

MINUTES

Tuesday, May 14, 2019

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

Regular Closed Session Meeting

Vice-President Doug Linney 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, Frank Mellon, William B. Patterson, and Vice-President Doug Linney were present at roll call. Director Andy Katz arrived at 11:02 a.m. Director Lesa R. McIntosh and President Marguerite Young were absent (excused).

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Assistant General Counsel Xanthe M. Berry (Items 1a, 1b, 2a, and 2b), Attorney Derek McDonald (Items 1b, 2a, 2b, and 3), Attorney Ann P. Gunderson (Item 1a), Law Clerk Yessenia Garcia-Vasquez (Items 1a, 1b, 2a, 2b, and 3) and Risk Manager Karen K. Curry (1a, 1b, 2a, and 2b).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

Vice-President Linney called to order the Regular Business Meeting of the Board of Directors at 1:15 pm. in the Administration Building Board Room.

ROLL CALL

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

Vice-President Linney led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

The Board, in closed session this morning, by a 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. There were no other announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following: 1) Athan Magganas, Adelphos LLC commented on the interruption to water service at 317 Lester Avenue in Oakland; 2) Ivette Rivera, EBMUD Gardener Foreman commented on the District's vegetation management and information contained in the documentation she provided to the Board at their places; 3) Mark Foley, President, AFSCME Local 2019 commented on a Washington Post article regarding Delta Airlines posters on the cost of union dues. Mr. Foley asked the Board to consider directing staff to restrict use of Delta Airlines for District-related travel and to send a letter to Delta Airlines regarding the posters; and 4) Peter Magganas commented on the interruption to water service at 317-319 Lester Avenue in Oakland.

The Board asked questions regarding the comments received from the Magganas and Mr. Foley and requested written reports on both items. Mr. Athan Magganas was referred to staff for follow up.

CONSENT CALENDAR

- Items 7 and 8 were removed from the Consent Calendar for comment.
 - Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Items 1-6 and 9 on the Consent Calendar, carried (5-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh and Young).
1. **Motion No. 071-19** – Approved the Regular Meeting Minutes of April 23, 2019.
 2. The following correspondence was filed with the Board: **1)** Letter to Board of Directors, dated May 14, 2019, from Ivette Rivera, regarding original employment application at EBMUD; Construction and Maintenance Division's roles and responsibilities for Foremen, Assistant Superintendents, and Superintendents; and the status of vegetation management; **2)** Washington Post article (undated) regarding Delta Airlines' posters on the cost of union dues; **3)** Memorandum to Board of Directors from Secretary of the District Rischa S. Cole entitled "Logistics for Offsite Meetings in Castro Valley, CA - May 28, 2019," dated May 14, 2019; **4)** Presentation entitled "Amendment to EBMUD Retirement System Ordinance (No. 40) - Section 21 Second Reading," dated May 14, 2019; **5)** Presentation entitled "GM's Report on Water and Wastewater Schedule of Rates and Charges, Capacity Charges and Other Fees and Setting Public Hearing Date," dated May 14, 2019; and **6)** Speakers' Bureau and Outreach Record CY19, dated May 14, 2019.

3. **Motion No. 072-19** – Authorized an agreement beginning on or after May 14, 2019 with Brown and Caldwell in an amount not to exceed \$1,995,000 for engineering services in preparation of a master plan for the Main Wastewater Treatment Plant.
4. **Motion No. 073-19** – Authorized an agreement beginning on or after May 14, 2019 with Carollo Engineers, Inc., in an amount not to exceed \$279,800 for supplemental construction inspection services for the South Interceptor 3rd Street Rehabilitation Phase 2 Project under SD-392.
5. **Motion No. 074-19** – Authorized an agreement beginning on or after May 14, 2019 with Gayner Engineers in an amount not to exceed \$1,183,530 for engineering and design services for improvements to buildings' heating, ventilation, and air conditioning, fire protection, and roof systems at the Main Wastewater Treatment Plant.
- 6.1. **Motion No. 075-19** – Authorized the direct award of a contract to Frank A. Olsen Company in the amount, after the addition of taxes and site inspections, not to exceed \$338,931 for supplying one 42-inch diameter ball valve for the District's Main Wastewater Treatment Plant Influent Pump Station.
- 6.2. **Motion No. 076-19** – Authorized the direct award of an agreement beginning on or after May 14, 2019 with Unico Mechanical Corporation in an amount not to exceed \$166,037 for the refurbishment of one 42-inch diameter ball valve for the Main Wastewater Treatment Plant Influent Pump Station.
7. **Motion No. 077-19** – Authorized an amendment to the agreement awarded under Board Motion No. 161-17 on September 26, 2017 with Pacific States Environmental Contractors, Inc. to increase the amount by \$6,306,000 to a total amount not to exceed \$21,306,000 for trench soils removal services.
 - Director Coleman pulled Item 7 to ask if the District is working with entities performing wetlands restoration to reuse District trench soils. General Manager Coate responded that as the District expands its pipeline replacement efforts, staff will be exploring all options for trench soils reuse including working with wetlands restoration groups.
 - Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Item 7, carried (5-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh and Young).
8. **Motion No. 078-19** – Approved the Water Supply Assessment requested by the City of Oakland for the Oakland Waterfront Ballpark Project pursuant to California Water Code, Sections 10910-10915.
 - Director Coleman pulled Item 8 to ask about recycled water use for the project. There was discussion and the Board asked staff to engage the City of Oakland on the project to require recycled water use where appropriate and to ensure future water supply assessment documents include language that will require project developers to implement recycled water use in their plans when appropriate.

- Motion by Director Coleman, seconded by Director Mellon, to approve the recommended action for Item 8, carried (5-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh and Young).

9.1.- **Resolution No. 35138-19** – Authorizing The Sale Of The Punchbowl Reservoir Property
9.2. In Oakland, California, To Mr. Minh Doan.

- Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Items 9.1 and 9.2, carried (5-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh and Young).

DETERMINATION AND DISCUSSION

10. **Legislative Report.**

Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met this morning and supported the staff recommended positions in Legislative Report No. 03-19. Manager of Legislative Affairs Marlaigne K. Dumaine summarized the bills and recommended actions contained in the report. The Board raised no questions. Next, Ms. Dumaine provided an update on state and federal legislative activities.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Item 10, carried (5-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh and Young).
- **Motion No. 079-19** – Received Legislative Report No. 03-19 and approved positions on the following bills: SUPPORT AB 557 (Wood) Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program; SUPPORT AB 1414 (Friedman) Urban Retail Water Suppliers: Reporting; SUPPORT AB 1588 (Gloria) Drinking Water and Wastewater Operator Certification Programs; and SUPPORT SB 487 (Caballero) Department of Water Resources: Aerial Snow Survey.

11. **Conduct A Second and Final Reading, and Vote On An Ordinance Amending Section 21 of the EBMUD Employees' Retirement System Ordinance (Ordinance No. 40).**

Manager of Employee Services Lisa A. Sorani reported this is the second reading of the ordinance to amend Section 21 of the Employees' Retirement System Ordinance. The first reading of the ordinance was conducted at the Regular Board meeting on April 23, 2019. The proposed update will change the actuarially assumed rate of return from 7.25 percent to 7.00 percent. This reduction was recommended as part of the June 30, 2018 Actuarial Evaluation and adopted by the Retirement Board at its September 20, 2018 meeting. The proposed update ensures the ordinance language is consistent with the change adopted by the Retirement Board and is in compliance with IRS regulations. The amendments would take effect 30 days after passage.

- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 11, carried (5-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh and Young).

Ordinance No. 370-19 – An Ordinance, Effective As Of July 1, 2019, Amending Section 21, “Optional Modification Of Retirement Allowance,” To Ordinance No. 40, Which Is The Employees’ Retirement System Ordinance (*Second Reading and Vote – Ordinance No. 370-19*).

12.1.- **File a Report and Set A Public Hearing for the Water and Wastewater System Schedule**
12.2. **of Rates and Charges, Capacity Charges and Other Fees.**

Director of Finance Sophia D. Skoda presented an overview of the District’s proposed Fiscal Years 2020 and 2021 (FY20/FY21) budget as well as the water and wastewater system rates, charges and fees. Ms. Skoda reported that workshops were held on January 22 and March 26 to review the proposed operating and capital budgets as well as rates, charges and fees. The District hired an independent rate consultant in 2015 and 2019 to perform cost of service (COS) studies for its water and wastewater systems to determine the appropriate rates needed to support the costs identified in the FY20 and FY21 budgets. The proposed FY20 and FY21 rates incorporate the results of the COS studies as well as the increased revenue required to address proposed FY20 and FY21 expenditures.

For the Water System, staff recommends increasing water charges (service, flow, elevation, and private fire service) 6.5 percent overall for FY20 and an additional 6.25 percent overall for FY21. These increases support the proposed FY20 and FY21 operating and capital expenses. The proposed charges are based on the assumption that water consumption will be 141 million gallons per day (MGD) in FY20 and 143 MGD in FY21. Additionally, staff recommends maintaining the staged system of Drought Surcharges developed in the District’s COS study as a contingency plan in the event of a water shortage. The Drought Surcharge percentage is imposed on the potable Water Flow Charge when the Board declares a drought Stage 2, 3, or 4.

For the Wastewater System, staff recommends modifying the wastewater system charges for FY20 to include the 2019 Wastewater COS study adjustments, which result in some wastewater rates and charges decreasing and others increasing. The proposed rates for FY20 wastewater system charges would increase an additional 4.0 percent for FY21. The FY20 and FY21 wastewater rate increases support the District’s proposed FY20 and FY21 operating and capital expenses.

Ms. Skoda reviewed the monthly impacts to single family residence bills from the proposed water and wastewater rate increases; and summarized all proposed changes to rates and charges subject to Proposition 218 and other fees and charges not subject to Proposition 218. A public hearing on the recommendations and adoption of the budget, rates and charges is scheduled for the June 11, 2019 Board meeting. For the rates subject to Proposition 218, a notice was mailed to the record owners of parcels upon which the proposed charges will be imposed and tenants directly responsible for the payment of the proposed charges informing them of the proposed increases, the public hearing and Proposition 218 protest provisions.

The proposed rates and charges for the water and wastewater systems are recommended to be effective on bills issued on or after July 1, 2019 for FY20, and on or after July 1, 2020 for FY21. All other proposed changes to the other fees and charges for the water and wastewater systems including the changes to the Public Records Act Fees and Real Property Use Application Fees will be effective July 1, 2019. The proposed changes to the Recreation Use

Fees are effective January 1, 2020 for the 2020 increases and January 1, 2021 for the 2021 increases to coincide with the recreation season.

Staff responded to Board questions on how cannabis businesses are categorized and permitted by the District, and how tariffs on steel, cement and other supplies could potentially impact the FY20/21 budgets.

- Director Mellon left the room at 2:01 p.m. and returned at 2:05 p.m.
- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended actions for Items 12.1-12.2, carried (5-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh and Young).

Motion No. 080-19 – Filed the General Manager’s Report and Recommendation for revisions to the Water and Wastewater System Schedule of Rates and Charges, Capacity Charges and Other Fees; and set a Public Hearing for Tuesday, June 11, 2019, during the Board’s regular meeting to consider the report and recommendation, and to comply with Proposition 218 requirements.

13. **General Manager’s Report.**

General Manager Alexander R. Coate reported the April 2019 Monthly Report had been provided in the Board’s packet, briefly highlighted the logistics for the May 28 Board meeting to be held at the Castro Valley Library in Castro Valley and asked the Board to let staff know if they had questions on the latest Speakers’ Bureau and Outreach Record.

REPORTS AND DIRECTOR COMMENTS

14. **Committee Reports.**

- Filed with the Board were the Sustainability/Energy and Finance/Administration Committee Minutes of April 23, 2019.
- Planning Committee Chair Doug Linney reported the Committee met at 9:45 a.m. and received information on the Bayfair Pumping Plant and Estudillo Avenue Pipeline Replacement and San Ramon Valley Recycled Water Program Pump Station R3000 projects.
- Legislative/Human Resources Chair John A. Coleman reported the Committee met at 10:15 a.m. and received information on Legislative Report No. 03-19, Workforce Development Strategies – Center for Employment Opportunities Pilot Project, and the Wastewater Plant Operator Training Program.

15. **Other Items for Future Consideration.**

None.

16. **Director Comments.**

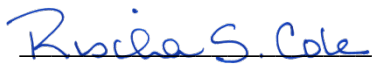
- Director Coleman reported attending/participating in the following events: UMRWA Board meeting on April 26 in Pardee; Federal Affairs Committee meeting at the ACWA Spring Conference on May 7 in Monterey; Lafayette Rotary Band Concert speaking engagement on May 11 in Lafayette; meeting with Jim Wheeler with HDR on May 13 in Sacramento; and Special DERWA Board meeting on May 13 in Dublin. He reported on plans to attend the following events: Contra Costa Leadership Group Board meeting on May 17 in Walnut Creek; Kennedy-King Memorial Scholarship Awards dinner on May 17 in Concord; Foothill Conservancy event on May 18 in Plymouth; DERWA Board meeting on May 20 in Dublin; Walnut Creek City Council presentation on May 21 in Walnut Creek; and EBMUD Ward 2 briefing on May 23 in Lafayette.
- Director Mellon reported attending/participating in the following events: San Ramon Mayors' Breakfast on April 26 in San Ramon; Labor to Labor networking lunch on April 26 in Concord; J-Sei Fundraiser on April 26 in Berkeley; CERES Conference April 30 through May 1 in San Francisco; ACWA Spring Conference May 7-9 in Monterey; and Special DERWA Board meeting on May 13 in Dublin.
- Director Patterson reported attending/participating in the following events: EBMUD Wards 3, 5 and 6 briefing on April 25 in Oakland; Oakland Parks and Recreation Foundation's Spring for Parks event on April 25 in Oakland; and ACWA Spring Conference May 7-10 in Monterey.
- Directors Katz, Linney, McIntosh and President Young had no report.

ADJOURNMENT

At the request of Director Coleman, Vice-President Linney announced that the Board of Directors will close today's meeting in memory of former Congresswoman Ellen Tauscher, who passed away on April 29.

Vice-President Linney adjourned the meeting at 2:39 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: May 28, 2019



Doug Linney, Vice-President of the Board