

MINUTES

Tuesday, July 9, 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, Doug Linney, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call. Director Andy Katz arrived in Conference Room 8 at 11:10 a.m. Director Lesa R. McIntosh was absent (excused).

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

PUBLIC COMMENT

There was no public comment.

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, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call. Director Lesa R. McIntosh 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 Alexander R. Coate announced a team of District staff, “The Ozonators,” won the American Water Works Association’s regional Top Ops Competition for California and Nevada in March and in June, placed third in the national Top Ops Competition in Denver. The Top Ops Competition recognizes and promotes excellence and professionalism in all aspects of water operations by establishing a competition that gives operators the opportunity to showcase their talents. On behalf of the Board of Directors, President Young congratulated “The Ozonators” and presented the regional and national awards to the following team members: Water Treatment Supervisor Bryan G. Miller, Senior Water Treatment Operator David L. Morris, Senior Water Treatment Operator Kevin J. Reagle, and Senior Water Treatment Operator Paul R. Stelzmann.

ANNOUNCEMENTS FROM CLOSED SESSION

President Young announced the Board, in closed session 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) John Briceno, Past-President, AFSCME Local 444, expressed his appreciation for serving as Local 444 President for the past 10 years and wished the Board and District continued success; and 2) Eric Larsen, President, AFSCME Local 444, introduced himself as the incoming President and commented on Local 444’s 50 year history at the District.

CONSENT CALENDAR

- Item 10 was removed from the Consent Calendar for separate discussion.
 - Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 1-9 on the Consent Calendar, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (McIntosh).
1. **Motion No. 109-19** – Approved the Regular Meeting Minutes of June 25, 2019.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Public Health Goals Report,” dated July 9, 2019; **2)** Presentation entitled, “San Ramon Valley Recycled Water Pump Station R3000 Project Final Mitigated Negative Declaration Project Approval,” dated July 9, 2019; **3)** Presentation entitled, “2019 Customer Opinion Survey Results and Outreach Highlights,” dated July 9, 2019; **4)** Resolution No. 24851 entitled, “Declaring Intention To Implement Memorandum of Understanding Between East Bay Municipal Utility District Representatives and Local 444, AFSCME,” dated July 8, 1969; **5)** Affidavit of Posting dated June 19, 2019 for the “Notice of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2020 & 2021 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges,

and Other Fees”; **6) Oakland Tribune** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2020 & 2021 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges and Other Fees (Legal No. 0006340677 published May 17 and May 24, 2019); **7) Calaveras Enterprise** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2020 & 2021 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges and Other Fees (published May 16 and May 23, 2019); **8) Amador Ledger Dispatch** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2020 & 2021 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges and Other Fees (Legal No. U430 published May 17 and May 24, 2019); **9) Contra Costa Times** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2020 & 2021 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges and Other Fees (Legal No. 0006340677 published May 17 and May 24, 2019); **10) Lodi News-Sentinel** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2020 & 2021 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges and Other Fees (Legal No. 186572 published May 17 and May 24, 2019); **11) Contra Costa Times** Proof of Publication of the Notice of Public Hearing Public Health Goal Report East Bay Municipal Utility District (Legal No. 0006355675 published June 21 and June 28, 2019); **12) Oakland Tribune** Proof of Publication of the Notice of Public Hearing Public Health Goal Report East Bay Municipal Utility District (Legal No. 0006355675 published June 21 and June 28, 2019); **13)** Affidavit of Posting dated July 18, 2019 for the “Notice of Public Hearing on the Public Health Goal Report”; and **14)** Speakers’ Bureau and Outreach Record CY19, dated July 9, 2019.

3. **Motion No. 110-19** – Awarded a contract to the lowest responsive/responsible bidder DuBois Chemicals, Inc., in an annual amount, after the addition of taxes, not to exceed \$291,304 for supplying hydrofluosilicic acid (fluoride) for water treatment for the District’s water treatment plants for two years, beginning on or after August 1, 2019 with three options to renew for additional one-year periods for a total cost of \$1,456,520 under Request for Quotation No. 1907.
4. **Motion No. 111-19** – Authorized an agreement beginning on or after February 1, 2020 with Dimension Data North America, Inc., in an amount not to exceed \$509,322.81 for supplying Cisco Smart Net Total Care to repair/replace and provide technical support for data/voice equipment for five years under Request for Quotation No. 1916.
- 5.1. **Motion No. 112-19** – Awarded a contract to the lowest responsive/responsible bidder, Flatiron West, Inc., in the amount of \$31,164,000 for construction of Maloney Pumping Plant, Greenridge Pumping Plant, La Honda Rate Control Station, and Sobrante Water Treatment Plant Improvements under Specification 2135.

- 5.2. **Motion No. 113-19** – Authorized an agreement beginning on or after July 9, 2019 with McMillen Jacobs Associates in an amount not to exceed \$291,836 for construction scheduling support services for the Maloney Pumping Plant, Greenridge Pumping Plant, La Honda Rate Control Station, and Sobrante Water Treatment Plant Improvements Project.
6. **Motion No. 114-19** – Awarded a contract to the lowest responsive/responsible bidder, Disney Construction, Inc., in the amount of \$8,633,333 for construction of the Bayfair Pumping Plant and Peralta Regulator Replacements and Peralta, South, and May Pumping Plant Demolition Project under Specification 2136.
7. **Motion No. 115-19** – Authorized an agreement beginning on or after July 9, 2019 with Allied Waste Systems, Inc., (Republic) for offsite contaminant removal preprocessing and delivery of source-separated food waste at a tipping fee discount of \$32 per ton, not to exceed \$125,000 per year or \$500,000 for the life of the agreement. The initial term would end February 28, 2025 with two options to renew for additional five-year periods.
8. **Motion No. 116-19** – Authorized the purchase of asphalt on the open market in the estimated annual amount, after the addition of taxes, not to exceed \$3,500,000 per year for a five-year period beginning July 10, 2019 and ending July 9, 2024 for a total cost of \$17,500,000.
9. **Motion No. 117-19** – Cancelled the August 27, 2019 Closed Session and Regular Meetings of the Board of Directors.
10. **Resolution No. 35147-19** – Appointing Ayriel Bland To The Position Of Assistant Attorney Of The District With The Title Of Attorney II (*effective July 22, 2019*).
 - Director Mellon congratulated Ms. Bland on her appointment. Ms. Bland thanked the Board and said she looked forward to working at the District.
 - Motion by Director Mellon, seconded by Director Coleman, to approve the recommended action for Item 10, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

PUBLIC HEARING

11. **Conduct a Public Hearing to provide the opportunity for public comment on the 2019 Public Health Goals Report.**

President Young opened the Public Hearing at 1:33 p.m. She announced the public hearing would provide an opportunity for the Board to receive and respond to public comment on the 2019 Public Health Goals Report.

Manager of Water Quality Susan M. Teefy presented a summary of the report which covers calendar years 2016, 2017, and 2018. The District is required to prepare a report every three years detailing the concentration of any drinking water constituents measured in the water system at levels above the Public Health Goals (PHGs) established by the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment or, in the absence of a PHG, the United States Environmental Protection Agency's Maximum

Contaminant Level Goal (MCLG). PHGs and MCLGs are non-enforceable goals that represent the highest concentration of a constituent that poses no significant health risk. For the current reporting period, total coliform bacteria and bromate results exceeded their respective PHGs or MCLGs necessitating the presentation of the PHG report. She reviewed how total coliform bacteria and bromate are formed and discussed the levels found during the reporting period. Ms. Teefy reported the District's drinking water quality continues to meet all state and federal standards and requirements.

President Young called for public comment. No member of the public came forward. President Young closed the Public Hearing at 1:41 p.m.

- Director Mellon left the meeting at 1:41 p.m. and returned at 1:43 p.m.

DETERMINATION AND DISCUSSION

12. Accept the 2019 Public Health Goals Report.

- Motion by Director Linney, seconded by Director Patterson, to approve the recommended action for Item 12 on the Consent Calendar, carried (5-0) by the following voice vote: AYES (Coleman, Katz, Linney, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (McIntosh and Mellon).

Motion No. 118-19 – Accepted the 2019 Public Health Goals Report.

13. Legislative Update.

Manager of Legislative Affairs Marlaigne K. Dumaine provided an update on state budget activities related to funding for the Safe and Affordable Drinking Water Fund and the California Department of Housing and Community Development's Infill Infrastructure Grant Program; Ms. Dumaine responded to Board questions regarding funding availability for a water agency required to consolidate with a disadvantaged community's water agency and clarification on whether Infill Infrastructure Grant Program funds can be used to potentially offset connection fees for affordable housing projects. Next, she reviewed the recommended positions for the bills in Legislative Report No. 05-19.

Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier and approved the staff recommended positions for Legislative Report No. 05-19.

- Motion by Director Coleman, seconded by Director Katz, to approve the recommended action for Item 13, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

Motion No. 119-19 – Received Legislative Report No. 05-19 and approved positions on the following bills: SUPPORT AB 1080 (Gonzalez) California Circular Economy and Plastic Pollution Reduction Act; SUPPORT SB 54 (Allen) California Circular Economy and Plastic Pollution Reduction Act; SUPPORT IF AMENDED SB 69 (Wiener) Ocean Resiliency Act of 2019; and SUPPORT SB 134 (Hertzberg) Water Conservation: Water Losses: Enforcement.

14. **Adopt a resolution supporting the intent of the federal Green New Deal’s goals to build resiliency against climate change-related disasters, reduce greenhouse gas emissions, and increase the use of clean, renewable, and zero-emission energy sources.**

Manager of Legislative Affairs Marlaigne K. Dumaine provided an update on resolutions introduced by Senator Markey and Representative Ocasio-Cortez to create a Green New Deal. The resolutions are pending in the Senate and House with no date set for formal action. The Green New Deal contains several provisions, the intent of which is consistent with EBMUD’s Policy 7.05 (Sustainability and Resilience), Policy 7.15 (Climate Action), and Policy 7.07 (Energy). The Green New Deal’s goals to build resiliency against climate change-related disasters and building sustainable infrastructure are also consistent with these policies. At the request of several Board members, staff prepared a resolution for Board consideration to support the intent of the federal Green New Deal’s goals to build resiliency against climate change-related disasters, reduce greenhouse gas emissions, and increase the use of clean, renewable, and zero-emission energy sources.

Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier and supported the staff recommendation.

- Motion by Director Katz, seconded by Director Patterson to approve the recommended action for Item 14, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

Resolution No. 35148-19 – Resolution Supporting The Intent Of The Federal Green New Deal’s Goals To Build Resiliency Against Climate Change-Related Disasters, Reduce Greenhouse Gas Emissions, And Increase The Use Of Clean, Renewable, And Zero-Emission Energy Sources.

- 15a-15f. **Adopt the Final Mitigated Negative Declaration (MND) for the Project; make findings in accordance with the California Environmental Quality Act; adopt the Mitigation Monitoring and Reporting Program; adopt the Practices and Procedures Monitoring and Reporting Program; select certain property along Dougherty Road, referred to in the MND as Site A2, for the Project; and approve the Project.**

Associate Civil Engineer Reena G. Thomas presented an overview of the project which will expand recycled water service to northern San Ramon Valley. Once in place, the project is projected to save 980 acre-feet of potable water per year. Staff worked with the City of San Ramon and completed a site selection analysis that evaluated seven potential pump station locations titled Sites A1-A7. Site A2 was chosen because it best met the site selection criteria. The Initial Study/Mitigated Negative Declaration (IS/MND) included analysis of Site A2, the preferred project location, and Site A4, an alternative location. Site A4 was included in the analysis because it is located on property owned by DSRSD/EBMUD Recycled Water Authority (DERWA) and would not require property acquisition. In response to comments received during the MND public review period in 2018, staff reviewed seven additional sites and determined that Site A2 remained the preferred site as each of the seven additional sites would cause more significant impacts and would require thousands of feet of additional pipeline than Site A2. Ms. Thomas reviewed public outreach efforts and the environmental factors analyzed in the MND. She noted all community comments were addressed and no

substantial changes were required to the MND. If approved, project construction will be scheduled once a permanent supply of recycled water is secured from DERWA. The Board raised no questions.

- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended actions for Items 15a-15d, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (McIntosh).
- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended actions for Items 15e-15f, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

Resolution No. 35149-19 – Adopting The Mitigated Negative Declaration For The San Ramon Valley Recycled Water Program Pump Station R3000 Project, Adopting The Mitigation Monitoring And Reporting Plan And Practices And Procedures Monitoring And Reporting Plan, And Approving The Project.

16. **General Manager's Report.**

Special Assistant to the General Manager Kelly A. Zito presented an overview of the 2019 Customer Opinion Survey conducted by EMC Research, Inc. (EMC) between February 19 and March 6, 2019. EMC completed more than 1,200 telephone interviews and email-to-web surveys of both District account holders and non-account holders. Those surveyed represented the geographic, socio-economic, account holder and land use characteristics of the District's consumer base. She discussed the methodology used to conduct the survey, key survey findings, areas of strength, and areas for improvement. She highlighted customer and public outreach from Fiscal Year 2019 (FY19) and planned outreach activities for FY20.

There was considerable Board discussion and staff responded to questions regarding the methodology used to conduct the survey; the survey results versus previous years' results; customer access to the *Customer Pipeline* newsletter online; the District's K-12 education program; and the potential to increase use of social media and advertising to engage customers. The Board requested an electronic copy of the survey; a color copy of the staff presentation; and additional information on the survey ratings conducted by telephone versus email-to-web. General Manager Coate thanked the Board for their input and said staff will provide the requested information and will consider their recommendations for the next customer opinion survey.

Next, General Manager Coate announced the Board had received the Six-Month Forecast of Board Committee and Workshop Agenda Topics for 2019 and a Summary of the 2019 Committee and Workshop Topics memo. He asked the Board to let staff know if they had questions on the information or on the latest Speakers' Bureau and Outreach Record provided at their places. He also directed their attention to the memo regarding appointing an Ad Hoc Committee to negotiate amendments to the employment agreements with the General Manager and General Counsel.

President Young recommended that consistent with past practice, the Board appoint three members of the Board to serve on the Ad Hoc Committee and suggested the committee consist of the Board President, Board Vice-President, and Director McIntosh. She suggested Director Patterson be appointed as an alternate member of the committee.

- Motion by Director Mellon, seconded by Director Coleman, to appoint President Marguerite Young, Vice-President Doug Linney, and Director Lesa R. McIntosh to the Ad Hoc Committee of the Board and to appoint Director William B. Patterson as an alternate, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

REPORTS AND DIRECTOR COMMENTS

17. Committee Reports.

- Filed with the Board were the Finance/Administration Committee Minutes of June 25, 2019.

Planning Committee Chair Doug Linney reported the Committee met at 9:00 a.m. and received updates on the Orinda Water Treatment Plant Disinfection Improvements Project, the Wastewater Outfall Bridge Overcrossing, and Public Safety Power Shutoffs.

Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met at 10:00 a.m. and received updates on Legislative Report No. 05-19; the resolution regarding the federal Green New Deal approved by the Board in an earlier action; and on the Diversity and Inclusion Action-Oriented Program and Outreach. He also reported the Committee received considerable public comment from Justin Young, 1st Vice-President, AFSCME Local 2019 regarding District Electrical Engineer recruitment and retention efforts.

18. Other Items for Future Consideration.

- Memorandum and discussion at the July 23, 2019 Regular meeting regarding Board members informing the Secretary and General Manager when they travel outside of the service area.

19. Director Comments.

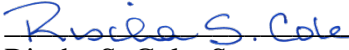
- Director Coleman reported attending/participating in the following events: Meeting with constituent Lana Sindler on June 26 in Walnut Creek; Oakland Metropolitan Chamber of Commerce Awards Luncheon on June 26 in Oakland; and the Foothill Conservancy Annual Fundraising Dinner on June 29 in Plymouth. He reported on plans to attend the DERWA Board meeting on July 22 in Pleasanton.
- Director Linney reported attending/participating in the following events: EBMUD Wards 3, 5, and 6 briefings on April 25 in Oakland; National Resources Defense Council event on May 9 in San Francisco; Acterra 2019 Business Environmental Awards Ceremony and Reception on May 22 in San Francisco; and the Alameda Mayor's 4th of July Parade on July 4 in Alameda.

- Director Mellon reported attending the Oakland Metropolitan Chamber of Commerce Awards Luncheon on June 26 in Oakland and presenting to the Hayward Rotary Club on July 8 in Hayward.
- Directors Katz, McIntosh, Patterson and President Young had no report.

ADJOURNMENT


President Young adjourned the meeting at 2:52 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: July 23, 2019



Marguerite Young, President of the Board