to approve the recommended actions for Items 1-6 on the Consent Calendar, carried (6-0) by the following voice vote: AYES (Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (Coleman).

1. **Motion No. 046-19** – Approved the Regular Meeting Minutes of February 26, 2019.

2. The following correspondence was filed with the Board: **1) Presentation** entitled “2018 Mokelumne River Salmon Return Update,” dated March 12, 2019; **2) Presentation** entitled “Proposed Amendments to Regional Private Sewer Lateral Ordinance,” dated March 12, 2019; **3) Presentation** entitled “Water Supply Update,” dated March 12, 2019; and **4) Speakers’ Bureau and Outreach Record CY19**, dated March 12, 2019.
3. **Motion No. 047-19** – Authorized an agreement beginning on or after March 13, 2019 with McMillen Jacobs Associates in an amount not to exceed \$338,611 for the design of two new chemical feed shafts to Pardee Tunnel as part of the Pardee Chemical Plant Improvements Project.
4. **Motion No. 048-19** – Authorized an agreement beginning on or after March 12, 2019 with Pacific Rim Fall Protection, Inc., in an amount not to exceed \$333,280 for fall protection services and systems at four buildings at the Adeline Maintenance Center.
5. **Motion No. 049-19** – Considered the Addendum to the Main Wastewater Treatment Plant Land Use Master Plan Environmental Impact Report, determined that no further environmental review is required under the California Environmental Quality Act, and authorized the execution of a five-year Land Lease with an option to extend for an additional five years or less at the District’s discretion with Bizon Group, Inc., dba Conexwest, for approximately four acres of land located within the District’s West End property.
6. **Motion No. 050-19** – Adopted the Fiscal Year 2019 Diversity and Inclusion Program.

#### **DETERMINATION AND DISCUSSION**

7. **Legislative Update.**

Legislative/Human Resources Committee member Lesa R. McIntosh reported that the Committee met this morning and approved the staff recommended positions in Legislative Report No. 01-19. Manager of Legislative Affairs Marlaigne K. Dumaine highlighted the bills in the report and provided information on the status of safe drinking water fund legislation. Board members commented on state emergency funding for drinking water assistance and funding scenarios to support Senator Bill Monning’s proposal of \$140 million to fund the annual cost of water accessibility programs. Ms. Dumaine said staff will gather information on all proposed safe drinking water legislation and measures and provide a comprehensive update to the Board at a future meeting. Board members also asked about potential funding for bill payment assistance for low-income customers in urban areas with clean drinking water, providing access to water for the homeless population, and addressing lead in drinking water infrastructure at school sites. The Board asked staff to evaluate and report back on elements of the Green New Deal that may benefit from District support.

- Motion by Director Linney, seconded by Director Patterson, to approve the recommended actions for Item 7, carried (6-0) by the following voice vote: AYES (Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Coleman).

**Motion No. 051-19** – Received Legislative Report No. 01-19 and approved positions on the following bills: SUPPORT AB 533 (Holden) Income Taxes: Exclusion: Water Conservation or Efficiency Programs: Water Runoff Management Improvement Program; SUPPORT ACA 1 (Aguiar-Curry) Local Government Financing: Affordable Housing and Public Infrastructure: Voter Approval; SUPPORT SB 379 (Committee on Governance and Finance) Validations; SUPPORT SB 380 (Committee on Governance and Finance) Validations; SUPPORT SB 381 (Committee on Governance and Finance) Validations; and SUPPORT H.R. 1497 (DeFazio) Water Quality Protection and Job Creation Act of 2019; and received information on the Status of Safe Drinking Water Fund Legislation.

**8. General Manager's Report.**

Manager of Fisheries and Wildlife Jose D. Setka presented an update on the 2018 fall-run Chinook salmon and steelhead return to the Mokelumne River. The 2018 return was the third highest recorded since 1940 with an estimated 17,474 salmon, including 10,194 fish that spawned in the river and 7,280 that were collected at the hatchery for egg production returned to the river. The steelhead trout return to the hatchery exceeded 250 adult fish. Mr. Setka reviewed the suite of management actions implemented over the last decade to help increase fish return numbers; data from the California Department of Fish and Wildlife which shows that in 2018, Mokelumne hatchery origin salmon made up approximately 43 percent of the commercial and 33 percent of the recreational catch, respectively; 2019 in-river spawning and production data; plans to address inbreeding in the Central Valley steelhead population; and coverage from the second annual media day event at the hatchery in November. He highlighted issues to be addressed in 2019 and said staff will continue implementing actions and engaging with resource agency staff, advocacy groups and others to improve the survival of juvenile salmon migrating through the Central Delta. The District remains involved in the Bay Delta Water Quality Control Plan Phase 2 process and will continue work to ensure the optimum plan outcome for the Mokelumne fishery. General Manager Coate advised the District would be issuing a media advisory today regarding the 2018 return numbers. The Board thanked staff for their efforts and the update.

Manager of Wastewater Environmental Services Alicia Chakrabarti presented an update on proposed amendments to the Regional Private Sewer Lateral (PSL) Ordinance which was last modified in 2014. This information was also presented to the Planning Committee on February 13. The PSL program is a component of the District's Wet Weather Consent Decree. Ordinance amendments are needed to provide clear requirements and enforcement tools in advance of upcoming deadlines in 2021 and to maximize the effectiveness of the program. The amendments will primarily impact common interest developments (i.e. homeowners associations (HOAs)) and parcels or parcel groups with PSLs greater than 1,000 feet. In the current ordinance, these properties have a compliance deadline of July 21, 2021. Additional proposed revisions include clarifying definitions of terms in the ordinance, exempting some transfers to/from an LLC, and strengthening enforcement language. Ms. Chakrabarti said staff has conducted ongoing outreach to stakeholders and after the ordinance amendments go into effect, will continue direct outreach to all non-compliant properties and with HOAs and properties with PSLs exceeding 1,000 feet. Board feedback will be incorporated into the draft amended ordinance and the first and second readings are scheduled for the April 9 and April 23 Board meetings. If approved by the Board on April 23, the updated ordinance will be effective June 1, 2019. Ms. Chakrabarti

responded to Board questions on how other wastewater agencies are managing this issue; clarification for the term “default allocation”; and an appeals or extension process for properties unable to meet the 2021 deadline. Staff will provide information at April 9 Board meeting to demonstrate ways default allocation could be established if an HOA does not respond to District outreach and fails to meet the compliance deadline.

Manager of Maintenance and Construction/Water Operations David A. Briggs presented the Water Supply update as of March 10 which included the latest supply projections for the remainder of the rain year. He reviewed the gross water production, the current snow water content at Caples Lake (210% of average), and precipitation in the East Bay (107% of average) and the Mokelumne (143% percent of average). As of March 10, the District’s total system storage was 651,690 acre feet, which is 108% of average and 84% of capacity.

General Manager Coate announced the Monthly Report for February was provided in the Board’s packet and an updated Speakers’ Bureau and Outreach Record was provided at the dais.

#### **REPORTS AND DIRECTOR COMMENTS**

9. **Committee Reports.**

- Filed with the Board were the Sustainability/Energy and Finance/Administration Committee Minutes of February 26, 2019.

10. **Other Items for Future Consideration.**

None.

11. **Director Comments.**

- Director Coleman submitted a written report on his activities during the ACWA Conference on February 25-28 in Washington D.C. and reported meeting with Eric Zell and Josh Genser regarding EBMUD related issues on March 6 in Point Richmond and attending the Contra Costa Mayors’ Conference on March 7 in San Ramon. He reported on plans to attend the DERWA Board meeting on March 25 in Dublin.
- Director Mellon reported attending the San Leandro Breakfast Club on February 27 in San Leandro and Contra Costa County Mayors’ Conference on March 7 in San Ramon.
- Director Patterson thanked fellow Board members and staff for attending the February 26 Oakland City Council meeting where he was recognized for his years of service to the City of Oakland and civil rights.
- Directors Katz, Linney, McIntosh and President Young had no comment.

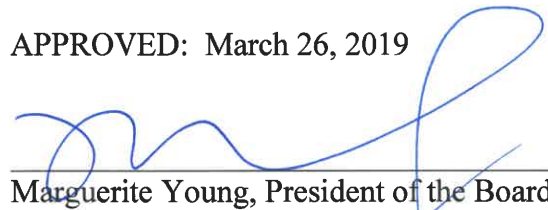
**ADJOURNMENT**

President Young adjourned the meeting at 2:49 p.m. in memory of Victor McElhaney, son of Oakland City Councilmember Lynette Gibson McElhaney. She requested that a letter of condolence be sent to the family on behalf of the Board.

SUBMITTED BY:

  
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Rischa S. Cole, Secretary of the District

APPROVED: March 26, 2019

  
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Marguerite Young, President of the Board