

## MINUTES

Tuesday, June 28, 2016

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

### Regular Closed Session Meeting

President Frank Mellon called to order the Regular Closed Session Meeting of the Board of Directors at 11:00 a.m. in the Administration Center Board Room.

#### ROLL CALL

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and President Frank Mellon were present at roll call. Director Andy Katz was absent at roll call but arrived in Conference Room 8a/b.

Staff present included Director of Operations and Maintenance Michael J. Wallis (in the absence of General Manager Alexander R. Coate who was on jury duty), General Counsel Craig S. Spencer, Director of Finance Sophia D. Skoda (Item 1a), Director of Water and Natural Resources Richard G. Sykes (Item 1b), Assistant General Counsel Fred Etheridge (Item 1b), Engineering Manager Elizabeth Z. Bialek (Items 2a-c), Risk Manager Karen K. Curry (Items 2a-c), Attorney Derek T. McDonald (Items 2a-d), Attorney Jon Salmon (Item 2d), Director of Wastewater Bennett K. Horenstein (Item 2d), and Manager of Real Estate Services Matt Elawady (Item 2d).

#### PUBLIC COMMENT

There was no public comment.

#### ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Frank Mellon announced the closed session agenda. The Board convened to Conference Room 8a/b for discussion.

#### Regular Business Meeting

President Mellon called to order the Regular Business Meeting of the Board of Directors at 1:15 p.m. in the Administration Center Board Room.

#### ROLL CALL

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

Staff present included Director of Operations and Maintenance Michael J. Wallis (in the absence of General Manager Alexander R. Coate who was on jury duty), General Counsel Craig S. Spencer, and Secretary of the District Lynelle M. Lewis.

## **BOARD OF DIRECTORS**

President Mellon led the Pledge of Allegiance.

## **PRESENTATION**

Director of Operations and Maintenance Michael J. Wallis announced that this year's Speaker(s) of the Year were from the Water Conservation Division. This team made educating, informing and entertaining presentations throughout the District and beyond to hundreds of organizations throughout the course of this past drought year. Mr. Wallis introduced the team and President Mellon presented awards to the following Water Conservation Division staff: Water Conservation Representative Jolene M. Bertetto, Supervisor of Water Conservation Charles M. Bohlig, Water Conservation Technician Rachel M. Garza, Water Conservation Representative Rolando E. Gonzalez, Manager of Water Conservation Richard W. Harris, Water Conservation Representative David T. Langridge, Water Conservation Representative Joseph C. Lerma, Water Conservation Technician Nanci L. Miller, Water Conservation Representative Scott J. Sommerfeld, Associate Civil Engineer David I. Wallenstein, and Water Conservation Representative Jessica A. Woodard.

The Board congratulated and applauded the 2015-2016 Water Conservation Speaker(s) of the Year.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board were the following persons: 1) John Wilson, Oakland resident, commented that the District should maintain its acoustic data loggers because they provide useful leak information, and he suggested that the District consider using surplus water from this past rainfall year to recharge local aquifers. President Mellon said staff would provide information on the District's work on underground water storage and data loggers; 2) Richard E. Looker, Oakland resident, commented that the District failed to notify him of the potential sediment hazard after pipeline work was performed and also failed to take responsibility for the damage done to his property. He was provided a copy of the written staff response about his claim for reimbursement for repairs; 3) Heinrich Albert commented that the online board documents should be formatted to be more user friendly; and 4) Mark Foley, President AFSCME Local 2019, thanked the Board for the opportunity to resolve their issues regarding the Dispatch Center Representative presented in Consent Calendar Item 11.

## **CONSENT CALENDAR**

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 1-11 on the Consent Calendar, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

1. **Motion No. 114-16** – Approved the Regular Meeting Minutes of June 14, 2016.
2. The following correspondence was filed with the Board: 1) Letter dated June 28, 2016 to Mr. Richard Looker, from Director William B. Patterson, regarding waterline repair related claim; 2) Memorandum dated June 28, 2016 to Board of Directors, from Sophia D. Skoda, regarding property damage claim: 116 Merion Terrace, Moraga, CA – C. Haraburda (with attached letter dated June 20, 2016 to the EBMUD Board of Directors from Carol Haraburda); 3) Memorandum dated June 28, 2016 to Board of Directors, from Laura Brunson, Manager of Human Resources, regarding Dispatch Center Representative Position; and 4) Presentation entitled “Urban Water Management Plan 2015,” dated June 28, 2016.
3. **Motion No. 115-16** – Authorized an agreement with ENS Resources, Inc. in an amount not to exceed \$123,600 for continued legislative and regulatory information-gathering, analysis, representation and liaison services in Washington, D.C., for a one-year period from July 1, 2016 to June 30, 2017.
4. **Motion No. 116-16** – Authorized an agreement beginning on or after June 28, 2016 with HDR Engineering, Inc., for providing data management support for the regional Consent Decree for a period of two years. The total contract amount will not exceed \$175,000.
5. **Motion No. 117-16** – Authorized an agreement beginning on or after June 29, 2016 with McMillen Jacobs Associates in an amount not to exceed \$154,000 for an entry plan and inspection services for the Claremont Tunnel, as part of the Orinda Water Treatment Plant Reliability and Maintenance Improvements Project.
6. **Motion No. 118-16** – Authorized an agreement with Industrial Employers and Distributors Association in an amount not to exceed \$184,940 to provide expert labor relations negotiating and consulting services during the two-year period of July 1, 2016 through June 30, 2018, with an option to extend the agreement for an additional two years from July 1, 2018 through June 30, 2020.
7. **Motion No. 119-16** – Authorized the Office of General Counsel to continue the employment of the law firm of Hanson Bridgett, LLP, for specialized legal services related to construction, public contract and procurement, claims, trademark services, pension, employment, tax-related and litigation matters in an additional amount not to exceed \$175,000.
8. **Motion No. 120-16** – 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 \$85,000.
9. **Motion No. 121-16** – Extended the current contract with the State of California’s Department of General Services Natural Gas Program in an estimated annual amount of \$200,000, for supplying natural gas to the District’s micro-turbines on the Administration Building’s roof, for the period beginning July 1, 2016 and ending June 30, 2017, with four options to renew for an additional one-year period, for a total estimated cost of \$1,000,000.

10. **Motion No. 122-16** – Filed the General Manager's Report and Recommendation to Transfer Unpaid Delinquent Charges to the 2016-2017 Property Tax Rolls.
11. **Resolution No. 34091-16** – Amend Mid-Cycle Position Resolution No. 34090-16 To Correct Error Omitting Exhibit C and to Remove Reference to Dispatch Control Representative Classification in Exhibit C.

## **DETERMINATION AND DISCUSSION**

### 12. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine highlighted the recommended positions in Legislative Report No. 08-16.

- Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended positions in Legislative Report No. 08-16, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 123-16** – Approved positions on the following bills: SUPPORT AB 2515 (Weber) Water Conservation in Landscaping Act: Model Water-Efficient Landscaping Ordinance; SUPPORT SB 1233 (McGuire) Joint Powers Authorities: Water Bill Savings Act; SUPPORT SB 1425 (Pavley) Water-Energy Nexus Registry; and SUPPORT S. 2848 (Inhofe) Water Resources Development Act of 2016.

In concluding, Ms. Dumaine provided status updates on actions taken on Senate Bills 814 (Hill), 163 (Hertzberg), 1262 (Correa) and 1263 (Pavley).

### 13. **Adopt the Urban Water Management Plan 2015 and Updated Water Shortage Contingency Plan.**

Associate Civil Engineer Alice E. Towey presented a summary on the development of the Urban Water Management Plan 2015 and the staff recommended actions. The District is required by the California Water Code to update and to adopt an Urban Water Management Plan (UWMP) every five years. The UWMP 2015 updates the prior plan that was adopted in 2011, includes an updated Water Shortage Contingency Plan, and reflects EBMUD's experience from the most recent drought. The District solicited and accepted public comments on the Draft UWMP 2015 through May 10, 2016. During the public comment period, the District received three comment letters and one oral comment. The final UWMP includes responses to those comments and some minor text changes. The final UWMP 2015 must be submitted to the California Department of Water Resources within 30 days after adoption. The Board requested a hard copy of the final UWMP.

- Motion by Director Coleman, seconded by Director Young, to approve the recommended actions for Items 13.1 and 13.2, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

- 13.1 **Resolution No. 34092-16** – Adopting The Urban Water Management Plan 2015.
- 13.2 **Resolution No. 34093-16** – Adopting Updated Urban Water Shortage Contingency Plan for Inclusion within the East Bay Municipal Utility District’s Urban Water Management Plan 2015.
14. **Exercising Assembly Bill 408 Authority for the 2016 General Election.**

President Mellon briefed the Board on the actions required to allow the Board exercise its Assembly Bill (AB) 408 authority for the 2016 General Election. AB 408, codified as Section 11852.5 of the Municipal Utility District Act, permits the Board of Directors to appoint a candidate in lieu of holding an election if only one or no candidate runs for an open ward seat. This year, the Board’s AB 408 authority can only be exercised between August 18 and August 24, 2016. Board meetings are currently scheduled for August 9 and 23; however, the Board customarily cancels its second meeting in August to accommodate vacation schedules. To allow the Board to exercise its AB 408 authority by August 24, the Board has discretion to direct the Secretary of the District to schedule its August 2016 meetings.

There was discussion about the options available for the Board’s consideration (i.e. participation via teleconference, cancelling the August 9 meeting to allow vacations with school age children and holding the August 23 meeting, or holding an election for unopposed candidates). Director Katz recommended that staff explore with the League of California Cities and/or Special Districts Association ways to promote transparency of unopposed candidates since AB 408 provides that these names are not printed on the ballot.

- Motion by Director McIntosh, seconded by Director Linney, to conduct the August 9 meeting, cancel the August 23 meeting, and hold a special meeting if necessary, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 124-16** – Directed the Secretary of the District to schedule the regular meeting for August 9, cancel the regular meeting of August 23, and schedule a special meeting, if necessary, between August 18 and August 24, 2016 to allow the Board the option to exercise its Assembly Bill 408 authority within the narrow timeframe set forth in Section 11852.5 of the Municipal Utility District Act for the 2016 General Election.

15. **General Manager’s Report.**

There were no reports.

**REPORTS AND DIRECTOR COMMENTS:**

16. **Committee Reports.**

- Filed with the Board were the Planning Committee Minutes of June 14, 2016.

**17. Other Items for Future Consideration.**

- Provide definition of what constitutes attendance for board meetings.

**21. Director Comments.**

- Director Coleman reported attending/participating in the following events: East Bay Leadership Council Board of Directors meeting on June 17 in Pleasant Hill; ACWA teleconference meeting on June 20 in Oakland; presentation to the Pleasant Hill City Council on June 20 in Pleasant Hill; panelist for League of California Cities Conference H2O Sustainability on June 23 in Monterey; and an ACWA teleconference meeting on June 27 in Dublin. He also reported on plans to attend/participate in the following upcoming events: ACWA teleconference meeting on July 5 from Arnold, CA and ACWA teleconference meeting on July 11 from Oakland.
- Director Katz had no comment.
- Director Linney reported participating in a tour of the watershed trails on June 22 in Orinda.
- Director McIntosh had no comment.
- Director Patterson reported attending/participating in the following events: NAACP East Bay scholarship event on June 2 in Oakland and guest speaker for the EBMUD Pride Month celebration on June 7 in Oakland. He also reported that he had received positive customer feedback about the Pipeline #3 crew who performed work in Orinda.
- Director Young reported participating in a tour of the watershed trails that are being considered for bicycle access on June 22 in Orinda.
- President Mellon had no comment.

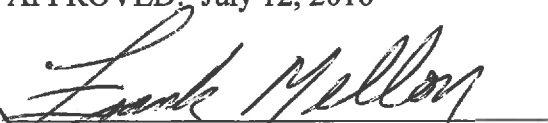
**ADJOURNMENT**

President Mellon adjourned the meeting at 2:12 p.m.

SUBMITTED BY:

  
Lynelle M. Lewis, Secretary of the District

APPROVED: July 12, 2016

  
Frank Mellon, President of the Board