

MINUTES

Tuesday, October 22, 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 11:00 a.m. in the Administration Building Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Assistant General Counsel Fred S. Etheridge (Item 1a), Attorney Jonathan D. Salmon (Item 1a), Director of Water and Natural Resources Michael T. Tognolini (Item 1a), Engineering Manager Lena L. Tam (Item 1a), Attorney Lourdes Matthew (Item 1b), Director of Finance Sophia D. Skoda (Item 1b), and Manager of Human Resources Laura A. Acosta (Item 1b).

PUBLIC COMMENT

- Addressing the Board was Eric Larsen, President, AFSCME Local 444 who asked the District to consider including tier 3 emissions in its greenhouse gas inventory; installing electric car charging stations at all service yards; and to consider ending the current policy of reassigning staff to “balance” service yard staffing levels because of the impact to staff commute times and GHG emissions.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Marguerite Young announced the closed session 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 1:18 p.m. in the Administration Building Board Room.

ROLL CALL

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

PRESENTATION

General Manager Coate announced the District had received the Government Finance Officers Association's Fiscal Year 2018 Certificate of Achievement for Excellence in Financial Reporting. He noted the District has received this award for 14 consecutive years. Controller D. Scott Klein presented an overview of the work required to receive this award. He explained the award's importance in helping the District maintain its positive credit rating as well as supporting the District's financial investments and long-term financial stability. He pointed out the District's audited financial statement has received a clean opinion each year since 1949. On behalf of the Board of Directors, Director Patterson thanked staff for their work and presented the award to the following staff: Accountant III Yenny S. Coburn, Accounting Systems Supervisor Lawrence Fan, Controller D. Scott Klein, Accounting and Financial Systems Analyst David Siu, and Accountant III Melody Wang.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Items 5 and 9 were pulled from the Consent Calendar for separate discussion.
 - Motion by Director Coleman, seconded by Director Linney, to approve the recommended actions for Items 1-4, and 6-8 on the Consent Calendar, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (Mellon).
1. **Motion No. 176-19** – Approved the Regular Meeting Minutes of October 8, 2019.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, "Public Safety Power Shutoff October 2019 Event Summary," dated October 22, 2019; **2)** Presentation entitled, "Comprehensive Annual Financial Report Award of Excellence," dated October 22, 2019; **3)** Presentation entitled, "Extend Standby Bond Purchase Agreements for VRDBs Series 2008A-1 and A4," dated October 22, 2019; **4)** Presentation entitled, "Upcoming Long-Term Financial Stability Related Activities," dated October 22, 2019; **5)** Memorandum dated October 22, 2019 to Board of Directors from Alexander R. Coate, General Manager, regarding Letter to the California Environmental Protection Agency Secretary Jared Blumenfeld regarding the Mokelumne River Voluntary Agreement; **6)** Memorandum dated October 22, 2019 to Board of Directors from Alexander R. Coate, General Manager, regarding Pardee Home Museum – Invitation to Join Board of Directors; and **7)** Speakers' Bureau and Outreach Record CY19, dated October 22, 2019.

3. **Motion No. 177-19** – Awarded a contract to the lowest responsive/responsible bidder Superior Tank Solutions, Inc., in an amount, after the addition of taxes, not to exceed \$126,530 for replacing partial guardrail systems and gates with full perimeter guardrail systems with self-closing gates on five above-ground water distribution tanks, at several upcountry facilities beginning on or after October 24, 2019 under Request for Quotation No. 1923.
4. **Motion No. 178-19** – Authorized an agreement beginning on or after October 22, 2019 between the City of Albany and the District to provide as-needed sanitary sewer overflow sampling and analysis services for Albany through September 30, 2023.
- 5a.-5b. **Motion No. 181-19** – Authorized an amendment to the agreements awarded under Board Motion No. 140-18 to increase the amount by \$1,200,000 to a total amount not to exceed \$6,400,000 for the rental of fully maintained and operated asphaltic cement/concrete saw-cutting services, and extended these agreements through November 25, 2020 with the following vendors: Bay Line Cutting & Coring, Inc.; Cal-West Concrete Cutting, Inc.; Concrete Demo Works, Inc.; Fine Line Sawing and Drilling, Inc.; and Penhall Company; and authorized additional agreements for fully maintained and operated asphaltic cement/concrete saw-cutting rental services with vendors meeting District standards and offering pricing at or below the range in the amended agreements above. These additional agreements may be issued, on an as-needed basis, to increase flexibility and ensure availability of asphaltic cement/concrete saw-cutting services to the District. The Board of Directors will be notified of additional qualified vendors by means of the General Manager’s monthly report.
 - General Manager Coate explained the District is in the process of recruiting staff to assist with this work; however rental services are still needed to supplement in-house capabilities and address emergencies and seasonal peak workloads. Addressing the Board was Eric Larsen, President, AFSCME Local 444, who commented the Board should consider hiring additional staff to perform this work instead of using contracts. General Manager Coate and Director of Operations and Maintenance Clifford C. Chan responded to Board questions regarding how the contracts are administered and the cost to contract for these services versus hiring staff.
 - Motion by Director Linney, seconded by Director Patterson, to approve the recommended actions for Items 5a and 5b, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (Mellon).
6. **Motion No. 179-19** – Authorized the Office of General Counsel to continue the employment of the law firm of Hanson Bridgett, LLP, for specialized legal services related to tax, public pension law, litigation and construction matters in an additional amount not to exceed \$85,000.
7. **Motion No. 180-19** – Approved the September 2019 Monthly Investment Transactions Report.
8. **Resolution No. 35157-19** – Authorizing An Application To The California Department Of Water Resources For A Sustainable Groundwater Management Grant Pursuant To The California Drought, Water, Parks, Climate, Coastal Protection, And Outdoor Access For All Act Of 2018 (Proposition 68) And Designating An Authorized Representative To Execute A Grant Agreement.

9. **Resolution No. 35158-19** – Appointing Olujimi O. Yoloye As Director Of Engineering And Construction (*effective October 28, 2019*).

Director McIntosh pulled Item 9 to congratulate Mr. Yoloye on his appointment. Mr. Yoloye thanked the Board and staff. He said he was honored and looking forward to working in his new role.

- Motion by Director McIntosh, seconded by Director Linney, to approve the recommended action for Item 9, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (Mellon).

DETERMINATION AND DISCUSSION

10. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine reported 2,805 bills were introduced during the 2019-2020 legislative session. The governor reviewed 1,042 bills, signed 870 and vetoed 172. She summarized the status of each bill on which the District adopted a formal position during the 2019 legislative year; highlighted current federal legislative activities; and said staff will present the District's proposed legislative initiatives for the 2020 state legislative year at the December 10 meeting. Ms. Dumaine responded to Board questions about SB 5, SB 332, and SB 69 and provided additional highlights on SB 557. The Board asked staff to explore seeking reimbursement for PG&E Public Safety Power Shutoff event expenses and to stay abreast of discussions regarding micro grids.

11. **Authorize execution of legal documents associated with extending Standby Bond Purchase Agreements and Fee Agreements with Wells Fargo Bank, National Association for the Water System Revenue Refunding Bonds, Series 2008A-1 and 2008A-4 until December 9, 2022 at a fee of 30 basis points (0.30%) per year.**

Finance/Administration Committee Chair William B. Patterson reported the Committee met this morning and supported the staff recommendations for Item 11.

Treasury Manager Robert L. Hannay presented information on the proposal to extend the \$57 million Wells Fargo liquidity facility supporting the Water Systems' Series 2008A-1 and A-4 Variable Rate Demand Bonds. The existing liquidity facility expires on December 9, 2019. Wells Fargo will extend the agreements for three years, to December 9, 2022, at an annual rate (based upon the maintenance of the District's current credit ratings) of 30 basis points (0.30%). He explained the proposed fee is higher than the original 27 basis point fee established in 2013; however the District's financial advisor analyzed the fee and considers it appropriate based on the current market environment and proposals the advisor has received for other clients in 2018 and 2019. Additionally, changing liquidity providers could incur transaction costs of approximately \$110,000. Mr. Hannay responded to Board questions regarding the District's current financial advisors and the basis points paid for the District's U.S. Bank liquidity facilities.

- Motion by Director Coleman, seconded by Director Linney, to approve the recommended actions for Item 11, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (Mellon).

Resolution No. 35159-19 – Authorizing The Execution Of Certain Amendments To Standby Bond Purchase Agreements And Related Amended And Restated Fee Agreements And Other Matters In Connection Therewith.

- Director McIntosh left the meeting at 2:10 p.m.

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

Director of Finance Sophia D. Skoda presented an update on upcoming Long-Term Financial Stability related activities including reevaluation of the Water System Capacity Charge, evaluation of potentially collecting the fixed component of the water charges as a fee on the property tax bill, and a review of other possible changes to the water rate structure that could be pursued in the near future. The timing and details of these activities are being coordinated with several related projects at the District including the Water System Demand Study, 2020 Urban Water Management Plan Update, Advanced Metering Infrastructure Project, State Department of Water Resources Indoor and Outdoor Water Use Standards, a future water bill redesign effort, and customer affordability. At a January 2020 workshop, staff will present a status update on the Customer Assistance Program (CAP) and will provide updates on the Water System Demand Study, the Urban Water Management Plan Update, the Advanced Metering Infrastructure Project, and the California conservation regulations on indoor and outdoor water use standards during the February 2020 Long-Term Water Supply Workshop. General Manager Coate reported the District was recently informed that the City of Oakland has allocated resources in their upcoming budget to begin offering an incremental CAP discount on the city's sewer collection charges to eligible customers. He also reported on plans to meet with City of Berkeley staff to continue discussions on a CAP discount on their sewer collection charges to eligible customers. The Board will receive updates on Oakland and Berkeley at the January 2020 CAP workshop.

Director of Operations and Maintenance Clifford C. Chan and Special Assistant to the General Manager Kelly A. Zito provided an update on District activities in response to the PG&E Public Safety Power Shutoff (PSPS) events that started on Wednesday, October 9. Mr. Chan reviewed the timeline of events, the number of District facilities that were de-energized, the pressure zones impacted, and equipment and staff hours expended in response to the events. Ms. Zito reviewed outreach efforts and displayed examples of posts on the District's website, Facebook, Nextdoor, and Twitter accounts. She reported that overall, the District received positive responses to our efforts to inform the public and maintain water service during the PSPS event. Mr. Chan and Ms. Zito responded to Board questions regarding the ability to move water from reservoir to reservoir; how staff communicated the message to conserve water to customers in impacted pressure zones; and if the District should consider closing recreation areas in impacted areas as a safety precaution during future PSPS events. The Board expressed appreciation and thanked staff for their work managing District operations and communications during the PSPS events.

General Manager Coate referenced the current Speakers' Bureau and Outreach Record as well as two memos at Board places – one regarding a letter the District sent to California Environmental Protection Agency Secretary Jared Blumenfeld about the Mokelumne River Voluntary Agreement and another regarding an inquiry from the Pardee Home Museum Board of Directors about potential interest in joining the Pardee Home Museum Board. He also reminded the Board of retiring Director of Engineering and Construction Xavier Irias's retirement event immediately following the Board meeting.

REPORTS AND DIRECTOR COMMENTS

13. Committee Report.

- Filed with the Board were the EBMUD/EBRPD Liaison Committee Minutes of September 13, 2019; and the Planning and Legislative/Human Resources Committee Minutes of October 8, 2019.
- Sustainability/Energy Committee Chair Doug Linney reported the Committee met at 8:15 a.m. and received information on the Fiscal Year 2019 Sustainability Report; 2018 Greenhouse Gas (GHG) Inventory; proposed updates to the District's Energy Policy; a Biosolids Management Program update; and a Resource Recovery Program update. He noted that staff recommends combining the District's GHG goals to reach net zero by 2040 and the Committee asked staff to explore shifting the goal deadline to 2030. Due to time constraints, the Climate Change Monitoring and Response Plan update was held over to a future meeting.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met at 10:07 a.m. and received information on the Financial Review of Fiscal Year 2019; the proposal to Extend Standby Bond Purchase Agreements for Variable Rate Demand Bonds Series 2008A-1 and 2008A-4, which was approved by the Board under agenda Item 11; the September 2019 Monthly Investment Transactions Report; the Quarterly Financial Reports; the Investment Policy Certification; and the Fiscal Year 2019 Annual Power Sales Report. Due to time constraints, the Fiscal Year 2019 Key Performance Indicators Report was held over to a future meeting.

14. Other Items for Future Consideration.

None.

15. Director Comments.

- Director Coleman reported attending the DERWA Board meeting on October 14 in Dublin; the East Bay Leadership Council Board meeting on October 18 in Moraga; and the FRWA Board meeting on October 21 in Oakland. He reported on plans to attend the Valley Water AQPI X-Band Radar ribbon cutting event on October 30 in San Jose.
- Director Patterson provided an update on Mrs. Patterson and thanked staff for their concern and support.

- Director Young reported attending a League of Women Voter's Meet Your Public Official event on October 2 in Oakland; the EBMUD Pardee BBQ on October 4 in Pardee; the EBMUD Special Retirement Board meeting on October 17 in Oakland; the Friends of the River California River Awards benefit on October 19 in San Francisco; a public meeting regarding upgrades to the Orinda Water Treatment Plant on October 21 in Orinda; and plans to attend a Contra Costa Water District/EBMUD Board President and General Manager breakfast on October 24 in Lafayette.
- Directors Katz, Linney, McIntosh, and Mellon had no report.

ADJOURNMENT

President Young adjourned the meeting at 2:36 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: November 12, 2019



Marguerite Young, President of the Board