

## MINUTES

Tuesday, July 26, 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 John A. Coleman (via teleconference), Andy Katz, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and President Frank Mellon were present at roll call.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Water and Natural Resources Richard G. Sykes (Item 1a), Manager of Human Resources Laura A. Brunson (Item 2), Director of Engineering and Construction Xavier J. Irias (Item 2), Director of Wastewater Bennett K. Horenstein (Item 2), Assistant General Counsel Xanthe M. Berry (Item 2), and Attorney Derek T. McDonald (Item 2).

### 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 1:19 p.m. in the Administration Center Board Room.

### ROLL CALL

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

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 7, 8 and 9 were removed from the Consent Calendar for discussion.
  - Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended actions for Items 1-6 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. 133-16** – Approved the Regular Meeting Minutes of July 12, 2016.
  2. The following correspondence was filed with the Board: 1) Letter dated July 26, 2016 from EBMUD General Manager Alexander R. Coate to Claremont Canyon Conservancy Vice-President Jon Kaufman and Board Member Jerry Kent, regarding EBMUD's vegetation management practices on watershed lands adjacent to Grizzly Peak Boulevard (with attachment); 2) Document entitled "Attachment 1-Delinquent EBMUD Charges for Transfer to the Alameda County 2016-2017 Property Tax Roll and Attachment 2-Delinquent EBMUD Charges for Transfer to the Contra Costa County 2016-2017 Property Tax Roll"; 3) Presentation entitled "Tassajara Parks Project Update," dated July 26, 2016; 4) Proof of Publication - Oakland Tribune Legal No. 0005764838, Notice of Public Hearing on the Collection By East Bay Municipal Utility District of Unpaid Delinquent Charges Through Property Tax Bills for Multi-Family Accounts and Filing of Report, dated July 11, 2016; and 5) Proof of Publication - Contra Costa Times Legal No. 0005764838, Notice of Public Hearing on the Collection By East Bay Municipal Utility District of Unpaid Delinquent Charges Through Property Tax Bills for Multi-Family Accounts and Filing of Report, dated July 11, 2016.
  3. **Motion No. 134-16** – Authorized an agreement beginning on or after September 1, 2016, with the City of Berkeley in an amount not to exceed \$144,000 for restoring asphalt pavement on portions of Panoramic Hill where District forces will replace approximately 3,750 feet of existing water pipeline between September 2016 and August 2017 as part of the Panoramic Hill Water System Improvement Project.
  4. **Motion No. 135-16** – Authorized an agreement beginning on or after August 1, 2016 with Kruger, Inc. in an amount not to exceed \$237,000 for pilot testing of the Actiflo water treatment process for the Walnut Creek Water Treatment Plant.

5. **Motion No. 136-16** – Authorized an agreement beginning on or after July 26, 2016 with Wells Fargo Bank, N.A. in an amount not to exceed \$150,000 annually for depository/disbursement combined banking services for seven years with one option to renew for an additional two-year period for a total cost of \$1,350,000 for nine years.
6. **Motion No. 137-16** – Cancelled the August 23, 2016 Closed Session and Regular Meetings of the Board of Directors.
7. **Change the Character of the Position of Manager of Employee Relations from Civil Service to Civil Service Exempt.**
  - Item 7 was pulled for discussion. Director Young asked staff to provide the rationale for the change. Manager of Human Resources Laura A. Brunson explained the recommended action.
  - Addressing the Board was John Briceno, President, AFSCME Local 444, who questioned the change of status for the position.

There was substantial discussion and the Board consensus was to refer the item to the Legislative/Human Resources Committee for review.

8. **Resolution No. 34094-16** – Adopting New Policy 7.14, Unmanned Aerial Vehicle Operation; Revised Policy 1.04, Contractors' Compliance With Equal Employment Opportunity; Revised Policy 3.07, Responsibility To Serve Water Customers; Revised Policy 7.03, Emergency Preparedness/Business Continuity; And Revised Policy 9.07, Dam Safety Program.
  - Item 8 was pulled for discussion. Director Young commented that a customer had expressed concern about the use of drones as an invasion of privacy (New Policy 7.14). Staff commented that this was an emerging issue and the policy would govern the use of drones on District property to limit liability for the District. Director Coleman said that the Finance/Administration Committee reviewed and accepted the staff recommendation.
  - Motion by Director Young, seconded by Director Linney, to approve the recommended action for Item 8, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
9. **Resolution No. 34095-16** – Appointing Brooke Barnum-Roberts To The Position Of Assistant Attorney Of The District With The Title Of Attorney I (effective September 6, 2016).
  - Item 9 was pulled for comment. President Mellon welcomed Ms. Barnum-Roberts and she thanked the Board for the opportunity.

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

### **PUBLIC HEARING**

**10. Conduct a Public Hearing to Consider Objections and Protests to The General Manager's Report to Transfer Delinquent EBMUD Charges to the 2016-2017 Property Tax Rolls.**

President Mellon opened the public hearing at 1:47 p.m. He announced that the hearing is to consider objections and protests to the General Manager's Report to Transfer Delinquent EBMUD Charges to the 2016-2017 Property Tax Rolls. He noted that staff is available to meet with customers who are protesting and want to make a payment arrangement. President Mellon asked for speakers to come forward.

- Addressing the Board was John Wilson who asked for a copy of the staff report.

President Mellon closed the public hearing at 1:49 p.m.

### **DETERMINATION AND DISCUSSION**

**11. Adopt the General Manager's Report and Authorize the General Manager to Exclude from The Report Any Affected Parcels or Amounts as Appropriate, Including Those That The District Receives Payment for on or Before The Reports Are Sent to Alameda and Contra Costa counties In Electronic Form by August 10, 2016.**

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

**Resolution No. 34096-16 – Approving Transfer Of Unpaid Delinquent Charges To Alameda And Contra Costa Counties' 2016-2017 Property Tax Rolls.**

**12. General Manager's Report.**

Director of Engineering and Construction Xavier J. Irias provided an update on the Tassajara Parks Project which is located in an unincorporated area of Contra Costa County outside Contra Costa County's Urban Limit Line (ULL) and outside the District's Ultimate Service Boundary (USB). He stated that the District recently reviewed and commented upon the Draft Environmental Impact Report (EIR) for the project. The Draft EIR identifies the District as the water service provider for the project and requests the District to participate in implementing the project's water supply strategy. In addition, the project sponsor submitted an application to the Contra Costa

Local Agency Formation Commission (LAFCO) for Sphere of Influence Amendments and Annexation to the District.

The proposed project is divided into two areas – the southern site and northern site. The southern site is approximately 616 acres and will be conveyed in fee simple to the East Bay Regional Park District and a small portion of about 7 acres will be given to the San Ramon Valley Fire Protection District for a training facility. No water is required to serve the southern site. The northern site is approximately 155 acres with development proposed on about 30 acres and the remaining acreage being conveyed in fee simple to the East Bay Regional Park District. Adjacent to the development is Finley Road whose residents have previously requested that the District extend water service to them.

The project has gone through variations of development dating back to 2010 and the District has previously provided written comments to Contra Costa County on earlier versions of the project expressing opposition to annexation based on District Policies 3.01 – Annexations, 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary, and 3.08 – Advisory Election for Annexations Outside the Contra Costa County Urban Limit Line.

Mr. Irias reviewed staff's responses to the Draft EIR which addressed the water supply analysis; the need for analysis on the growth inducing impacts the project would have on the greater Camino Tassajara Valley, for example residences on Finley Road; and analysis of the impacts to the water distribution system. Staff also commented that if the project is annexed into the District's service area, the United States Bureau of Reclamation would have to approve its inclusion in the Central Valley Project drought supplies and the California State Water Resources Control Board would have to approve its inclusion into the District's Place of Use for water rights. The comment letter also suggested that the project sponsor consider alternate water demand and water conservation offsets.

Subsequent to receiving the District's written comments, the project sponsor requested a meeting with staff to discuss the District's comments and share ideas for a potential water conservation offset.

Next, Mr. Irias discussed the project timelines and uncertainties and how these factors impact the timing for calling an advisory election for the project's proposed annexation. There was Board discussion and he advised that staff will keep the Board updated as the project moves forward.

- Addressing the Board were the following: 1) Henrich Albert, Sierra Club, San Francisco Bay Chapter, expressed opposition to the annexation for the Tassajara Parks Project; and 2) David Bowlby, on behalf of FT Lands, said his agency will be recirculating the Draft EIR and look forward to working with staff to address the comments received.

**REPORTS AND DIRECTOR COMMENTS**

**13. Committee Reports.**

- Filed with the Board were the Planning and Legislative/Human Resources Committee Minutes of July 12, 2016.

**14. Other Items for Future Consideration.**

None.

**15. Director Comments.**

- Director Coleman reported attending/participating in the following events: Cal Shakes Theatre event on July 13 in Orinda; Bay Planning Coalition restoration with biosolids meeting on July 14 in Oakland; Upper Mokelumne River Water Authority Governing Board meeting on July 22 at Pardee Center; ACWA teleconference meeting on July 25 from Arnold; and EBMUD Board Committee and Regular Business Meetings via teleconference on July 26 from Arnold. He reported on plans to attend the following upcoming events: ACWA teleconference Board of Directors meetings on July 29 in Sacramento; ACWA teleconference meeting on August 1 in Oakland; EBMUD Leland Reservoir public meeting on August 3 in Lafayette; and ACWA teleconference meeting on August 9 from Oakland.
- Director Katz had no comment.
- Director Linney reported that he will be attending the Alameda-North Bay Farm Island Pipeline Crossings public meeting on July 26 in Alameda.
- Director McIntosh reported attending the Contra Costa Special Districts Association meeting on July 18 in Martinez.
- Director Patterson reported attending/participating in the following events: Woodminster 50<sup>th</sup> Celebration on July 8; Oakland Elders meeting on July 13 in Oakland; meeting with Comcast Manager of Government Affairs Ken Maxey on July 15 in Oakland; funeral services for John Ivey on July 16 in Oakland; Urban Strategies Board of Directors meeting on July 18 in Oakland; meeting with Oakland Mayor Libby Schaff regarding food waste efforts on July 20 in Oakland; Kapor Center for Social Impact Community Reception and New Building Launch on July 20 in Oakland; Urban Strategies Council 'My Brother's Keeper Alliance Career Summit' on July 21 in Oakland; Bay Area Black Expo Foundation awards gala on July 21 in Oakland; Upper Mokelumne River Watershed Authority Governing Board meeting on July 22 at Pardee Center; and the Ora Lee Brown Foundation Scholarship dinner on July 23 in Oakland.
- Director Young commented that she would be participating in the EBMUD Dragon Boat Regatta on September 17 at Lake Merritt in Oakland.

- President Mellon reported attending/participating in the following events: Waste Management meeting on July 11 in Oakland; Alameda County Special Districts Association meeting on July 13 in Oakland; and the Cal Shakes Theatre event on July 13 in Orinda.

**ADJOURNMENT**

President Mellon adjourned the meeting at 2:28 p.m.

SUBMITTED BY:

  
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Lynelle M. Lewis, Secretary of the District

APPROVED: August 9, 2016

  
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Frank Mellon, President of the Board

