



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Special Meeting

Tuesday, August 21, 2018

10:00 a.m.

Boardroom

375 Eleventh Street

Oakland, California

At the call of President Lesa R. McIntosh, the Board of Directors has scheduled a special meeting at 10:00 a.m. on Tuesday, August 21, 2018, at 375 Eleventh Street, Administration Center Boardroom, Oakland, California.

The Board will take action pursuant to AB 408, codified as Public Utilities Code Section 11852.5, to either appoint the sole candidate running for election in Ward Nos. 2, 3 and 4, or proceed with the election in one or more of those wards.

Dated: August 16, 2018

A handwritten signature in blue ink that reads "Rischa S. Cole".

Rischa S. Cole

Secretary of the District



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA
Tuesday, August 21, 2018
Special Meeting
10:00 a.m.
Boardroom
375 Eleventh Street
Oakland, California**

*The following Directors will participate
via teleconference from the following locations:
Director Andy Katz - 2001 Addison Street #300, Berkeley, CA 94704
Director Doug Linney - 1814 Franklin Street, #510, Oakland, CA 94612
Director Lesa R. McIntosh - 51 Washington Avenue #201, Richmond, CA 94801*

ROLL CALL:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

DISCUSSION:

1. Take action pursuant to Assembly Bill 408, codified as codified as Public Utilities Code Section 11852.5, to either: (1) appoint the sole candidate running for election in Ward Nos. 2, 3 and 4 or (2) proceed with the election in one or more of those wards scheduled for Tuesday, November 6, 2018.

ADJOURNMENT:

Disability Notice

If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.

Document Availability

Materials related to an item on this Agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: August 16, 2018

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Rischa S. Cole, Secretary of the District *RC*

SUBJECT: Take Action Pursuant to Assembly Bill 408 (AB 408) for 2018 District Elections

INTRODUCTION

The terms of Directors for EBMUD Ward Nos. 2, 3, 4, and 7 expire December 31, 2018. The regular election for Directors is scheduled for Tuesday, November 6, 2018, and shall be conducted in accordance with the Municipal Utility District Act of the State of California and conform with the provisions of the California Election Code. The nomination period for the EBMUD Director seats opened July 16, 2018 and closed August 10, 2018. Pursuant to AB 408, county elections officials were required to notify the District by August 15, 2018 if no one or only one person had filed a declaration of candidacy for a particular ward.

The District has received notice from Alameda and Contra Costa Counties that only one candidate is running for election in Ward Nos. 2, 3, and 4, which triggers the Board's authority under AB 408 to vote to either appoint the sole unopposed candidate in those wards or proceed with the election. The Board's AB 408 authority is not triggered in Ward No. 7 because Alameda and Contra Costa Counties confirmed that two candidates are running for election in that ward. The Board will be asked to take action on its AB 408 authority at a Special Meeting on Tuesday, August 21, 2018.

RECOMMENDED ACTION

Take action pursuant to AB 408, codified as Public Utilities Code Section 11852.5, to either: (1) appoint the sole candidate running for election in Ward Nos. 2, 3 and 4; or (2) proceed with the election in each of those wards.

DISCUSSION

On August 15, 2018, the elections officials of Alameda and Contra Costa Counties notified the Secretary of the District that the following candidates (all incumbents) are running unopposed in their respective wards:

- John A. Coleman – Ward No. 2
- Marguerite Young – Ward No. 3
- Andy Katz – Ward No. 4

AB 408 authorizes municipal utility districts with a seven-member board to appoint uncontested candidates in lieu of having ratepayers incur the cost of an election. Therefore, the Board may exercise its AB 408 authority to either appoint these unopposed candidates to office or proceed with an election in each of their wards.

On August 15, 2018, the elections officials of Alameda and Contra Costa Counties notified the Secretary of the District that EBMUD Ward No. 7 has two candidates running for election:

- Frank Mellon (Incumbent)
- Nicholas Harvey

Because the Board's AB 408 appointment authority is not triggered in this ward, an election will be held in Alameda and Contra Costa Counties for Director of EBMUD Ward No. 7.

NEXT STEPS

Once the Board vote has taken place on August 21, 2018, the Secretary of the District will inform Alameda and Contra Costa Counties' elections officials on or before August 22, 2018 whether the Board has decided to proceed with an election and to place the names of the unopposed candidates on the ballot; or whether the Board has decided to appoint the unopposed candidates in Ward Nos. 2, 3 and 4 and request the counties to remove the candidates' names from the ballot in those wards.

FISCAL IMPACT

In 2014, the first year AB 408 was exercised, an election was held for one of four seats up for election at a cost of \$187,980. In 2016, an election was held for one of three seats up for election at a cost of \$82,035. With an election in only one ward out of four this year, staff estimates that the District's election costs for 2018 could be between \$373,000 and \$560,000 based on the counties' estimated charge per number of registered voters in Ward No. 7. While still a significant cost, this sum is lower than what it would have been if elections were required in all four wards, as was the case prior to the Board's AB 408 appointment authority.

ALTERNATIVES

Do not take any action pursuant to AB 408, and automatically proceed with elections for all open board seats, even those that are unopposed. This alternative is not recommended because the District supported adoption of AB 408 to provide a tool to control costs on behalf of its ratepayers and to give the Board the authority to either appoint an unopposed candidate or proceed with an election.

RSC:rj

Attachments

RESOLUTION NO. _____

APPOINTING JOHN A. COLEMAN TO THE BOARD OF DIRECTORS
OF EAST BAY MUNICIPAL UTILITY DISTRICT

Introduced by Director

; Seconded by Director

WHEREAS, a general election has been ordered and called to be held in Ward No. 2, Ward No. 3, Ward No. 4 and Ward No. 7 of the East Bay Municipal Utility District (“District”), State of California, on Tuesday, November 6, 2018, at the time for the holding of the general election provided for by the Elections Code of the State of California; and

WHEREAS, pursuant to Public Utilities Code section 11852.5 of the Municipal Utility District Act, if only one person has filed a declaration of candidacy for a particular ward by 5:00 p.m. on August 15, 2018, the elections official for the county in which the ward is located, or in the case of a ward located in more than one county, the county containing the majority of the population of the ward, shall immediately submit a certificate of this fact to the District and upon the District’s receipt of such notice, the Board of Directors of the District may choose, at a regular or special meeting held on or before August 22, 2018, either to hold an election in the ward or appoint the sole person to the office who has filed a declaration of candidacy for that ward; and

WHEREAS, the District has received the notice required by Section 11852.5 of the Municipal Utility District Act that John A. Coleman is the sole person who has filed a declaration of candidacy for District Ward No. 2;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Municipal Utility District does hereby appoint John A. Coleman to serve as director representing Ward No. 2 for the term of four (4) years, with such term starting on January 1, 2019, and ending on December 31, 2022.

BE IT FURTHER RESOLVED that the Secretary of the District is hereby instructed to cause a certified copy of this Resolution to be filed with the Board of Supervisors and with the Contra Costa County Elections Department, and to instruct the County’s elections official that it shall remove the name of John A. Coleman from the ballot in Ward No. 2, and shall not accept any

statement of write-in candidacy for Ward No. 2 that is submitted after August 21, 2018, the date of appointment, as provided under Section 11852.5 of the Public Utilities Code.

ADOPTED this 21st day of August, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

{00030288;1}

RESOLUTION NO. _____

APPOINTING MARGUERITE YOUNG TO THE BOARD OF DIRECTORS
OF EAST BAY MUNICIPAL UTILITY DISTRICT

Introduced by Director _____ ; Seconded by Director _____

WHEREAS, a general election has been ordered and called to be held in Ward No. 2, Ward No. 3, Ward No. 4 and Ward No. 7 of the East Bay Municipal Utility District (“District”), State of California, on Tuesday, November 6, 2018, at the time for the holding of the general election provided for by the Elections Code of the State of California; and

WHEREAS, pursuant to Public Utilities Code section 11852.5 of the Municipal Utility District Act, if only one person has filed a declaration of candidacy for a particular ward by 5:00 p.m. on August 15, 2018, the elections official for the county in which the ward is located, or in the case of a ward located in more than one county, the county containing the majority of the population of the ward, shall immediately submit a certificate of this fact to the District and upon the District’s receipt of such notice, the Board of Directors of the District may choose, at a regular or special meeting held on or before August 22, 2018, either to hold an election in the ward or appoint the sole person to the office who has filed a declaration of candidacy for that ward; and

WHEREAS, the District has received the notice required by Section 11852.5 of the Municipal Utility District Act that Marguerite Young is the sole person who has filed a declaration of candidacy for District Ward No. 3;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Municipal Utility District does hereby appoint Marguerite Young to serve as director representing Ward No. 3 for the term of four (4) years, with such term starting on January 1, 2019, and ending on December 31, 2022.

BE IT FURTHER RESOLVED that the Secretary of the District is hereby instructed to cause a certified copy of this Resolution to be filed with the Board of Supervisors and with the Elections Department of Alameda and Contra Costa Counties, and to instruct the elections official in each county that it shall remove the name of Marguerite Young from the ballot in Ward No. 3, and

shall not accept any statement of write-in candidacy for Ward No. 3 that is submitted after August 21, 2018, the date of appointment, as provided under Section 11852.5 of the Public Utilities Code.

ADOPTED this 21st day of August, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

{00030292;1}

RESOLUTION NO. _____

APPOINTING ANDY KATZ TO THE BOARD OF DIRECTORS
OF EAST BAY MUNICIPAL UTILITY DISTRICT

Introduced by Director _____ ; Seconded by Director _____

WHEREAS, a general election has been ordered and called to be held in Ward No. 2, Ward No. 3, Ward No. 4 and Ward No. 7 of the East Bay Municipal Utility District (“District”), State of California, on Tuesday, November 6, 2018, at the time for the holding of the general election provided for by the Elections Code of the State of California; and

WHEREAS, pursuant to Public Utilities Code section 11852.5 of the Municipal Utility District Act, if only one person has filed a declaration of candidacy for a particular ward by 5:00 p.m. on August 15, 2018, the elections official for the county in which the ward is located, or in the case of a ward located in more than one county, the county containing the majority of the population of the ward, shall immediately submit a certificate of this fact to the District and upon the District’s receipt of such notice, the Board of Directors of the District may choose, at a regular or special meeting held on or before August 22, 2018, either to hold an election in the ward or appoint the sole person to the office who has filed a declaration of candidacy for that ward; and

WHEREAS, the District has received the notice required by Section 11852.5 of the Municipal Utility District Act that Andy Katz is the sole person who has filed a declaration of candidacy for District Ward No. 4;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Municipal Utility District does hereby appoint Andy Katz to serve as director representing Ward No. 4 for the term of four (4) years, with such term starting on January 1, 2019, and ending on December 31, 2022.

BE IT FURTHER RESOLVED that the Secretary of the District is hereby instructed to cause a certified copy of this Resolution to be filed with the Board of Supervisors and with the Elections Department of Alameda and Contra Costa Counties, and to instruct the elections official in each county that it shall remove the name of Andy Katz from the ballot in Ward No. 4, and shall not

accept any statement of write-in candidacy for Ward No. 4 that is submitted after August 21, 2018, the date of appointment, as provided under Section 11852.5 of the Public Utilities Code.

ADOPTED this 21st day of August, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

{00030291;1}