

MINUTES

Tuesday, September 26, 2017

**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 11:08 a.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Doug Linney (via teleconference), Frank Mellon, William B. Patterson, Marguerite Young, and President Lesa R. McIntosh were present at roll call. Director Andy Katz arrived at 11:12 a.m.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Assistant General Counsel Xanthe M. Berry (Items 1a, 2a and 2b), Risk Manager Karen K. Curry (Items 1a, 2a and 2b), Engineering Manager Elizabeth Z. Bialek, (Item 1a), Attorney Derek T. McDonald (Items 1a and 2b), Director of Water and Natural Resources Richard G. Sykes (Items 1b, 1c, and 1d), Assistant General Counsel Frederick S. Etheridge (Items 1b, 1c and 1d), Attorney Jonathan D. Salmon (Items 1b, 1c and 1d), Director of Engineering and Construction Xavier J. Irias (Item 2b), Manager of Human Resources Laura A. Brunson (Item 3), Manager of Employee Relations David Pak (Item 3), Attorney Lourdes Matthew (Item 3), and Industrial Employers Distributors Association representatives Glenn Berkheimer, Bruce Heid and Gregory Ramirez, (Item 3).

PUBLIC COMMENT

- Addressing the Board were the following: 1) John Briceno, President, AFSCME Local 444, commented on the pace and status of the current negotiations process and stated he would like to see movement to conclude negotiations; 2) Jay Morgan, AFSCME Local 2019 Executive Board member, commented on the District's response to the union's five equity adjustment requests and asked the Board to become involved in the equity adjustment decision making process; 3) Chris Farajian, EBMUD Associate Electrical Engineer, commented on the equity adjustment request for Associate Control Systems and Associate Electrical Engineers and provided a handout to support his comments; 4) Yogesh Prashar, EBMUD Associate Civil Engineer, commented on the equity adjustment and classification title change requests for Associate Civil Engineers and Geotechnical Engineers and provided a handout to support his comments; 5) Eric West, EBMUD Drafter III, commented on the equity adjustment and classification title change requests for the Drafter classification; 6) George McQuary, EBMUD Senior Programmer Analyst, commented on recruitments for programmers and recommended the Board consider an equity adjustment and classification title change to assist with recruitment efforts; and 7) Robert Winterer, EBMUD Materials Testing Technician II, commented on the equity adjustment request for Materials Testing Technicians and how the classification's current salary compared to the market.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Lesa R. 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 1:18 p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney (via teleconference), 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.

PRESENTATIONS

On behalf of the Board, President McIntosh announced that as part of the District's updated Employee Recognition Program, the District reinstated the practice of providing a "water drop" plaque to recognize employees with 20 or more years of service to the District. Directors Coleman, Mellon and Patterson received staff-crafted, wooden "water drop" plaques to commemorate their 20 or more years of service. Director Coleman has served on the Board since 1991, Director Mellon since 1995, and Director Patterson since 1997. Each Director thanked the Board and staff for the recognition and the beautiful plaques.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT None.

CONSENT CALENDAR

- Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Items 1-7 on the Consent Calendar, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 160-17** – Approved the Regular Meeting Minutes of September 12, 2017.

2. The following correspondence was filed with the Board: **1)** Presentation entitled “Associate Control Systems (4108) & Associate Electrical Engineer (4152) Equity Adjustment Request,” dated September 26, 2017; **2)** Correspondence entitled “Geotechnical Engineers Stipend Discussion Points to EBMUD Board on 09/25/17”; **3)** Revised EBMUD Policy 4.14R – Reimbursement of Director Expenses; **4)** Presentation entitled “SRF Loan Agreements: South Reservoir Replacement MacArthur Davenport Pipeline,” dated September 26, 2017; **5)** Presentation entitled “Amendment to Water Theft Penalty Ordinance Second Reading,” dated September 26, 2017; **6)** Presentation entitled “State Low-Income Rate Assistance Program,” dated September 26, 2017; and **7)** Speakers’ Bureau and Outreach Record CY17.
3. **Motion No. 161-17** – Authorized an agreement with Pacific States Environmental Contractors, Inc. in an amount not to exceed \$15 million to remove and reuse trench soils from three District sites over two years with two options to renew for additional one-year periods, for a maximum agreement term of four years.
4. **Motion No. 162-17** – Authorized an agreement beginning on or after September 27, 2017 with Pyro-Comm Systems, Inc. in an amount not to exceed \$27,300 annually for Administration Building and Adeline Maintenance Center fire alarm system testing and maintenance for three years with two options to renew for an additional one-year period at \$28,665 annually, for a total cost of \$139,230.
5. **Motion No. 163-17** – Authorized a Memorandum of Understanding between the South Bayside Waste Management Authority (SBWMA) and EBMUD to facilitate exploring a partnership and a project under which SBWMA would recover and deliver the Organic Fraction of Municipal Solid Waste to EBMUD for anaerobic digestion, energy generation, and beneficial reuse as biosolids.
6. **Motion No. 164-17** – Approve the July 2017 and August 2017 Monthly Investment Transactions Reports.
7. **Resolution No. 35061-17** – Adopt Revised Policy 3.03, Community Fire Flow Improvement Program; Revised Policy 3.04, Coordination of District Construction And Maintenance Work with Other Agencies; Revised Policy 4.05, Financing Facilities to Serve Applicants for New Services; Revised Policy 4.12, Purchasing and Materials Management; Revised Policy 4.14, Reimbursement of Director Expenses; Revised Policy 4.21, Land And Conservation/Mitigation Credit Sales – Use of Funds; Revised Policy 7.04, Access to District Property for Tours; Revised Policy 8.04, Establishing Wastewater Capacity Fees; and Revised Policy 9.06, Bay-Delta Protection.
 - General Manager Coate stated that during the Finance/Administration Committee meeting earlier in the day, the Committee proposed additional revisions to Policy 4.14 - Reimbursement of Director Expenses and an updated version of the policy with the proposed revisions was provided at Board places.

DETERMINATION AND DISCUSSION

8. Authorize actions related to State Revolving Fund financing agreements for the MacArthur/Davenport Pipeline Replacement and the South Reservoir Replacement Projects.

Treasury Manager Dari Barzel provided an overview of the proposed financing for the projects. On September 12, the Board authorized staff to negotiate financing agreements with the State Water Resources Control Board (SWRCB) for two 30-year project loans from the SWRCB's Drinking Water State Revolving Fund at an interest rate set annually at one-half of the State's General Obligation bond rate. The District applied for loans of up to \$18,680,000 for the MacArthur/Davenport Project and up to \$22,215,600 for the South Reservoir Project. Both loans include a contingency loan amount. Compared with traditional revenue bond financing, the District could save approximately \$9.5 million in interest costs on a net present value basis. She explained the loan terms and repayment plan and said that although some of the loan terms are more stringent than the requirements set forth by the District's revenue bond indenture, staff is confident that these requirements do not place an unreasonable hardship on the District. This information was presented to the Finance/Administration Committee earlier in the day and Committee Chair Patterson reported that the Committee unanimously supported the staff recommendation.

- Motion by Director Patterson, seconded by Director Mellon, to approve the recommended actions for Items 8.1 and 8.2, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).
- 8.1. **Resolution No. 35062-17** – Authorizing the Execution of a Financing Agreement with the State Water Resources Control Board to Provide Funding for Certain Improvements to the East Bay Municipal Utility District's Water System Related to the MacArthur Davenport Pipeline Replacement Project; and Authorizing and Approving Certain Actions Relating Thereto.
- 8.2. **Resolution No. 35063-17** – Authorizing the Execution of a Financing Agreement with the State Water Resources Control Board to Provide Funding for Certain Improvements to the East Bay Municipal Utility District's Water System Related to the South Reservoir Replacement Project; and Authorizing and Approving Certain Actions Relating Thereto.
- 9. **Conduct a continued second reading and vote to adopt an amendment to Water Theft Penalty Ordinance No. 365-15 enacted by the Board of Directors on April 28, 2015, considered for a first reading on August 8, 2017, and a second reading on September 12, 2017, to reduce the applicable penalties for water theft resulting from meter tampering from \$1000, \$2000, \$3000 to \$0, \$200, \$400 for first, second, and third offenses, respectively.**

Customer Services Manager Latrice F. King presented an overview of actions taken to date to amend the Water Theft Penalty ordinance. She reviewed a sample water theft action timeline which outlined the steps taken up to and including assessment of a water theft penalty. She also said that based on the Board's request, staff is preparing updated guidelines for reviewing customer appeals to water theft penalties. The Board discussed the information

presented and Director Coleman requested that future monthly reports from the General Manager include the geographic location of water theft incidents and Customer Assistance Program data. General Manager Coate stated that staff is finalizing how to efficiently gather and present this information and will have the first report available by November.

- Motion by Director Young, seconded by Director Linney, to approve the recommended action for Item 9, carried (6-1) by the following roll call vote: AYES (Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (Coleman); ABSTAIN (None); ABSENT (None).

Ordinance No. 368-17 – An Ordinance Amending Ordinance No. 365-15 Entitled “Water Theft Penalty Ordinance.” (*Second Reading and Vote*)

10. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine highlighted the information contained in H.R. 1068 and said staff recommended a “Support” position on the bill. She provided an update on recent state and federal actions, noting that Governor Brown is currently reviewing 600 plus legislative bills. She discussed the status of SB 623 (Monning) as well as bills related to lead testing in schools, park bonds, and the cap and trade program. Director Coleman requested that information on cap and trade legislation be provided to the Upper Mokelumne River Watershed Authority for its October 6 meeting and Director Katz requested speaking points for Board members regarding the Delta twin tunnels.

- Motion by Director Coleman, seconded by Director Young, to approve the recommended action for Item 10, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 165-17 – Received Legislative Report No. 10-17 and approved a SUPPORT position on the following bill: H.R. 1068 (Lee/Pallone) Safe Drinking Water Act Amendments of 2017.

11. **General Manager’s Report.**

Environmental Affairs Officer Douglas I. Wallace provided an update on the State Water Resources Control Board’s (SWRCB) efforts to develop a plan to fund and implement a Low-Income Rate Assistance Program. AB 401 (Dodd), enacted in 2015, requires the SWRCB to develop a plan and report findings to the Legislature by February 1, 2018. Mr. Wallace reviewed the actions taken to date by the SWRCB and the District’s participation as a stakeholder in the process. He discussed the issues and alternatives associated with a statewide program including program funding sources, administration and benefit delivery, and impacts to water agencies’ existing customer assistance programs and shut off policies. The SWRCB will hold a follow-up stakeholder meeting in October and submit a draft report for public comment in December. He said the District will remain engaged in the process and will keep the Board updated.

General Manager Coate reminded the Board about the October 6 Pardee BBQ and provided an update on the fire currently burning near the Leona Quarry in the Oakland hills.

REPORTS AND DIRECTOR COMMENTS

12. Committee Reports.

- Filed with the Board were the Planning Committee Minutes of September 12, 2017.

13. Other Items for Future Consideration.

None.

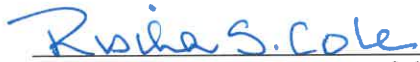
14. Director Comments.

- Director Coleman reported attending/participating in the following events: Meeting with Sid Corrie regarding water service on September 13 in Dublin; EBMUD booth at the Lafayette Art and Wine Festival on September 17 in Lafayette; Meeting with Contra Costa County Supervisors John Gioia and Federal Glover on September 19 in Martinez; ACWA Executive Committee teleconference meeting on September 25 in Oakland; and plans to attend/participate in the following events: Call with Lafayette City Councilmember Cam Burke on September 26 in Oakland; ACWA Budget Workshop on September 28 in Sacramento; ACWA Executive Committee, Board of Directors and Best of Blue Committee meetings on September 29 in Sacramento; ACWA Executive Committee teleconference meeting on October 2 in Oakland; East Bay Leadership luncheon on October 4 in Walnut Creek; Upper Mokelumne River Watershed Authority Retreat on October 5 and Board meeting on October 6 in Pardee; EBMUD Pardee BBQ on October 6 in Pardee; ACWA Executive Committee teleconference meeting on October 9 in Oakland.
- Director Katz had no report.
- Director Linney had no report.
- Director Mellon reported attending the Tradeswomen Inc.'s annual celebration on September 22 in San Leandro.
- Director Patterson had no report.
- Director Young acknowledged and thanked staff for their work on her September 21 ward event.
- President McIntosh had no report.

ADJOURNMENT

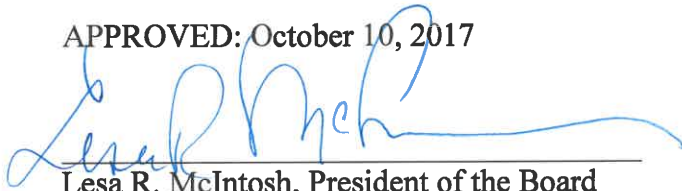
President McIntosh adjourned the meeting at 2:18 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: October 10, 2017



Lesla R. McIntosh, President of the Board