

## **MINUTES**

**Tuesday, January 8, 2019**

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

### **Regular Closed Session Meeting**

President Lesa R. McIntosh called to order the Regular Closed Session Meeting of the Board of Directors at 11:02 a.m. in the Administration Center Boardroom.

### **ROLL CALL**

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Attorney Jonathan D. Salmon (Item 1a), Attorney Anna P. Gunderson (Item 1a), and Director of Wastewater Eileen M. White (Item 1a).

### **BROWN ACT BRIEFING**

Attorney Saji T. Pierce presented the annual Brown Act briefing and ethics update. She reviewed Policy 6.04 – Ethics Policy of the EBMUD Board of Directors, the ethics and sexual harassment prevention training required under Assembly Bills 1234 and 1661, and noted that proposed updates to the policy will be presented to the Board for consideration in February. She summarized recent legal developments pertaining to the Brown Act's personnel exception for closed session meetings; the Fair Political Practice Commission's (FPPC) increase to the gift limit and recent rulings about various forms of gifts of travel; California Government Code Section 1090 pertaining to public officials' approval of contracts and public employee participation in their employer's rebate/voucher programs. Based on the FPPC's advice regarding public employee participation in their employer's rebate/voucher programs, the Board asked for information on EBMUD staff's eligibility to participate in District rebate programs and clarification on whether the FPPC's gift limit should be prorated for the months that fall within the timeframe prior to the gift limit increase.

### **PUBLIC COMMENT**

There was no public comment.

### **ANNOUNCEMENT OF CLOSED SESSION AGENDA**

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

### **Regular Business Meeting**

President McIntosh called to order the Regular Business Meeting of the Board of Directors at 1:28 p.m. in the Administration Center Boardroom.

### **ROLL CALL**

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

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 McIntosh led the Pledge of Allegiance.

### **Election of President of the Board**

President McIntosh opened the floor for nominations for President of the Board for 2019.

- Motion by Director Coleman, seconded by Director Mellon, to nominate Director Marguerite Young for President of the Board of Directors for 2019.

President McIntosh called for additional nominations, none came forward, and she closed the nomination period. The motion to elect Director Marguerite Young as President of the Board, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAINED (None); ABSENT (None).

**Motion No. 001-19** – Elected Director Marguerite Young as President of the Board of Directors for 2019.

### **Election of Vice-President of the Board**

President Young opened the floor for nominations for Vice-President of the Board for 2019.

- Motion by Director McIntosh, seconded by Director Patterson, to nominate Director Doug Linney for Vice-President of the Board for 2019.

President Young called for additional nominations, none came forward, and she closed the nomination period. The motion to elect Director Doug Linney as Vice-President of the Board, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAINED (None); ABSENT (None).

**Motion No. 002-19** – Elected Director Doug Linney as Vice-President of the Board of Directors for 2019.

### **Committee Assignments**

President Young presented a memorandum requesting 2019 Committee assignment preferences. She requested that Board members submit their preferences to Secretary Cole and said assignments will be presented for Board consideration at the January 22 meeting.

### **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

### **PUBLIC COMMENT**

There was no public comment.

### **CONSENT CALENDAR**

- Item 8 was removed from the Consent Calendar for discussion.
  - Motion by Director Coleman, seconded by Director Linney, to approve the recommended actions for Items 1-7 on the Consent Calendar, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 003-19** – Approved the Regular Meeting Minutes of December 11, 2018.
  2. The following correspondence was filed with the Board: **1)** EBMUD Annual Brown Act and Ethics Update materials from Closed Session, dated January 2019; **2)** Closed Session Presentation entitled, “EBMUD Annual Brown Act and Ethics Update,” dated January 8, 2019; **3)** Memorandum dated January 8, 2019, to Board of Directors from Lesa R. McIntosh, President, regarding 2019 Board Committee Assignment Preferences; **4)** Presentation entitled, “Water Supply Update,” dated January 8, 2019; **5)** Presentation entitled, “Washington Update Presented to Board of Directors East Bay Municipal Utility District, Oakland California,” dated January 8, 2019; **6)** Memorandum dated January 8, 2019, to Board of Directors from Clifford C. Chan, Director of Operations and Maintenance regarding Unplanned Discharge into San Ramon Creek; and **7)** Speakers’ Bureau and Outreach Record CY19, dated January 8, 2019.
  - 3a. **Motion No. 004-19** – Awarded a contract to the lowest responsive/responsible bidder, Mountain Cascade, Inc., in the amount of \$41,213,000 for construction of San Pablo Clearwell and Rate Control Station Replacement under Specification 2125.
  - 3b. **Motion No. 005-19** – Awarded a contract to the lowest responsive/responsible bidder Frank A. Olsen Company in an amount, after the addition of taxes, not to exceed \$227,747 for supplying large diameter valves, actuators and related equipment for the San Pablo Clearwell and Rate Control Station Replacement, beginning on or after January 9, 2019 under Request for Quotation No. 1901.

4. **Motion No. 006-19** – Awarded a contract to the lowest responsive/responsible bidder Southland Pipe Corporation in an annual amount, after the addition of taxes, not to exceed \$280,000 for supplying various sized steel mortar-lined pipe fittings for three years, beginning on or after January 9, 2019 with two options to renew for an additional one-year period for a total cost of \$1,400,000 under Request for Quotation No. 1906.
5. **Motion No. 007-19** – Awarded a contract beginning on or after January 8, 2019, to Dynamic Systems, Inc., (formally GovStor, Inc.) in an amount, after the addition of taxes, not to exceed \$420,500 for supplying Oracle database software licensing and maintenance services for one year.
- 6a. **Motion No. 008-19** – Awarded a contract to the lowest responsive/responsible bidder, Bay City Mechanical, Inc., in the amount of \$11,265,800 for construction of Administration Building Heating, Ventilation, and Air Conditioning Systems Upgrade project under Specification 2130.
- 6b. **Motion No. 009-19** – Authorized an agreement beginning on or after January 8, 2019 with Consolidated CM, Inc., in an amount not to exceed \$990,048 for construction management support services for the Administration Building Heating, Ventilation, and Air Conditioning Systems Upgrade project.
- 7.1. **Motion No. 010-19** – Authorized an agreement with AT&T Corporation in the estimated amount of \$583,333 for the period January 30, 2019 to June 30, 2019 and for the estimated annual amount of \$1,400,000 for four years with two options to renew for a 1-year period July 1, 2019 to June 30, 2025 for a total amount not to exceed \$8,983,333.
- 7.2. **Motion No. 011-19** – Authorized an agreement with Comcast Business Communications, LLC, in the estimated amount of \$5,000 for the period January 30, 2019 to June 30, 2019 and for the estimated annual amount of \$120,000 for four years with two options to renew for a 1-year period July 1, 2019 to June 30, 2025 for a total amount not to exceed \$725,000.
8. **Motion No. 012-19** – Approved the following changes to the District’s Small Business Enterprise (SBE) bid discount for competitively bid contracts: increase the bid discount from five percent to seven percent; decrease the maximum dollar amount for the SBE discount from \$250,000 to \$150,000; and maintain the current cap of \$500,000 for the total amount of bid discounts granted in a fiscal year effective immediately.
  - Director Coleman announced that he had removed Item 8 from the Consent Calendar in error. The Board discussed the proposed changes and asked for clarification on the request to decrease the District’s maximum dollar amount for the SBE discount and on the sunset provisions in Assembly Bill 2762 (which contains the legislative changes the District is proposing for the Contract Equity Program). Contract Equity Administrator Beverly D. Johnson provided clarification on the request to decrease the SBE discount and advised staff will monitor the sunset provisions for Assembly Bill 2762 to determine if they apply to all or portions of the bill.
  - Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 8, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

**DETERMINATION AND DISCUSSION**

9. **Legislative Update.**

EBMUD Washington, D.C. Lobbyist Eric Sapirstein presented an update on federal legislative activities and on current and potential long-term impacts from the government shutdown. He highlighted the changes in Congressional representation after the November 2018 elections and potential items of interest to the District on the 116<sup>th</sup> Congressional Agenda. He noted the District’s delegation may play key roles in determining policy, rules and regulations regarding infrastructure, public health, appropriations, and natural resources, particularly as they pertain to fisheries. In conclusion he discussed possible impacts from the unresolved budget agreement and changes to the approach on addressing climate change and infrastructure needs. The Board thanked Mr. Sapirstein for the update and requested a list of Congressional Committee members and for staff to monitor urban water infrastructure and disadvantaged community support opportunities as well as other legislative items of potential interest to the District.

Next, Manager of Legislative Affairs Marlaigne K. Dumaine reviewed the proposed federal legislative initiatives for 2019. Legislative/Human Resources Committee Chair John A. Coleman reported that the Committee met earlier in the day and voted to support the staff recommendation.

- Motion by Director Coleman, seconded by Director Patterson, to approve the proposed federal legislative initiatives for 2019, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 013-19** – Approved the proposed federal legislative initiatives for 2019 that focus on: 1) protecting and advancing EBMUD’s interests in the context of its water supply reliability and the Mokelumne fishery; 2) seeking federal funding opportunities for EBMUD projects via any new and existing federal programs; and 3) continuing to monitor and evaluate, and look for opportunities to engage on, federal efforts to promote healthy forests and watersheds, and provide updates to the Board as appropriate.

FEDERAL INITIATIVE	ACTION
1. Continue to protect and advance EBMUD’s interests in the context of its water supply reliability and the Mokelumne fishery.	<ul style="list-style-type: none"> <li>• Protect EBMUD’s Mokelumne water supplies and seek to preserve EBMUD’s access to water transfers and its Central Valley Project (CVP) contract supplies.</li> <li>• Protect regional water supply programs and projects, including Freeport Regional Water Project.</li> <li>• Protect the Mokelumne fishery, including working to ensure that any policy or program revision, or project or project-related activity that is likely to affect the Mokelumne salmonid fishery includes mitigation for the impacts by the responsible parties.</li> <li>• Support appropriate stewardship responsibilities for the CVP, and the preservation of the Central Valley Project Improvement Act (CVPIA).</li> </ul>
2. Pursue federal funding opportunities for EBMUD projects via any new and existing federal programs.	<ul style="list-style-type: none"> <li>• Pursue funding opportunities via current federal avenues which include WIIN Act authorizations, the United States Bureau of Reclamation (USBR) WaterSmart program, and the USBR Title XVI program. Examples of types of projects that may be eligible for</li> </ul>

	<p>funding include water conservation and water-use efficiency, as well as recycled water projects.</p> <ul style="list-style-type: none"> <li>• Continue to advance EBMUD’s comprehensive infrastructure funding needs as Congress seeks to develop infrastructure policy and in the context of any modification to the earmark ban. These needs include but are not limited to: the Capital Improvement Program; the Regional EBMUD Seismic Component Upgrade (RESCU) program; the Bay Area Regional Reliability Project; recycled water projects; projects to facilitate regional and/or local water supply reliability; projects or programs to facilitate climate change mitigation and resiliency, including water and energy conservation; and projects to facilitate renewable energy.</li> <li>• Seek project assistance opportunities within the context of any modification to the earmark ban.</li> </ul>
<p>3. Continue to monitor and evaluate, and look for opportunities to engage on, federal policy efforts to promote healthy forests and watersheds, and provide updates to the Board as appropriate.</p>	<ul style="list-style-type: none"> <li>• Monitor federal legislation on forest and watershed health, and identify potential opportunities for EBMUD to engage, particularly through its role in the Upper Mokelumne River Watershed Authority.</li> <li>• Continue to gather information on efforts to fund both forest management and wildfire suppression, as well as policy efforts to promote forest and watershed health, and provide updates to the Board as appropriate.</li> </ul>

**10. Approve adjusting the Board of Directors’ monthly compensation.**

- Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended action for Item 10, carried (5-2) by the following roll call vote: AYES (Katz, Linney, McIntosh, Patterson, and Young); NOES (Coleman and Mellon); ABSTAIN (None); ABSENT (None).

**Motion No. 014-19** – Approved increasing the Board’s monthly compensation effective February 1, 2019 by \$54 per month or 4.3 percent, which will result in the Board’s monthly compensation changing from \$1,263 to \$1,317.

**11. General Manager’s Report.**

Manager of Maintenance and Construction David A. Briggs presented the Water Supply Update which included a review of Water Year 2018, an update on Water Year 2019 and current conditions for the District’s and California’s water supply. In addition to reporting on gross water production, precipitation in the East Bay and the Mokelumne, and the snow depth at Caples Lake, he said that as of January 6, 2019, the District’s total system storage was 603,000 acre feet, which is 108% of average and 78% of capacity. The Board asked questions about the impact of increased precipitation as rain versus snow on system storage, runoff and sediment loading. General Manager Coate advised this information as well as a recap of Water Supply Management Program 2040 targets will be discussed during the Long-Term Water Supply Workshop in March.

General Manager Coate announced that the 2018 Interdepartmental Committees Annual Reports, the December 2018 Monthly Report, and a revised Six Month Forecast of Board Committee and Workshop Agenda Topics was provided in the Board’s packet. He also asked the

Board to review the Speakers' Bureau and Outreach Record and the memo regarding the Water on Wheels 2019 schedule and provide updates to staff as needed. Additionally, he alerted the Board to a memo at their places regarding an unplanned discharge into San Ramon Creek and advised additional information on this incident will be provided as it becomes available. In conclusion, he expressed appreciation to Director McIntosh and Director Patterson for their service as President and Vice President.

## **REPORTS AND DIRECTOR COMMENTS**

### **12. Committee Reports.**

- Filed with the Board were the Planning and Legislative/Human Resources Committee Minutes of December 11, 2018.

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

- Memo outlining Board member attendance and arrival times to Board meetings.

### **14. Director Comments.**

- Director Coleman reported on plans to attend/participate in the following events: Exchange Club meeting in Danville on January 9; FRWA Board meeting via teleconference in Oakland on January 10; and a San Francisco Regional Water Quality Control Board event for retiring Executive Director Bruce Wolfe in Berkeley on January 17.
- Director Katz reported that he would be providing proposed resolution language regarding climate emergencies for staff review by late January.
- Director Mellon reported attending a joint meeting between Central Contra Costa Sanitation District, DERWA and /Dublin-San Ramon Services District in San Ramon on December 12 and the Annual Moose Feed in San Francisco on December 14.
- Director Patterson reported attending the East Bay Black Elected Officials "Shine" Awards event in Oakland on December 12. He also commended outgoing Board President Lesa McIntosh for her service and thanked staff for their work in providing information to the Board.
- Director Linney, Director McIntosh and President Young had no comment.

**ADJOURNMENT**

President Young adjourned the meeting at 2:53 p.m.

SUBMITTED BY:

  
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Rischa S. Cole, Secretary of the District

APPROVED: January 22, 2019

  
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Marguerite Young, President of the Board