

MINUTES

Tuesday, January 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 11:06 a.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, 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, Manager of Customer and Community Services Sherri A. Hong (Item 1a), and Attorney Derek T. McDonald (Item 1a).

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

ROLL CALL

Directors John A. Coleman, 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.

2016 Committee Assignments

President Mellon reviewed the 2016 Committee Assignments.

- Motion by Director Patterson, seconded by Director McIntosh, to approve the 2016 Committee Assignments, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 012-16 – Approved the following 2016 Board Committee assignments:

Planning

Director Linney, Chair
Director McIntosh
Director Young

2nd Tuesday of the month at 9:15 a.m.
Administration Center Building
Training Resource Center, 2nd Floor
Training Resource Center, 2nd Floor

Legislative/Human Resources

Director Patterson, Chair
Director Coleman
Director Young

2nd Tuesday of the month at 10:15 a.m.
Administration Center Building
Training Resource Center, 2nd Floor

Finance/Administration

Director Coleman, Chair
Director Katz
Director Patterson

4th Tuesday of the month at 10:00 a.m.
Administration Center Building
Training Resource Center, 2nd Floor

Sustainability/Energy

Director Katz, Chair
Director Linney
Director Young

Meets quarterly on 4th Tuesday

DSRSD/EBMUD Recycled Water Authority (DERWA)

Director Coleman
President Mellon
Director Young, Alternate

4th Monday of even calendar months at 6:00 p.m.
Contact: Linda H. Hu, 287-1691

Freeport Regional Water Authority

Director Patterson
Director McIntosh, Alternate

*2nd Thursday at 10:00 a.m. on a quarterly basis,
with locations to be announced*

Retirement Board

President Mellon
Director Young

3rd Thursday odd numbered months at 8:30 a.m.
Administration Center Building
Training Resource Center, 2nd Floor

Upper Mokelumne River Watershed

4th Friday, quarterly at 1:30 p.m.

McLean Hall, Pardee Center
Director Coleman
Director Patterson
Director McIntosh, Alternate
Director Young, Alternate

Business Forum (Ad Hoc)

Meeting dates, times, and location to be determined

Director Patterson
Director Katz
Director McIntosh
President Mellon, Alternate

EBMUD/EBRPD Liaison

Meeting dates, times, and location to be determined

Director Linney
Director Katz
Director Coleman, Alternate
President Mellon, Alternate

Oakland Chamber of Commerce

Director Patterson
Director Coleman, Alternate
Director Linney, Alternate

Special Districts Association of Alameda County/Special Districts Selection Committee

President Mellon
Director Coleman, Alternate

Special Districts Association of Contra Costa County

Director McIntosh
Director Coleman, Alternate

ANNOUNCEMENTS FROM CLOSED SESSION

There was one announcement from closed session. The Board in closed session, by a unanimous vote of the Directors attending, appointed Vice-President William B. Patterson, Director Andy Katz and Director John A. Coleman to act as the Board's representatives in negotiating employment contracts under Government Code section 54957.6.

PUBLIC COMMENT

- Addressing the Board was Michelle Nelson and John Fisher, Oakland customer, who expressed frustration with trying to correct Mr. Fisher's account and remove liens placed on his property. President Mellon referred them to staff for assistance.

CONSENT CALENDAR

- Item 9 was pulled for discussion.
 - Motion by Director Coleman, seconded by Director McIntosh, to approve the recommended actions for Items 1-8 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. 013-16** – Approved the Regular Meeting Minutes of January 12, 2016.
 2. The following correspondence was filed with the Board: 1) Memorandum dated January 26, 2016 to Board of Directors from Barry N. Gardin, Internal Auditor Supervisor, regarding Revisions to Policy 7.07 – Energy; 2) Presentation entitled “Water Supply Board Briefing,” dated January 26, 2016; 3) Memorandum dated January 26, 2016 to Board of Directors from Andrea Pook, Special Assistant to the General Manager, regarding “Excessive Use Reporting”; 4) Presentation entitled “Drought Initiatives Update,” dated January 26, 2016; 5) Memorandum dated January 26, 2016 to Board of Directors from Andrea Pook, Special Assistant to the General Manager, regarding EBMUD Biennial Report for Fiscal Years 2014-2015; and 6) EBMUD Key Accomplishments – 2015.
 3. **Motion No. 014-16** – Awarded a contract to the lowest responsive/responsible bidder, Hallsten Corporation, in the total amount of \$193,250, after the addition of taxes, for supplying a fully functional dock system to the District under Request for Quotation No. 1604A.
 4. **Motion No. 015-16** – Authorized agreements beginning on or after February 1, 2016, with DRS Marine, Inc., Tidal Marine Construction, Inc. and Underwater Resources, Inc. in an amount not to exceed \$141,000 annually for Diving and Remotely Operated Vehicle Inspection Services for two years with three options to renew for an additional 1-year period for a total cost of \$705,000 under Request for Proposal No. PUR 096.
 5. **Motion No. 016-16** – Awarded a contract to ValleyCrest Landscape Maintenance in the amount of \$2,185,228 for the planning, design and implementation of on-site customer retrofits of the San Ramon Valley Recycled Water Project Phase 2 to facilitate the use of recycled water for landscape irrigation and install fire service backflow preventers on previously retrofitted customer sites under Phase 1.
 6. **Motion No. 017-16** – Awarded a contract to VEMCO in an estimated total amount of \$85,000 for supplying acoustic telemetry equipment for Mokelumne River fisheries monitoring studies beginning on February 1, 2016 and ending January 31, 2018 for a total estimated cost of \$170,000.
 - 7.1. **Motion No. 018-16** – Authorized an agreement beginning on or after February 1, 2016, with SR Bray LLC dba Power Plus in an amount not to exceed \$136,150 plus any applicable taxes for the rental of a standby generator at Lafayette Water Treatment Plant.

- 7.2. **Motion No. 019-16** – Authorized an agreement beginning on or after February 1, 2016, with Peterson Power Systems Inc. in an amount not to exceed \$414,286, after the addition of taxes, to purchase replacement parts, repair and test the standby generator at Lafayette Water Treatment Plant.
- 8.1. **Motion No. 020-16** – Authorized an amendment to the current agreement with Systems Consulting, Inc. (SCI) for two years with three options to renew for an additional one-year period in an amount not to exceed \$195,000 annually for services supporting the Materials Management Information System (MMIS). This amendment extends the current agreement to February 28, 2018 with three one-year options to renew under the same terms and conditions for a total cost of \$975,000. The additional \$975,000 will increase the total cost for SCI's maintenance support under this agreement to \$1,848,470.
- 8.2. **Motion No. 021-16** – Authorized an amendment to the current agreement with Order Processing Technologies (OPT) for two years with three options to renew for an additional one-year period in an amount not to exceed \$12,000 annually to provide backup support for the District's Materials Management Information System (MMIS). This amendment extends the current agreement to February 28, 2018 with three one-year options to renew under the same terms and conditions for a total cost of \$60,000. The additional \$60,000 will increase the total cost for OPT's backup support service under this agreement to \$120,500.
9. **Approve Revisions to Policy 1.12 – Prevailing Wage Provisions in Contract Agreements; Policy 4.20 – Use of District Technology Resources; Policy 7.07 – Energy; and Policy 7.09 – Workplace Safety and Health.**

Director Patterson reviewed discussion from the Finance/Administration Committee. He said the Committee referred Policy 4.20 – Use of District Technology Resources back to staff for additional clarification of “political purposes.” Additionally, it asked staff for additional revisions to Policy 7.07 – Energy. General Manager Coate noted that staff provided the Board with an edited version of Policy 7.07 which includes the addition of “California Renewable Portfolio Standard Compliant” language to ensure that the renewable energy credits and carbon offsets purchased by the District are of high quality. Director of Operations and Maintenance Michael J. Wallis said that staff was unable to identify a standard for the carbon offsets but committed to come back to the Sustainability/Energy Committee before making any purchases.

- Motion by Director Patterson, seconded by Director Young, to approve Policies 1.12, 7.07 (as revised) and 7.09, 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. 34064-16 – Adopting Revised Policy 1.12, Prevailing Wage Provisions In Contract Agreements; Revised Policy 7.07, Energy; And Revised Policy 7.09, Workplace Safety And Health.

DETERMINATION AND DISCUSSION

10. Legislative Update.

President Mellon reminded the Board that February 1, 2016 is the filing deadline for their Semi-Annual Campaign Statements. Manager of Legislative Affairs Marlaigne K. Dumaine reviewed the recommended position in Legislative Report No. 01-16 to adopt a “support” position on SB 554 (Wolk) Delta Levee Maintenance. She reported that existing law provides for reimbursement to eligible local agencies in an amount not to exceed 75 percent of those costs in excess of \$1,000 per mile of levee. The 75 percent reimbursement limit applies until July 1, 2018, after which time the limit will decrease to 50 percent. SB 554 (Wolk), as amended on January 4, 2016, would make the Delta levee maintenance program’s 75 percent reimbursement limit permanent by deleting the current sunset date of July 1, 2018.

- Motion by Director Coleman, seconded by Director McIntosh, to approve the recommended position for SB 554, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 022-16 – Accepted Legislative Report No. 01-16 and approved the position on the following bill: SUPPORT SB 554 (Wolk) Delta Levee Maintenance.

Next, Ms. Dumaine briefed the Board on SB 814 (Hill) Drought: Excessive Water Use: Urban Retail Water Suppliers. SB 814 proposes to mandate a prescriptive statewide excessive use policy at a time when only one water agency in the state, EBMUD, has implemented an excessive use ordinance. EBMUD’s ordinance has been in effect for less than one year and sufficient data is not yet available to fully assess its effectiveness and need for any changes. She pointed out that staff is bringing this item for discussion only and not for a position recommendation.

Ms. Dumaine said though SB 814’s objective, compelling conservation by penalizing excessive users, is consistent with EBMUD’s objective in implementing its own local program, in its current form, SB 814 would preclude EBMUD from implementing and refining its own innovative program and represents a significant intrusion on local control. Board members expressed numerous concerns with this bill and decided not to take a position at this time. Ms. Dumaine said she will relay the Board’s concerns to the author and keep the Board apprised.

11. General Manager’s Report.

Operations and Maintenance Department Manager Eileen M. White presented the water supply update. She reported that there has been a significant increase in snow pack compared to January 2015, the capacity in the state’s largest reservoirs (Shasta and Orville) has increased significantly since the January 12 report, and the Mokelumne and East Bay watersheds have received above average precipitation. She said that customers have continued to do a good job conserving water and pointed out that 2015 water production was 22 percent less than 2013. To date we have received 28.67 inches of precipitation with 49 percent of the season remaining. Total system storage is at 369,080 acre feet or 48 percent of capacity.

Ms. White announced that the Water Year 2016 activities include the following: Department of Water Resources Snow Survey (February 1); U.S. Bureau of Reclamation initial allocations (February 20); EBMUD Long-Term Water Supply Workshop to discuss the financial impacts of the drought (March 8); California Department of Water Resources March Snow Survey (March 1); water supply updates and community outreach (February to April); California Department of Water Resources April Snow Survey (April 1); and issuance of the Water Supply Availability and Deficiency Report (April 26). There was discussion about communicating our water supply status to customers (i.e., water shortage versus drought). General Manager Coate said that staff will be developing messages as updated information is obtained and staff will keep the Board apprised.

General Manager Coate announced that a memorandum had been provided related to a recent issue on excessive use reporting. Manager of Customer and Community Services Sherri A. Hong presented updates on several initiatives approved by the Board to limit and restrict wasteful water use. An Excessive Water Use Penalty Ordinance, regulations Section 28 (Water Use During Water Shortage Emergency Condition) and Section 29 (Prohibiting Wasteful Use of Water), a staged system of drought rates, and a Supersaver recognition program were approved in April/June 2015 as part of the District's Critical Drought Action Plan. The Excessive Water Use Penalty Ordinance for customer water use began July 1, 2015 and the penalty was reflected on customers' September bills. From September 3, 2015 through January 3, 2016, a total of 6,013 accounts were charged the excessive water use penalty. Of the 6,013 accounts charged, 4,879 represent unique individual customer accounts. Eighty-six percent or 5,159 of the accounts are located east of the hills and 14 percent or 854 accounts are located west of the hills.

Ms. Hong said that since October 15, 2015, the names of customers who violated the excessive water use penalty and had exhausted their appeals process were released to the media in response to more than 25 public records requests from news outlets. She pointed out that staff would be revising the excessive use report to put consumption information into context for media reporting. The reports include a small number of customers whose bills span more than one billing cycle due to meter access or other issues. As a result, when a customer's water consumption is tracked multiple billing periods and is compared with single billing period customers, the report reflects more water consumption. Director Coleman said he was contacted by the media about this issue and expressed concern about the accuracy of the information and its impact on customers. There was considerable discussion about this issue. General Manager Coate said that staff would assess the programming required to modify the reports to accurately display customer usage data especially for those customers whose bills span multiple billing periods.

Next, Ms. Hong reported that since February 2014, over 8,400 water waste reports have been reported to the District. Residential accounts represent the largest category of water waste reports at 66 percent, while commercial and streets/public right-of-way are the next highest categories at 15 and 14 percent. Conversely, the number of Supersavers continues to be high as customers take action to conserve and the wet and cooler weather continues. Staff will come back to the Board with the District's response to the State Water Resources Control Board's decision on whether to modify the mandatory water conservation rules that have been in place since last June. Additionally, staff is monitoring SB 814 (Hill) which proposes a statewide excessive water use penalty ordinance. Finally, staff will continue to reach out

and provide educational services to help customers comply with drought regulations. Director Patterson thanked staff for resolving customer issues in Ward 6.

In concluding, General Manager Coate announced the following staff reports had been provided for the Board's information: 2016 Critical Drought Action Plan Update; EBMUD Biennial Report for Fiscal Years 2014-2015; and EBMUD Key Accomplishments – 2015.

REPORTS AND DIRECTOR COMMENTS

12. Committee Reports.

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

13. Other Items for Future Consideration.

- Provide an update to the Planning Committee on the federal Lead and Copper Rule.

14. Director Comments.

- Director Coleman reported attending/participating in the following events: Association of California Water Agencies (ACWA) Executive Committee teleconference meeting on January 12 in Oakland; ACWA Board Officers' orientation meeting on January 13 in Oakland; Freeport Regional Water Authority meeting on January 14 in Oakland; ACWA Executive Committee teleconference meeting on January 19 in Oakland; East Bay Leadership Group on January 20 in Concord; Upper Mokelumne River Watershed Authority Board meeting on January 22 in Pardee; and ACWA Executive Committee teleconference meeting on January 25 in Oakland. He reported on plans to attend/participate in the following upcoming events: ACWA Board workshop on January 28 in Sacramento; ACWA Executive Committee meeting on January 29 in Sacramento; ACWA Board of Directors meeting on January 29 in Sacramento; ACWA Executive Committee teleconference meeting on February 1 in Oakland; ACWA Strategic Plan and Business Workshop meeting on February 3 in Sacramento; and ACWA Executive Committee teleconference meeting on February 8 in Oakland.
- Director Katz asked that today's meeting be adjourned in memory of Save the Bay Co-Founder Sylvia McLaughlin. He also reported attending a Biketopia event with the East Bay Bicycle Coalition on November 12, 2015 and speaking on a panel for Watersong Summit on January 17 in Oakland.
- Director Linney reported attending the Special Districts meeting on January 13 in Oakland and the National Forest Headwaters Conference on January 19 in Oakland.
- Director McIntosh had no comment.

- Director Patterson reported that the memorial service for retired Judge George Carroll of Richmond is January 27. He also reported attending/participating in the following events: Oakland Elders Council at the Boys and Girls Club on December 9, 2015 in Oakland; Oakland NAACP Christmas Program on December 9, 2015 in Piedmont; National Dunbar High School Alumni Bay Area Chapter on December 10, 2015 in Berkeley; Oakland NAACP membership meeting on December 12, 2015 in Oakland; Oakland Urban Strategies Council Board meeting on December 15, 2015; meeting with Assemblyman Rob Bonta regarding local workforce efforts on December 16, 2015; Metropolitan Greater Oakland Democratic Club Holiday Social on December 17, 2015; Urban Strategies Council CEO Search Report meeting on January 8; NAACP membership meeting on January 9; City of Oakland Landmarks Commission meeting to assist with street renaming for deceased pioneer businessman and civil rights leader Aramis Fouché on January 11; Peralta Colleges Foundation Board meeting on January 13 in Oakland; Freeport Regional Water Authority meeting on January 14 in Oakland; Xerox Director of Operations Audrey Jones-Taylor retirement gala on January 16 in Oakland; Scotlan Youth and Family Center Board of Directors meeting on January 21 in Oakland; Back to McClymonds Committee meeting on January 21 in Oakland; and Oakland Urban Strategies Council Board of Directors meeting on January 25. He reported on plans to attend the following events: Memorial services for Honorable George Carroll on January 27 in Richmond; NAACP Oakland Promise meeting with Mayor Libby Schaaf on January 28; and Ronald V. Dellums Legacy Celebration on January 29 in Oakland.
- Director Young asked that today's meeting be adjourned in memory of the residents of Flint, Michigan who have experienced contaminated drinking water.
- President Mellon had no comment.

ADJOURNMENT

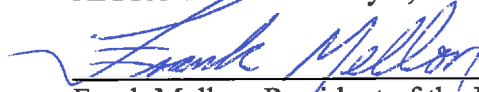
President Mellon adjourned the meeting in memory of the Honorable Judge George Carroll, Co-founder of Save the Bay Sylvia McLaughlin, and the residents of Flint, Michigan.

President Mellon adjourned the meeting at 3:11 p.m.

SUBMITTED BY:


Lynelle M. Lewis, Secretary of the District

APPROVED: February 9, 2016


Frank Mellon, President of the Board

