

## MINUTES

**Tuesday, February 23, 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 11:01 a.m. in the Administration Center Board Room.

### ROLL CALL

Directors Andy Katz, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and President Frank Mellon were present at roll call. Director John A. Coleman was absent and excused by President Mellon to attend California Association of Sanitation Agencies (CASA) and Association of California Water Agencies (ACWA) meetings in Washington, D.C. on behalf of the District.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Finance Sophia D. Skoda (Item 1a), Workers' Compensation and Risk Specialist Vladimir Bessarabov (Item 1a), Assistant General Counsel Xanthe M. Berry (Item 1a), Attorney Lourdes Matthew (Item 1b), Director of Water and Natural Resources Richard G. Sykes (Item 1c), Director of Engineering and Construction Xavier J. Irias (Item 1c), Assistant General Counsel Frederick S. Etheridge (Item 1c), Attorney Jonathan D. Salmon (Item 1c), and Attorney Saji T. Pierce (Item 2).

### PUBLIC COMMENT

Addressing the Board was John Briceno, President, AFSCME, Local 444, who commented that Local 444 met with staff regarding revisions to Policy 2.04 (Contractual Agreement with Former Employees) which is currently under revision to comply with the California Public Employees' Pension Reform Act. He said that Local 444 had concerns about bringing back former employees citing impacts to the Employees Retirement System.

### 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 1:16 p.m. in the Administration Center Board Room.

### **ROLL CALL**

Directors Andy Katz, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and President Frank Mellon were present at roll call. Director John A. Coleman was absent and excused by President Mellon to attend CASA and ACWA meetings in Washington, D.C. on behalf of the District.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer and Secretary of the District Lynelle M. Lewis.

### **BOARD OF DIRECTORS**

President Mellon led the Pledge of Allegiance.

### **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

### **PUBLIC COMMENT**

There was no public comment.

### **CONSENT CALENDAR**

- Items 10 and 16 were removed from the Consent Calendar for discussion.
  - Motion by Director McIntosh, seconded by Director Linney, to approve the recommended actions for Items 1-9 and 11-15 on the Consent Calendar, carried (6-0) by the following voice vote: AYES (Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (Coleman).
1. **Motion No. 034-16** – Approved the Regular Meeting Minutes of February 9, 2016.
  2. The following correspondence was filed with the Board: 1) Presentation entitled “Mokelumne Aqueducts Delta Tunnel Study,” dated February 23, 2016; 2) Presentation entitled “Water Supply Board Briefing,” dated February 23, 2016; 3) Presentation entitled “Water Sales Projections-Impact of Drought on Revenue,” dated February 23, 2016; 4) Memorandum dated February 23, 2016, to Board of Directors from Andrea Pook, Special Assistant to the General Manager, regarding Planning and Conservation League Annual Symposium-February 27, 2016; and 5) Memorandum dated February 23, 2016, to Board of Directors from Andrea Pook, Special Assistant to the General Manager, regarding FAQs Regarding Water Quality and Lead.

3. **Motion No. 035-16** – Awarded a contract to the lowest responsive/responsible bidder, Ahtna Government Services Corporation, in the amount of \$249,631 for construction of the Main Wastewater Treatment Plant Motor Control Center Replacement Phase 1 Project under Specification SD-352.
- 4.1. **Motion No. 036-16** – Awarded a contract to the lowest responsive/responsible bidder, F.D. Thomas, Inc., in the amount of \$4,695,769 for construction of the Main Wastewater Treatment Plant Digester Nos. 6, 9, 10, and 11 Coating Repairs Project under Specification SD-372.
- 4.2. **Motion No. 037-16** – Authorized an agreement beginning on or after February 23, 2016, with Whitley Burchett & Associates in an amount not to exceed \$400,000 for design services during construction of the Main Wastewater Treatment Plant Digester Nos. 6, 9, 10, and 11 Coating Repairs Project under Specification SD-372.
- 5.1. **Motion No. 038-16** – Awarded a contract to the lowest responsive/responsible bidder, C. Overaa & Co., in the amount of \$8,220,000 for construction of the Orinda Water Treatment Plant Reliability and Maintenance – Filter Underdrain Replacements under Specification 2095.
- 5.2. **Motion No. 039-16** – Authorized an agreement with PMA Consultants, LLC in an amount not to exceed \$192,557 to provide construction scheduling services for the Orinda Water Treatment Plant Reliability and Maintenance – Shutdowns, Hypochlorite, and Electrical Improvements Project.
6. **Motion No. 040-16** – Authorized an agreement with AECOM Technical Services, Inc. in an amount not to exceed \$362,112 to complete a Value Engineering (Planning Phase) Study for the Central Reservoir Replacement Project.
7. **Motion No. 041-16** – Authorized an agreement beginning on March 1, 2016 in an estimated amount of \$311,592 with Honeywell International Inc. for control system maintenance support services for five years.
8. **Motion No. 042-16** – Authorized a direct award purchase from Trayer Engineering Corporation in the estimated amount of \$130,000 including tax, for a 12KV switch with a high-voltage enclosure for the District's Camanche Powerhouse.
9. **Motion No. 043-16** – Amended the concession contract with Pardee Lake Recreation, Inc., including a payment of \$118,444, to address compensation, operations and schedule changes resulting from unforeseen construction delays at the Pardee Reservoir Recreation Area.
10. **Motion No. 045-16** – Adopted Principles of Agreement (with revisions to include water conservation, water quality and water efficiency) between Contra Costa Water District (CCWD) and East Bay Municipal Utility District (EBMUD) regarding use of EBMUD's Freeport Regional Water Project (FRWP) and CCWD's Los Vaqueros Reservoir.

- Item 10 was removed from the Consent Calendar for discussion. Director of Water and Natural Resources Richard G. Sykes reviewed the staff recommendation. He said that EBMUD is interested in exploring opportunities to secure storage in CCWD's current Los Vaqueros (LV) Reservoir. Storage in LV Reservoir offers EBMUD a place to store water for potential later use during dry-years to supplement existing supplies. Under the agreement, CCWD commits to working with EBMUD to explore opportunities to make storage available. The proposed principles are an initial step toward developing an operational arrangement between EBMUD and CCWD to provide CCWD with deliveries beyond the current 3,200 AF per year agreement. EBMUD and CCWD agreed to work together to develop additional agreements and permits required to utilize FRWP and associated facilities to wheel water on behalf of CCWD. CCWD also agrees to explore LV Reservoir storage options with EBMUD.

Director Young commented that the principles of agreement should spell out the specific use for the water stored (water quality improvements, not additional water rights). Director Katz commented that the principles should integrate water conservation and efficiency standards.

- Addressing the Board was Henrik Albert, Sierra Club, Water Committee, who said that while his organization supports the principles, they have some concerns. He said they would like to see the principles spell out high conservation levels and no water supplied to new developments without offsets.
  - Motion by Director Young, seconded by Director Katz, to approve the principles with amendments to include language about water conservation, water quality and water efficiency. The motion carried (6-0) by the following voice vote: AYES (Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (Coleman).
11. **Motion No. 044-16** – 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, and litigation matters in an additional amount not to exceed \$275,000.
  12. **Resolution No. 34067-16** – Authorizing A 25-Year Lease With The East Bay Regional Park District For The Lake Chabot Regional Park.
  13. **Resolution No. 34068-16** – Authorizing Acquisition of Real Property On The Mokelumne River Watershed in Amador County, California.
  14. **Resolution No. 34069-16** – Authorizing Third Amendment To General Manager Employment Agreement (effective February 23, 2016).
  15. **Resolution No. 34070-16** – Authorizing Second Amendment To General Counsel Employment Agreement (effective February 23, 2016).
  16. **Resolution No. 34071-16** – Appointing Semadar “Dari” Barzel As Treasury Manager (effective March 7, 2016).

- President Mellon pulled Item 16 from the Consent Calendar to make congratulatory remarks. Ms. Barzel thanked the Board and staff for its support and said it was an honor to be appointed to the position. The Board and staff applauded Ms. Barzel.
- Motion by Director Mellon, seconded by Director Young, to approve the recommended action for Item 16, carried (6-0) by the following voice vote: AYES (Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (Coleman).

## **DETERMINATION AND DISCUSSION**

### **17. Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine highlighted the recommended positions in Legislative Report No. 02-16. She reported that EBMUD has historically supported the Validating Acts and staff recommends a “support” position. Next, she reported on S. 2533 (Feinstein), the California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act. She pointed out that a definitive position on S. 2533 is not recommended at this time since discussions on a western drought bill are ongoing. EBMUD staff will continue to work with Senator Feinstein and others in EBMUD’s delegation to address EBMUD’s outstanding issues and assist the delegation in its efforts to develop a final approach for a western drought bill.

- Addressing the Board was Henrik Albert, Sierra Club, Water Committee, who urged the Board not to support S. 2533 citing unknown costs and potential environmental impacts.
- Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended positions carried (6-0) by the following voice vote: AYES (Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (Coleman).

**Motion No. 046-16** – Received Legislative Report No. 02-16 and approved positions on the following bills: SUPPORT SB 971 (Committee on Governance and Finance) Validations; SUPPORT SB 972 (Committee on Governance and Finance) Validations; SUPPORT SB 973 (Committee on Governance and Finance) Validations; and CONTINUE TO ENGAGE on S. 2533 (Feinstein) California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act.

### **18. Authorized an agreement with AECOM Technical Services, Incorporated, in an amount not to exceed \$2,257,763 for consultant services related to completing the Phase 1 Geotechnical Exploration Program.**

Director of Engineering and Construction Xavier J. Irias presented background information for the recommended action. The Mokelumne Aqueducts are vulnerable to failure in the Delta due to flood and earthquake hazards. In 2007, a District report was presented to the Board which recommended a Mokelumne Aqueduct Delta tunnel across the Delta as the long-term solution for risks to the aqueducts within the Delta. In 2014, a conceptual design for replacing the existing aqueducts through the Delta with a deep tunnel was developed as part of the Mokelumne Aqueducts Delta Tunnel Study. He said that AECOM will conduct a geotechnical study and prepare a preliminary geologic interpretative memorandum and seismicity report.

The data and reports generated through these investigations will guide future tunnel design as well as support structural analyses of the existing Mokelumne Aqueducts pile supported foundations in the Delta which are currently experiencing settlement issues in some locations.

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

**Motion No. 047-16** – Authorized an agreement with AECOM Technical Services, Incorporated, in an amount not to exceed \$2,257,763 for consultant services related to completing the Phase 1 Geotechnical Exploration Program.

19. **General Manager's Report.**

Operations and Maintenance Department Manager Eileen M. White presented an update on state water supplies, East Bay and Mokelumne water supplies, precipitation and snow, gross water production, current water savings, and water supply projections. She reported that reservoirs are refilling as a result of increased precipitation and snow depth and water content are up from 2015. Total system storage is 368,670 acre feet and projected end of water year storage is 485-630 thousand acre feet. Mokelumne River watershed season to date precipitation is 105 percent of average and East Bay watershed season to date precipitation is 83 percent of average. The precipitation accumulation season is 67 percent complete. In concluding, Ms. White highlighted the water supply schedule including the March snow survey (March 1), U. S. Bureau of Reclamation initial allocation (March 20), California Department of Water Resources April snow survey (April 1) and the Water Supply Availability and Deficiency Report along with consideration of use of Freeport (April 26). Director Linney requested a full scale paper copy of the current gross water production graph to show gallons per day beginning at zero.

Director of Finance Sophia D. Skoda presented an overview of historical budget and actual water sales, current budget water sales, projected water sales reflecting impact of the drought, and possible rate forecast scenarios. She pointed out that over the past 10 years, customers have used less water than budgeted and rates have been increased over time to correct for this difference. In the FY16/FY17 budget cycle, water sales were once again re-baselined to a 10 year low, but customers have been conserving more water than was projected. There was Board discussion about strategies to address lower water consumption and its impact on revenues (e.g. rate stabilization fund, drought management program, allocation of fixed costs, reviewing Cost of Service Study). General Manager Coate said that staff will be seeking the Board's direction in the upcoming months to address this issue.

General Manager Coate reported that staff had provided the Board with information on the February 27 Planning and Conservation League Annual Symposium, the Excessive Water Use Penalty Ordinance report, and speaking points regarding water quality and lead.

**REPORTS AND DIRECTOR COMMENTS**

20. **Committee Reports.**

- Filed with the Board were the Planning and Legislative/Human Resources Committee Minutes of February 9, 2016.

21. **Other Items for Future Consideration.**

None.

22. **Director Comments.**

- Director Coleman reported attending/participating in the following events: ACWA Executive Committee teleconference meeting on February 16 in Oakland; speech on water issues to Delta Kappa Gama, women's educator group, on February 17 in San Ramon; speech on water issues to Contra Costa Realtors on February 18 in Danville; speech on water issues to Lafayette Rotary Club on February 18 in Lafayette; moderated a water forum for BCDC on February 18 in San Francisco; and California Association of Sanitation Agencies and ACWA conferences from February 21-26 in Washington, D.C. He reported on plans to attend/participate in the following upcoming events: ACWA Executive Committee teleconference meeting on March 1 in Oakland; Bishop Ranch Economic Forum on March 2 in San Ramon; moderating a panel at the California League of Cities on March 2 in San Ramon; EDAB Legislative and Advocacy Committee on March 3 in Oakland; Contra Costa Mayors' Conference on March 3 in Lafayette; ACWA Executive Committee teleconference meeting on March 7 in Oakland; presentation to Walnut Creek Garden Club on March 8 in Walnut Creek; meetings on March 14-18 in Washington, D.C.; and ACWA Executive Committee teleconference meeting on March 21 in Oakland.
- Director Katz reported attending the EBMUD Black History Month artist reception on February 11 in Oakland.
- Director Linney had no comment.
- Director McIntosh reported attending the ACWA Region 5 Board of Directors meeting on February 17 at Santa Clara Water District.
- Director Patterson had no comment.
- Director Young had no comment.
- President Mellon reported attending the Contra Costa Water District's Board of Directors meeting on February 17 in Concord. He presented a resolution to Contra Costa Water District Board President Joe Campbell, who will be retiring after 24 years of service on the Board.


**ADJOURNMENT**

President Mellon adjourned the meeting at 3:12 p.m.

SUBMITTED BY:

  
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Lynelle M. Lewis, Secretary of the District

APPROVED: March 8, 2016

  
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Frank Mellon, President of the Board