

MINUTES

Tuesday, April 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 11:02 a.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, 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.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Assistant General Counsel Xanthe M. Berry (Items 1a, 1b, 1c, 2a and 2b), Risk Manager Karen K. Curry (Items 1a and 1b), Attorney Anna P. Gunderson (Items 1a and 1b), Engineering Manager Elizabeth Z. Bialek (Items 1c, 2a, and 2b), and Attorney Derek T. McDonald (Items 1c, 2a, and 2b).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

President Young called to order the Regular Business Meeting of the Board of Directors at 1:16 p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young 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 Young led the Pledge of Allegiance.

PRESENTATIONS

General Manager Alexander R. Coate announced the District received awards for two projects from the American Society of Civil Engineers-San Francisco Section. The Sobrante and Upper San Leandro Water Treatment Plants Ozone Systems Improvements Project received an award for the outstanding water/wastewater project of the year. This \$40 million construction project includes a new state of the art ozone system, seismic improvements, chemical system improvements, power system safety upgrades, and distributed controls system upgrades for greater reliability and improved treatment capabilities. On behalf of the Board of Directors, Director Lesa R. McIntosh presented the award to the following employees in attendance representing the entire project team: Assistant Engineer Samuel A. Abraham, Assistant Engineer Joseph K. Kacyra, Maintenance Superintendent Theodore Q. Lam, Associate Civil Engineer Brett B. Margosian, Assistant Engineer Besnik Miftari, Water Treatment Supervisor Bryan G. Miller, Associate Civil Engineer Ali Sheikholeslami, Associate Civil Engineer Christian L. Shumate, Engineering Manager Serge V. Terentieff, Maintenance Superintendent Lisa A. Toth, and Engineering Manager Jimi Yoloye. The San Pablo Tunnel East Access Shaft Improvement Project received an award for small project of the year. The tunnel is located 150 feet below the ground surface and the project team applied innovative approaches to safely and efficiently install a new 42-inch valve in the tunnel and a short segment of tunnel liner. On behalf of the Board of Directors, President Marguerite Young presented the award to the following employees in attendance representing the entire project team: Senior Civil Engineer Timothy P. Karlstrand, Senior Civil Engineer Marshall P. McLeod, Senior Construction Inspector Joseph N. Patton, and Associate Civil Engineer Karl F. Tingwald.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following: 1) Michaela Whitten-Rider commented on a “no boat” buoy placed in the cove behind her home in the North Shore Camanche Reservoir area which she says is impacting her family’s ability to park their boat near their home; and 2) Ivette Rivera commented on copies of an Appellant’s Reply Brief (Ivette Rivera v. East Bay Municipal Utility District, et al. – Appeal from the U.S. District Court for the Northern District of California, NO. CV-15-00389 SBA) that she provided to the Board of Directors.

General Manager Coate responded to Board questions regarding Ms. Whitten-Rider’s comments. The Board requested a follow up information memo on the issue and referred Ms. Whitten-Rider to staff for follow up.

CONSENT CALENDAR

- Item 4 was removed from the Consent Calendar for comment.
- Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Items 1-3 and 5-6 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. 058-19** – Approved the Special and Regular Meeting Minutes of March 26, 2019.
2. The following correspondence was filed with the Board: **1)** Undated letter, including attachments, from Nicholas and Michaela Rider to Dr Sirs: Ref. North shore Camanche; **2)** Appellant’s Reply Brief: Ivette Rivera v. East Bay Municipal Utility District, et al. – Appeal from the U.S. District Court for the Northern District of California, NO. CV-15-00389 SBA; **3)** Presentation entitled “Proposed Amendments to Regional Private Sewer Lateral Ordinance,” dated April 9, 2019; **4)** Memo to Board of Directors from Manager of Human Resources Laura A. Acosta entitled “Berkeley Public Schools Fund’s 2019 Spring Luncheon: Pathways to the Future – April 19, 2019”; and **5)** Speakers’ Bureau and Outreach Record CY19 dated April 8, 2019.
3. **Motion No. 059-19** – Awarded a contract to the lowest responsive/responsible bidder, Nutrien Ag Solutions, Inc., in an annual amount, after the addition of taxes, not to exceed \$143,184 for supplying spray and pre-emergent herbicide materials and related services to control vegetation at various District facilities and properties for three years, beginning on or after April 15, 2019 with two options to renew for an additional one-year period for a total cost of \$715,920 under Request for Quotation No. 1817.
4. **Motion No. 062-19** – Awarded a contract to the lowest responsive/responsible bidder Ferguson Waterworks in an annual amount, after the addition of taxes, not to exceed \$989,576 for supplying resilient seated gate and butterfly valves for two years, beginning on or after April 9, 2019 with three options to renew for an additional one-year period for a total cost of \$4,947,880 under Request for Quotation No. 1905A.
 - Addressing the Board was Cisco Ortega from Ferguson Waterworks who thanked the Board for the opportunity to work with the District and acknowledged staff for their work on the contract.
 - Motion by Director Mellon, seconded by Director McIntosh, to approve the recommended action for Item 4, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
5. **Motion No. 060-19** – Authorized an agreement beginning on or after April 15, 2019 with Shaw Law Group, PC, in an amount not to exceed \$46,000 for Harassment Prevention Training for one year with two options to renew for an additional one-year period for a total cost of \$138,000.
- 6a.-6b. **Motion No. 061-19** – Approved the assignment of the following contracts from Cooper Pugged Management, Inc. to CPM Associates, Inc. effective April 9, 2019: Carisbrook Reservoir and Skyline Pumping Plant Replacements Project – Special Inspection Services, previously awarded under Board Motion 128-18 on September 11, 2018 in an amount not to exceed \$87,708; and Sobrante and Upper San Leandro Water Treatment Plants Ozone System Improvements – Construction Support Services, previously awarded under Board Motion 058-17 on April 25, 2017 in an amount not to exceed \$1,692,170.

DETERMINATION AND DISCUSSION

7. Legislative Update.

Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met this morning and supported the staff recommended positions in Legislative Report No. 02-19. Manager of Legislative Affairs Marlaigne K. Dumaine summarized the bills and recommended actions contained in the report. Ms. Dumaine responded to Board questions regarding staff's recommendation of "Oppose unless Amended" for SB 332. As reported to the Legislative/Human Resources Committee, Ms. Dumaine explained the bill's intent is to increase the amount of wastewater that is recycled by essentially eliminating wastewater discharges to saline waters, and requiring that the flow of wastewater that would otherwise be discharged to saline water be recycled or reduced through water conservation and efficiency measures. If passed, the bill would require the District to essentially recycle all wastewater treated at the Main Wastewater Treatment Plant and to work with other wastewater facilities that discharge in EBMUD's drinking water service area to recycle their treated wastewater for use in the District's service area. She discussed additional, potential operational and financial impacts to the District and said staff will be communicating the District's concerns and bill analysis with the bill author, sponsors and supporters. There was additional discussion and the Board asked Ms. Dumaine to attend and testify during the Judiciary Committee hearing on the bill.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Item 7, with the exception of SB 332 (Hertzberg) Wastewater Treatment: Recycled Water; carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
- Motion by Director Coleman, seconded by Director McIntosh, to approve the recommended action for SB 332 (Hertzberg) Wastewater Treatment: Recycled Water.
- Substitute Motion by Director Mellon to postpone taking action on SB 332 to a later date. Following Board discussion, Director Mellon withdrew the Substitute Motion.
- Motion by Director Coleman, seconded by Director McIntosh, to approve the recommended action for SB 332 (Hertzberg) Wastewater Treatment: Recycled Water 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. 063-19 – Received Legislative Report No. 02-19 and approved positions on the following bills: SUPPORT AB 292 (Quirk) Recycled Water: Raw Water and Groundwater Augmentation; SUPPORT AB 834 (Quirk) Freshwater and Estuarine Harmful Algal Bloom Program; SUPPORT AB 1180 (Friedman) Water: Recycled Water; SUPPORT AB 1672 (Bloom) Solid Waste: Flushable Products; SUPPORT IN CONCEPT SB 1 (Atkins) California Environmental, Public Health, and Workers Defense Act of 2019; OPPOSE UNLESS AMENDED SB 332 (Hertzberg) Wastewater Treatment: Recycled Water; and SUPPORT SB 785 (Committee on Natural Resources and Water) Public Resources: Parklands, Freshwater Resources, and Coastal Resources.

8. Introduction and First Reading of Amendments to the Regional Private Sewer Lateral Ordinance (Ordinance No. 359-13, as Previously Amended) to Amend Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 18.

Manager of Wastewater Environmental Services Alicia R. Chakrabarti presented the recommended action to introduce for first reading amendments to the Regional Private Sewer Lateral (PSL) Ordinance. Sections 11 and 12 of the ordinance specify the requirements for two groups that are not subject to trigger-based compliance: certain persons within common interest developments, and persons responsible for over 1,000 feet of PSLs. Both of these groups have compliance requirements by July 12, 2021. Staff recommends amending the ordinance to provide clarification and transparency to support these groups in meeting the deadline and coming into compliance. In addition, staff has identified additional sections of the ordinance that should be modified or clarified to ensure consistent implementation and enforcement. This item was discussed at the February 13, 2019 Planning Committee meeting and the March 12, 2019 Board meeting. Ms. Chakrabarti provided additional information about the default presumption for common interest developments in response to questions raised at the March 12 Board meeting. Ms. Chakrabarti and Attorney Jonathan D. Salmon also responded to Board questions on ordinance fines and civil penalties. The second reading and final action is currently scheduled for consideration at the April 23, 2019 Board meeting. If approved, the amendments will take effect on May 24, 2019.

Ordinance No. 369-19 – An Ordinance Amending Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 18 Of Ordinance No. 359-13, As Previously Amended Which Is The Regional Private Sewer Later Ordinance (*Introduction and First Reading*).

- Director Patterson left the room at 2:20 p.m. and returned at 2:23 p.m.

9a.-9b. Approve implementation of the third year general salary increase of 3.8% in accordance with the 2017-2021 Memoranda of Understanding between the District and AFSCME Locals 2019 and 444, IUOE Local 39 and IFPTE Local 21; and authorize a 3.8% general salary increase for Senior Management Team Members, Managers, Confidential employees and other Non-Represented employees in accordance with Resolution No. 35074-18. For purposes of Section 54953(c)(3) of the Brown Act, Senior Management Team Members referenced herein include: General Manager, General Counsel, Secretary of the District, Manager of Customer and Community Services, Director of Engineering and Construction, Director of Finance, Manager of Human Resources, Director of Operations and Maintenance, Director of Wastewater, Director of Water and Natural Resources, Special Assistant IV (Legislative Affairs), and Special Assistant IV (Public Affairs).

President Young announced that pursuant to Section 54953(c)(3) of the Government Code, the Board of Directors is providing an oral report prior to taking action on the salary, salary schedule and compensation paid in the form of fringe benefits paid to the members of the Senior Management Team listed below, including the General Manager and the General Counsel. In accordance with the employment agreements with the General Manager and the General Counsel, the Board may authorize the same general salary increases and benefits to the General Manager and the General Counsel as that granted to District employees at the department director level. As such, it is recommended that the General Manager and the General Counsel each receive a 3.8% increase to their current annual salary as set forth in their

respective employment agreements and, commensurate with the 3.8% increase being granted to all District employees in this action, effective April 15, 2019. The 3.8% increase consists of a cost-of-living increase of 3.3% based on the Consumer Price Index and an additional 0.5% enhancement. Additionally, it is recommended that the following members of the Senior Management Team also be granted a 3.8% increase in their current annual salary, commensurate with the increase being granted to all District employees in this action, effective April 15, 2019: Secretary of the District; Manager of Customer and Community Services; Director of Engineering and Construction; Director of Finance; Manager of Human Resources; Director of Operations and Maintenance; Director of Wastewater; Director of Water and Natural Resources; Special Assistant IV (Legislative Affairs); and Special Assistant IV (Public Affairs). The current salaries of the aforementioned members of the Senior Management Team are contained in the Salary Schedule dated April 16, 2018, on file with the Secretary of the District.

- Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended action for Items 9a-9b, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35136-19 – Revise District Salary Ranges, Salaries and Wage Rates.

10. General Manager's Report.

General Manager Alexander R. Coate said to contact him if there were Board questions on the March 2019 Monthly Report and that staff would be checking with Board members after the meeting on logistics for upcoming ward briefing events.

REPORTS AND DIRECTOR COMMENTS

11. Committee Reports.

- There were no Committee Reports filed with the Board.
- Planning Committee Chair Doug Linney reported the Committee met at 8:45 a.m. to receive information on Earthquake Preparedness; a Water Quality Program Annual Update; a Regulatory Compliance Semi-Annual Report; an Advanced Metering Infrastructure Water-Energy Nexus Study Update; the South Interceptor 3rd Street Rehabilitation Phase 2 Project; and an Annual Recreation Report.
- Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met at 10:15 a.m. to receive information on Legislative Report No. 02-19 and Electrical Engineer recruitment and retention efforts.

12. Other Items for Future Consideration.

None.

13. Director Comments.


- Director Coleman reported attending/participating in the following events: Retirement party for Doug Wallace in Oakland on March 28; East Bay Economic Development Alliance Foundation's Innovation Awards event in Oakland on March 28; Lafayette City Council meeting in Lafayette on April 8; and plans to attend the FRWA Board meeting and the League of Women Voters Luncheon in Oakland on April 11.
- Director Mellon reported attending/participating in the following events: Alameda County Mayors' Conference in Fremont on March 13; EBMUD Retirement Board meeting in Oakland on March 21; DERWA Board meeting in San Ramon on March 25; and Alameda County Special Districts Association annual dinner in Castro Valley on March 28.
- Director Patterson reported on the recent passing of his close friends Clemon "Clem" Daniels, former star running back for the Oakland Raiders and The Very Reverend James "Father Jay" Vernon Matthews II, third rector of the Cathedral of Christ the Light in Oakland. He asked that the Board consider closing the meeting in memory of Father Jay and that a condolence letter be sent to his family.
- President Young reported attending the EBMUD Retirement Board meeting in Oakland on March 21.
- Directors Katz, Linney, and McIntosh had no report.

ADJOURNMENT

President Young closed the meeting in memory of The Very Reverend James Vernon Matthews II who passed away on March 30, 2019.


President Young adjourned the meeting at 2:39 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: April 23, 2019



Marguerite Young, President of the Board

