

## MINUTES

**Tuesday, May 8, 2018**

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

### Regular Closed Session Meeting

Vice-President William B. Patterson called to order the Regular Closed Session Meeting of the Board of Directors at 11:09 a.m. in the Administration Center Board Room.

### ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Attorney Jonathan Salmon (Items 1a and 1b), Director of Wastewater Eileen M. White (Item 1a), Assistant General Counsel Fred S. Etheridge (Item 1b), and Director of Water and Natural Resources Richard G. Sykes (Item 1b).

### PUBLIC COMMENT

There was no public comment.

### ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

### Regular Business Meeting

Vice-President Patterson called to order the Regular Business Meeting of the Board of Directors at 1:16 p.m. in the Administration Center Board Room.

### ROLL CALL

Directors Andy Katz, Doug Linney, Frank Mellon, Marguerite Young, and Vice-President William B. Patterson were present at roll call. President Lesa R. McIntosh was absent (excused) and Director John A. Coleman was absent (excused) to attend the ACWA Spring Conference in Sacramento, California.

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

## **BOARD OF DIRECTORS**

Vice-President Patterson led the Pledge of Allegiance.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

Vice-President Patterson announced that the Board, in closed session this morning, by a unanimous vote of the Directors attending, authorized the General Counsel to pay a \$134,000 demand for stipulated penalties jointly made against the District by the United States Environmental Protection Agency and the California Regional Water Quality Control Board, San Francisco Bay Region. The penalty demand, which was made pursuant to the consent decree in *United States of America, et al. v. East Bay Municipal Utility District*, concerns nine non-permitted wastewater discharges from the District's wastewater facilities between 2014 and 2017. The District will pay the stipulated penalty in equal shares to the United States Environmental Protection Agency and the California Regional Water Quality Control Board, San Francisco Bay Region.

There were no other announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board were the following: 1) Michael M. O'Dorney asked the Board to consider establishing a recycled water fill station for residential use in the Tri-Valley; 2) Ken Minn, EBMUD Asian Pacific Employees Association co-president, read a proclamation in recognition of the Association's 20<sup>th</sup> Anniversary and thanked the Board and staff for their continued support; and 3) Devina Ojascastro, EBMUD Asian Pacific Employees Association co-president, commented on the history of the Association and highlighted the 20<sup>th</sup> Anniversary theme and events.

## **CONSENT CALENDAR**

- Motion by Director Mellon, seconded by Director Linney, to approve the recommended actions for Items 1-6 on the Consent Calendar, carried (5-0) by the following voice vote: AYES (Katz, Linney, Mellon, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (Coleman and McIntosh).
1. **Motion No. 061-18** – Approved the Regular Meeting Minutes of April 24, 2018.
  2. The following correspondence was filed with the Board: **1)** Presentation entitled “FY19 Proposed Non-Prop 218 Rates, Charges & Regulations,” dated May 8, 2018; **2)** Speakers' Bureau and Outreach Record CY18, dated May 8, 2018; and **3)** a Proclamation by the Board of the Asian Pacific Employees Association (APEA) at East Bay Municipal Utility District (EBMUD), “20<sup>th</sup> Anniversary Proclamation of the Asian Pacific Employees Association, May 2018.”
  3. **Motion No. 062-18** – Authorized an agreement beginning on or after May 8, 2018 with West Yost Associates, in an amount not to exceed \$1,004,000 for engineering and design services to upgrade Wastewater Pump Station M and make improvements to sewer force main pipes from Wastewater Pump Stations C, G, M, N, and R.

- 4.1. **Motion No. 063-18** – Authorized an amendment to the agreement with Crop Production Services, Inc., for an additional amount of \$180,000, increasing the agreement ceiling to \$250,000, for supplying Green Clean algacide for algae control in San Pablo and Upper San Leandro Reservoirs to improve raw water quality.
- 4.2. **Motion No. 064-18** – Authorized an amendment to the agreement with Clean Lakes, Inc., for an additional amount of \$70,000, increasing the agreement ceiling to \$100,000, for applying Green Clean algacide in San Pablo and Upper San Leandro Reservoirs to improve raw water quality.
5. **Motion No. 065-18** – Authorized the Office of General Counsel to continue the employment of the law firm of Ellison, Schneider, Harris & Donlan, LLP, for specialized legal services related to water and energy law and litigation matters in an additional amount not to exceed \$125,000.
6. **Motion No. 066-18** – Authorized the Office of General Counsel to continue the employment of the law firm of Meyers Nave for specialized legal services related to labor and employment matters in an additional amount not to exceed \$80,000.

## **DETERMINATION AND DISCUSSION**

### **7. Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine highlighted two bills in Legislative Report No. 04-18: AB 2072 (Quirk) State Water Resources Control Board: Constituents of Emerging Concern and AB 2371 (Carrillo) Water Use Efficiency. Ms. Dumaine responded to questions regarding the definition of emerging constituents.

- Motion by Director Young, seconded by Director Mellon, to approve the recommended positions in Legislative Report No. 04-18, carried (5-0) by the following voice vote: AYES (Katz, Linney, Mellon, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (Coleman and McIntosh).
- **Motion No. 067-18** – Received Legislative Report No. 04-18 and approved positions on the following bills: SUPPORT AB 2072 (Quirk) State Water Resources Control Board: Constituents of Emerging Concern and SUPPORT AB 2371 (Carrillo) Water Use Efficiency.

Next, Ms. Dumaine highlighted two bond measures in Legislative Report No. 04-18. Both bonds will be on upcoming California ballots. Proposition 68: The California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018 (Park Bond) will be on the June ballot and the Water Supply and Water Quality Bond Act of 2018 (Water Bond) will be on the November ballot. She noted that staff is not recommending a position on the bond measures at this time. She reviewed the funding chapters contained in the \$8.9 billion Water Bond and noted the Legislative/Human Resources Committee also received information on both bonds in their meeting this morning and asked staff to bring updates on the Water Bond to the full Board before the November election.

- Addressing the Board was Jerry Meral, Natural Heritage Institute, who commented on the funding chapters in the Water Bond that would benefit the District if the bond measure passes, highlighted some of the agencies that have endorsed the bond, and expressed hope that the Board would consider the benefits to the District when determining a position on the bond.

**8. File a report and set a Public Hearing for the Water and Wastewater System Schedule of Rates and Charges, and other fees not subject to Proposition 218, and regulations for Fiscal Year 2019.**

Acting Director of Finance D. Scott Klein presented an overview of the recommended actions for Item 8. As part of the biennial budget process, the General Manager files a report and recommendation on the proposed rate adjustments and detailed budget documents with the Board in May. For FY19, staff is proposing to update the capacity fees and several other fees and charges that are not subject to the requirements of Proposition 218. These include: Account Establishment Charge, Charges for Special Services, Water Service Installation Charges, Private Fire Service Installation Charges, Public Fire Hydrant Installation Charges, Water Main Extension Charges, Real Property Use Application Fees, Water and Wastewater Capacity Related Fees, and Wastewater Resource Recovery. Additionally, staff is proposing updates to Water Service Regulations Sections 1, 2, 3, 29 and 31. The proposed changes will be reviewed during the Strategic Plan Update and Mid-Cycle Budget workshop scheduled for May 22, 2018. The Board will consider adopting the FY19 proposed rates and charges and other fees and regulations on June 12, 2018.

- Motion by Director Mellon, seconded by Director Linney, to approve the recommended actions for Items 8.1 and 8.2, carried (5-0) by the following voice vote: AYES (Katz, Linney, Mellon, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Coleman and McIntosh).

**8.1. Motion No. 068-18** – Filed the Report and Recommendation of the General Manager for Revisions to the Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees Not Subject to Proposition 218, and Regulations for Fiscal Year 2019.

**8.2. Motion No. 069-18** – Set a Public Hearing on Tuesday, June 12, 2018, during the Board’s regular meeting to consider the Report and Recommendation of the General Manager for Revisions to the Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees Not Subject to Proposition 218, and Regulations for Fiscal Year 2019.

**9. General Manager’s Report.**

General Manager Coate announced that the Monthly Report for May 2018 was provided in the Board’s packets.

- Addressing the Board was Mark Foley, President, AFSCME Local 2019, who thanked the Board and staff for hosting the Take Our Daughters to Work Day event held on April 12 (highlighted in the Monthly Report), and asked the Board to consider adjourning today’s meeting in memory of EBMUD Carpenter Matthew J. Palsa, an active participant in the event who recently passed away.

## **REPORTS AND DIRECTOR COMMENTS**

### **10. Committee Reports.**

- Filed with the Board were the Finance/Administration and Sustainability/Energy Committee Minutes of April 24, 2018.

### **11. Other Items for Future Consideration.**

- None.


### **12. Director Comments.**

- Director Coleman reported attending/participating in the following events: Las Aguilas de Diablo dinner on April 25 in Walnut Creek; Kiwanis Club of San Ramon Valley meeting on April 26 in Danville; Lamorinda Tri-City Council meeting on April 26 in Orinda; UMRWA Board meeting on April 27 in Pardee; Economic Development Alliance for Business Legislative Committee meeting on May 1 in Oakland; Contra Costa Mayors Conference on May 3 in Martinez; Rob Roscoe retirement event on May 4 in Sacramento; and the ACWA Spring Conference on May 8 in Sacramento. He reported on plans to attend/participate in the following upcoming events: Crest Reservoir HOA meeting on May 15 in Alamo; meeting with Walnut Creek Council candidate on May 17 in Walnut Creek; and East Bay Leadership Board meeting on May 18 in Concord.
- Director Katz had no comment.
- Director Linney reported attending/participating in the following events: League of Women Voters luncheon on April 25 in Oakland; West Oakland Liaison Group meeting on April 25 in Oakland; John Muir Land Trust Gala on April 28 in Martinez; and meeting with Congresswoman Barbara Lee regarding recycled water for the Veteran Administration facilities at Alameda Point on May 7 in Oakland.
- Director Mellon reported attending/participating in the following events: Castro Valley/Eden Area Chamber of Commerce 2018 Student of the Year Award event on April 26 in Castro Valley; San Ramon Mayor's Monthly Breakfast on April 27 in San Ramon; Hayward Area Recreation District Ag Day on May 3 in Castro Valley; and Contra Costa Mayors Conference on May 3 in Martinez.
- Director Patterson had no comment.
- Director Young reported attending/participating in the following events: Orinda City Council meeting on April 17 in Orinda; Rising Sun Energy Center Bright Night event on April 19 in Berkeley; and the League of Women Voters luncheon on April 25 in Oakland.
- President McIntosh had no comment.

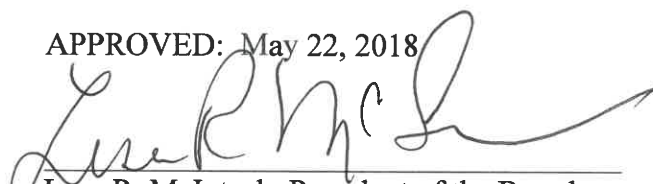
**ADJOURNMENT**

Vice-President Patterson adjourned the meeting at 1:56 p.m. in memory of EBMUD Carpenter Matthew J. Palsa.

SUBMITTED BY:

  
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Rischa S. Cole, Secretary of the District

APPROVED: May 22, 2018

  
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Lesa R. McIntosh, President of the Board