

MINUTES

Tuesday, May 24, 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 12:12 p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Andy Katz (via teleconference), 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, Attorney Derek T. McDonald (Items 1a and 1b), Karen K. Curry (Item 1a), Jonathan D. Salmon (Item 1b), and Bennett K. Horenstein (Item 1b).

PUBLIC COMMENT

- Addressing the Board were the following persons: 1) Dwight George, Executive Board Member, AFSCME Local 444, expressed concern about the money allocated for fully maintained and operated rental truck services and said that EBMUD should add positions in lieu of continuing to spend money to contract out for these services; and 2) John Briceno, President, AFSCME Local 444, expressed the union's opposition to the multi-year construction and maintenances services contracts. He said that the union had not been notified of two of the five contracts, staff had ignored their requests for information, and that they were concerned about the dollar amounts of these contracts. He went on to say that EBMUD needs to increase its staffing levels instead of contracting out work. The Board requested that staff return with information on comparative costs for maintenance support services contracts versus full-time staff. General Manager Coate said that staff would provide the Board with a presentation from the Finance/Administration Committee meeting that was held earlier.

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

ROLL CALL

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

PRESENTATION

General Manager Alexander R. Coate announced that the District had again received two awards for its Fiscal Year 16 and 17 budget documents. Both the Government Finance Officers Association (GFOA) and the California Society of Municipal Finance Officers (CSMFO) selected the District to receive these awards. He reported that for the past 14 consecutive budget cycles, the GFOA of the United States and Canada have presented a Distinguished Budget Presentation Award to the District for its published budget document. Mr. Coate also reported that for the third time, the CSMFO has presented the Excellence in Budgeting Award to the District. The Excellence in Budgeting award is a higher level award with additional requirements that must be met. Similar to GFOA, the program is designed to recognize those agencies that have prepared a budget document that meets certain standards. In addition, independent reviewers from California agencies rated the budget documents and provided suggestions for improvements.

Director John A. Coleman presented the award to the following staff: Principal Management Analyst Richard C. Lou, Principal Management Analyst David A. Mercado, Management Analyst Jon Bauer, Management Analyst Catherine Humphrey, Management Analyst Julie A. Hampton, Management Analyst Joan C. Louie, Director of Finance Sophia D. Skoda and Manager of Budget Jeanne M. Chase. The Board congratulated staff that put together this winning budget.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board was Silvio Addiego, District customer, who asked for the Board's help with a billing dispute at an apartment where the water was not turned off as requested. The Board referred him to staff for assistance.

CONSENT CALENDAR

- Items 4, 5, 6, 8, and 9 were removed from the Consent Calendar for discussion.

- Motion by Director Coleman, seconded by Director McIntosh, to approve the recommended actions for Items 1-3, 7, and 10-14 on the Consent Calendar, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 090-16** – Approved the Regular Meeting Minutes of May 10, 2016.
 2. The following correspondence was filed with the Board: 1) Presentation entitled “Maintenance Support Services,” dated May 24, 2016; 2) Memorandum dated May 24, 2016 to Board of Directors, from Marlaigne Dumaine, Manager of Legislative Affairs, regarding AB 142 (Bigelow) Implementation; 3) Presentation entitled “State Drought Emergency and Long Term Water Efficiency Regulations,” dated May 24, 2016; 4) Presentation entitled “Drought Water Savings and Customer Response,” dated May 24, 2016; and 5) Memorandum dated May 24, 2016 to Board of Directors, from Alison A. Kastama, Special Assistant to the General Manager, regarding Alameda Chamber’s Island Jam – June 18-19, 2016.
 - 3a-b. **Motion No. 091-16** – Awarded contracts to the following vendors in a total annual amount, after the addition of taxes, not to exceed \$300,000 for supplying automobile and light, medium, and heavy truck tires for District vehicles for two years, beginning on or after June 1, 2016 with three options to renew for an additional one-year period for a total cost of \$1,500,000; and authorized additional contracts for supplying automobile and light, medium, and heavy truck tires to the District: Don’s Tire Service; Easy Bay Tire Company; George Oren Tire Specialist, Inc.; Inland Industrial Tire; J & O Commercial Tire; Morgan Tire of Sacramento, Inc.; Theil’s Tire Service; Bridgestone Americas Tire Operations, LLC dba GCR Tires and Service #852; and Wingfoot Commercial Tire Systems, LLC dba Goodyear Commercial Tire & Service Centers; and authorized additional contracts for supplying automobile and light, medium, and heavy truck tires to the District. These additional contracts may be issued, as needed, in order to increase flexibility and ensure availability to the District. Any subsequent contracts shall meet all District standards and offer the Government and Utility Price Schedules program. The Board of Directors will be notified of additional qualified vendors by means of the General Manager’s monthly report.
 - 4a-b. **Motion No. 097-16** – Authorized an agreement beginning on or after May 24, 2016 with Statewide Construction Sweeping, Inc. in an amount not to exceed \$310,000 annually for sweeping services for two years with three options to renew for an additional one-year period for a total cost of \$1,550,000; and authorized additional agreements with sweeping service vendors that meet District standards and offer pricing at or below the range in the proposed agreement above. These additional contracts may be issued, on an as needed basis, in order to increase flexibility and ensure availability of sweeping services to the District. The Board of Directors will be notified of additional qualified vendors by means of the General Manager’s monthly report.
 - Item 4 was removed from the Consent Calendar for discussion.

Operations and Maintenance Department Manager Clifford C. Chan presented an overview of the maintenance support services contracts recommended by staff. He said these contracts supplement District forces and will be used for peak workload demands, planned and unplanned absences, joint paving projects with cities, catch up on backlog, and to provide specialized equipment. Mr. Chan highlighted the union notification process and Local 444's concerns about the multi-year contracts, recruitment and staff levels, not receiving the requested position status report, not receiving information on backhoe services, and backhoe operators' certification. Next, he summarized the Operations and Maintenance Department staffing levels, recruitment efforts and challenges, impacts of not approving contracts and the recommendations and next steps. General Manager Coate said that the District would be reviewing staffing levels as part of the Fiscal Year 18/19 budget process, have discussions with the unions, and provide greater detail on optimal staffing levels at that time. He pointed out that the District has exhausted its contract authorizations including the 15 percent change order limit on Items 4, 5, 8 and 9.

- Addressing the Board was John Briceno, President, AFSCME, Local 444, who expressed the union's frustration about not being notified of the District's intent to contract out these services, not receiving the position status reports, the amount of the funds allocated for contracting out work, and lack of progress on filling vacant positions. He also voiced the union's opposition to the multi-year contracts and said the District should increase staff. Mr. Briceno said that the union was not opposed to the recommendations for Item 3 (purchase of vehicles) and Item 4 (street sweeping), but suggested that the contracts for Items 5, 6, 8, and 9 be extended for only one year to allow for more discussion with the union. He also raised concerns about expired certification of backhoe operators.

Staff responded to the Board's questions about "contracting in" (i.e. use of District forces) versus contracting out and the comparative costs for hiring full-time staff, the process for filling vacancies, the status of current contract authorizations, and the backhoe certification process. During the discussion, there was consensus by the Board to limit the contract extensions to one year and allow staff the chance to address Local 444's concerns.

Director of Operational and Maintenance Michael J. Wallis said that District staff would hold discussions with Local 444 prior to the expiration of the contracts and as part as part of the upcoming budget process. Additionally, staff will return to the Board with a status update on the contracts. He summarized the proposed recommended actions as follows:

- Item 4 for sweeping services – the recommended action is unchanged since Local 444 had no objections;
- Item 5 for hydro-excavation services - modify the recommendation to an estimated amount not to exceed \$100,000 for a one-year period;
- Item 6 for backhoe rental services - modify the recommendation to an amount not to exceed \$200,000 for a one-year period;
- Item 8 for paving, striping, sealing, concrete repair, and other related services – modify the recommendation to increase the agreement by \$1,000,000 and review the contract in one year.
- Item 9 for dump truck rental services – modify the recommendation to authorize an increase to the agreement by \$2,500,000 and review the contract in one year.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 4, 5, 6, 8, and 9 as described by Mr. Wallis, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
- 5a. **Motion No. 098-16** – Authorized agreements beginning on or after May 24, 2016 with Diede Construction, Inc. dba Hydro X Services, Inc. and Presidio Systems, Inc. in an estimated total annual amount not to exceed \$100,000 for fully maintained and operated hydro-excavation services for a one-year period.
- 6a. **Motion No. 099-16** – Authorized agreements beginning on or after May 24, 2016 with Adam Moreno & Sons, Inc., MJH Excavating, Inc., and Paladin Construction in an amount not to exceed \$200,000 for fully maintained and operated backhoe rentals for a one-year period.
7. **Motion No. 092-16** – Authorized an agreement with Pacific States Marine Fisheries Commission in an amount not to exceed \$500,000 annually, for the marking, tagging, and recovery program for Chinook salmon and steelhead trout at the Mokelumne River Fish Hatchery and the recovery and processing of the California ocean fisheries during the period July 1, 2016 to June 30, 2021.
- 8a. **Motion No. 100-16** – Authorized an amendment to Board Motion No. 008-14 dated January 14, 2014 beginning on or after May 24, 2016 to increase the amended agreement amount by \$1,000,000 for paving, striping, sealing, concrete repair, and other related services for one year with the following vendors awarded work under the original Board motion: AJW Construction; American Asphalt Repair; Black Gold Paving & Sealing; Bond Black Top, Inc.; Bruce Enterprises, Inc.; California Pavement Maintenance Company; Carone & Co, Inc.; Cliff Swisher Custom Concrete; Coastal Paving; County Paving Co., Inc.; John W. Hertzog, Contractor; JV Lucas Paving, Inc.; MCE Corporation; MCK Services, Inc.; Morgan-Bonnano Development; O.C. Jones & Sons, Inc.; Pacific General Engineering; Ransome Co.; VSS-International; and public agencies. The contract will be reviewed in one-year.
- 9a. **Motion No. 101-16** – Authorized an amendment to Board Motion No. 145-13 dated October 8, 2013 to increase the amended agreement amount by \$2,500,000 for fully maintained and operated rental of 10-yard, 20-yard end-dump and transfer trucks, and 20-yard super dump trucks beginning on or after May 24, 2016 for the remainder of the period ending October 31, 2018 to the following vendors awarded work under this motion: A.I.P. Trucking; Adam Moreno & Sons, Inc.; D & S Trucking, LLC; De Bibb Trucking; E. M. Blair Trucking; G W Trucking; Haver Transport; Hill Trucking; Inder Trucking; Jackson Transportation; JD Trucking Co., Inc.; Kemp Trucking; Mae Trucking; Roby Trucking; Royal Trucking; S&L Transport; SMG Trucking; Sudden Sam's Trucking Co.; Tom Aikens General Engineering; and V. Dolan Trucking, Inc. The contract will be reviewed in one-year.

10. **Motion No. 093-16** – Authorized the purchase of services under an existing agreement with Oracle America, Inc. for one year beginning on or after July 1, 2016 in an amount not to exceed \$272,613 for database software license and maintenance services. The additional \$272,613 will increase the total cost for Oracle’s software support service under the agreement to \$1,775,246.
11. **Motion No. 094-16** – Approved the assignment of the Technical Advisory Board Flow Monitoring and Field Services contract to Total Flow, Inc. This contract was previously awarded to E2 Consulting Engineers, Inc. by Board Motion No. 107-11 on September 28, 2011 and amended by Board Motion No. 168-14 on October 20, 2014.
12. **Motion No. 095-16** – Authorized execution of an agreement with San Joaquin County and North San Joaquin Water Conservation District to amend the existing Protest Dismissal Agreement (PDA) between the District and five San Joaquin County parties to (1) extend the deadline from June 30, 2016 to August 10, 2016 regarding San Joaquin County’s issuance of the export permit under Section 5.e. of the PDA, and (2) authorized the General Manager to approve further extensions of the deadline until no later than December 31, 2016.
13. **Motion No. 096-16** – Approved appointment of Director Marguerite Young as the Chair of the Sustainability/Energy Committee for the remainder of 2016 with Directors Katz and Linney as committee members.
14. **Resolution No. 34083-16** – Authorizing Acquisition Of Real Property At 9601 MacArthur Boulevard In Oakland, California, And Conditioning Future Site Use On CEQA Compliance.

DETERMINATION AND DISCUSSION

15. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine highlighted the recommended positions in the Legislative Report No. 07-16. She noted that based on updated information, she suggested that the Board consider a “Neutral” position rather than “Oppose Unless Amended” position on SB 1233. Following discussion, the bills were voted on separately.

- Motion by Director Coleman, seconded by Director McIntosh, to approve a “SUPPORT” position for AB 2555, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
- Motion by Director McIntosh, seconded by Director Coleman, to approve a recommended position of “Oppose Unless Amended” for AB 814 (Drought: Excessive Use).
- Substitute Motion to the main motion for AB 814 by Director Linney, seconded by Director Young, to approve a “Support If Amended” position for AB 814 (Drought: Excessive Use), carried (6-1) by the following roll call vote: AYES (Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (Coleman); ABSTAIN (None); ABSENT (None).

- Motion by Director Katz, seconded by Director Linney, to table consideration on SB 1043 (Allen) Biogas and Biomethane.
- Substitute Motion to the main motion by Director Coleman, seconded by Director Mellon, to approve the recommended "Support" positions for SB 1043.
- Substitute Motion to the pending substitute motion by Director McIntosh, seconded by Director Young, to remove from consideration taking a position on SB 1043 and bring it back at a later time, carried (6-1) by the following roll call vote: AYES (Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (Coleman); ABSTAIN (None); ABSENT (None).
- Motion by Director Young, seconded by Director McIntosh, to approve a "Neutral" position on SB 1233 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
- **Motion No. 102-16** – Received Legislative Report No. 07-16 and approved positions on the following bills: SUPPORT AB 2555 (Committee on Water, Parks and Wildlife) Fish and Wildlife; SUPPORT IF AMENDED SB 814 (Hill) Drought: Excessive Water Use: Urban Retail Water Suppliers; and the Board opted to remain NEUTRAL on SB 1233 (McGuire) Joint Powers Authorities: Water Bill Savings Act.

Manager of Legislative Affairs Marlaigne K. Dumaine announced that staff had provided a memorandum to update the Board on the implementation of AB 142 (Bigelow), which EBMUD supported and which became effective January 1, 2016.

16. **Adopt Revised Regulation Section 29, "Prohibiting Wasteful Use of Water."**

General Manager Coate said that staff is recommending that the Board adopt revisions to Section 29 of the District's Regulations Governing Water Service to Customers to ensure continued wise water use by the District's customers and maintain consistency with the State Water Resources Control Board's (SWRCB) updated emergency regulations. He noted that on May 18, 2016, the SWRCB declared relaxed statewide drought and conservation mandates and adjusted prohibitions on wasteful practices.

- Motion by Director Coleman, seconded by Director Young, to approve the recommended action for Item 16, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 34084-16 – Adopt Revised Water System Regulations, Section 29 – Prohibiting Wasteful Use of Water (effective July 1, 2016).

17. General Manager's Report.

Manager of Water Conservation Richard W. Harris gave a presentation on customer water savings achieved during the 2014 and 2015 drought. He said that all District customer groups contributed to overall water savings with reductions in 2015 of 24 percent as compared to 2013, or approximately 40 million gallons per day. Most of the savings were related to outdoor use during the summer months. Achieved savings exceeded the District-wide mandated goal of 20 percent and state-mandated goal of 16 percent. In 2015, the single largest drop in water use was achieved by irrigation customers which staff attributes to aggressive outreach and education to the large irrigators including golf courses and parks and recreation areas. Mr. Harris said the District will continue to promote water efficiency and conservation opportunities among all customer groups. Additionally, the District will continue to provide education and outreach to provide education and outreach on water use restrictions/ requirements.

Next, General Manager Coate reported that staff had provided the final Excessive Use List, the 2016 Critical Drought Action Plan Update, along with a memorandum regarding the Alameda Chamber's Island Jam event on June 18-19. The Board raised no questions.

REPORTS AND DIRECTOR COMMENTS

18. Committee Reports.

- Filed with the Board were the Legislative/Human Resources Committee Minutes of May 10, 2016.

19. Other Items for Future Consideration.

None.

20. Director Comments.

- Director Coleman reported attending/participating in the following events: Association of California Water Agencies (ACWA) teleconference meeting on May 10 in Oakland; ward event review meeting with staff on May 18 in Oakland; ACWA teleconference meeting on May 19 in Oakland, East Bay Leadership Council board meeting on May 20 in Moraga; ACWA teleconference meeting on May 24 in Oakland; and San Ramon City Council presentation on May 24 in San Ramon. He reported on plans to attend/participate in the following upcoming events: Ward 2 breakfast event and presentation on May 26 in Walnut Creek; ACWA teleconference meeting on May 31 in Oakland; economic update on June 1 in San Ramon; ACWA teleconference meetings on June 3 in Sacramento; audit meeting on June 6 in Oakland; ACWA teleconference meeting on June 6 in Oakland; and ACWA teleconference meeting on June 13 in Oakland.
- Director Katz had no comment.

- Director Linney had no comment.
- Director McIntosh had no comment.
- Director Patterson reported attending/participating in the following events: Freeport Regional Water Authority Board meeting on April 14; meeting with Oakland Mayor Libby Schaaf regarding Waste Management of Alameda County contract on April 19 in Oakland; EBMUD Earth Day celebration guest speaker on April 27 in Oakland; League of Women Voters annual awards banquet on April 28 in Oakland; ACWA Spring Conference and meetings with San Joaquin delegation and Placer County Water Agency on May 4-5 in Monterey; Oakland Elders and Boys and Girls Club of Oakland meeting on May 11 in Oakland; and the Boys Scouts of America – San Francisco Bay Area Council meeting on May 12 in Oakland.
- Director Young had no comment.
- President Mellon announced that Director Patterson would be honored by the Boy Scouts of America San Francisco Bay Area Council for his long-standing community service at the 2016 Lifetime Achievement Awards Dinner on June 11 in Oakland.

ADJOURNMENT

Present Mellon announced that each year the District honors its employees who have passed away in the last year. He adjourned the meeting in memory of District employees and retirees who passed away between May 2015 and April 30, 2016. The names of these employees were displayed while the Board and staff observed a moment of silence.


President Mellon adjourned the meeting at 3:15 p.m.

SUBMITTED BY:



Lynelle M. Lewis, Secretary of the District

APPROVED: June 14, 2016



Frank Mellon, President of the Board

