

## MINUTES

**Tuesday, April 12, 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 11:09 a.m. in the Administration Center Board Room.

### ROLL CALL

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and President Frank Mellon were present at roll call. Director Andy Katz was absent at roll call but arrived in Conference Room 8a/b at 11:17 a.m.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Wastewater Bennett K. Horenstein (Item 1), Manager of Real Estate Services Matt Elawady (Item 1), Attorney Derek T. McDonald (Item 1), and Attorney Jonathan D. Salmon (Item 1).

### 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 1:15 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.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board was Sean Becker, Epiphany Investments, El Cerrito, who asked for the Board's assistance in resolving a claim filed in response to a District main break. Mr. Becker said that the main break had impacted his business and he had not received a response from the District. President Mellon referred Mr. Becker to staff.

## **CONSENT CALENDAR**

- Item 6 was removed from the Consent Calendar for discussion.
  - Motion by Director Coleman, seconded by Director Linney, to approve the recommended actions for Items 1-5 and 7 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. 064-16** – Approved the Special and Regular Meeting Minutes of March 22, 2016.
  2. The following correspondence was filed with the Board: 1) Document entitled “EBMUD Food Waste Program Fact Sheet,” dated April 12, 2016; 2) Presentation entitled “Harvest Power Contract Update,” dated April 12, 2016; 3) Presentation entitled “Water Supply Board Briefing,” dated April 12, 2016; 4) Presentation entitled “Water Sales Projections-Impact of Drought on Revenues,” dated April 12, 2016; 5) Memorandum dated April 12, 2016, to Board of Directors from Alexander R. Coate, General Manager, regarding African American Water Leadership Coalition Water Leadership Symposium-April 21, 2016; and 6) Memorandum dated April 12, 2016, to Board of Directors from Alexander R. Coate, General Manager, regarding Freeport Regional Water Authority April 14, 2016 Board of Directors Meeting.
  3. **Motion No. 065-16** – Awarded a contract to the lowest responsive/responsible bidder, Mark Lee and Yong Kay, Inc., dba Bay Construction Co. in the amount of \$885,000 for construction of the Urban Runoff Diversion Pump System under Specification SD-376.
  4. **Motion No. 066-16** – Authorized an agreement beginning on or after April 18, 2016 with Ameritech Computer Services, Inc. in an amount not to exceed \$40,000 annually for printer, plotter, and desktop scanner services for two years with three options to renew for an additional one-year period for a total of cost of \$200,000 under Request for Proposal No. PUR 097.

5. **Motion No. 067-16** – Approved an amendment to the Official Payments Corporation agreement for credit card, debit card, and electronic check services to extend the expiration date from April 23, 2016 to April 22, 2017.
6. **Resolution No. 34077-16** – Authorizing Execution Of An Agreement With The City Of Hayward To Define Water Service Boundaries Between The East Bay Municipal Utility District And The City of Hayward Within The City Of Hayward City Limits.
  - President Mellon pulled Item 6 to thank staff and express appreciation for their work on crafting this agreement.
  - Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 6, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
7. **Resolution No. 34076-16** – Revise District Salary Ranges, Salaries And Wage Rates (authorized a 3.7% general salary increase for employees effective April 18, 2016).

#### **DETERMINATION AND DISCUSSION**

#### **8. Legislative Update.**

Legislative/Human Resources Committee Chair William B. Patterson reported that the Committee supported the staff recommendations in Legislative Report No. 05-16. Manager of Legislative Affairs Marlaine K. Dumaine provided an overview of SB 163 (Hertzberg) and highlighted concerns about the significant infrastructure costs for new recycled water facilities, significant rate impacts, lack of regulatory framework, and funding for the mandate. She pointed out that the mandate would raise the average service charge from about \$38 every two months to approximately \$230 every two months and will impact low-income ratepayers the most. Ms. Dumaine noted that while the bill's objective to increase the use of recycled water is consistent with EBMUD's efforts to increase recycled water use in its service area, the proposed mandate is premature and amendments are needed to address concerns. Ms. Dumaine highlighted the recommended positions for SB 1207 (Hueso) which is intended to promote energy efficiency and 1398 (Leyva) which would provide a timeline for replacement of lead pipes in California's state public water systems.

Board members commented that while the intent of SB 163 is good, the costs to ratepayers, especially low-income customers, are a concern. In response to a question about stakeholder support, Ms. Dumaine said that WateReuse California and the California Association of Sanitation Agencies have been working with the author's office and have offered an alternative that would convene a task force to assess the barriers to increased recycled water production and use and provide recommendations for overcoming those barriers and meeting statewide water recycling goals.

- Motion by Director Patterson, seconded by Director Coleman, to approve the recommended positions in Legislative Report No. 05-16 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. 068-16** – Received Legislative Report No. 05-16 and approved positions on the following bills: SUPPORT AB 2543 (Gordon) State Buildings: Efficiency; OPPOSE UNLESS AMENDED SB 163 (Hertzberg) Wastewater Treatment: Recycled Water; SUPPORT SB 1207 (Hueso) Energy: Conservation: Financial Assistance; SUPPORT SB 1398 (Leyva) Public Water Systems: Lead Pipes; and INFORMATION SB 814 (Hill) Drought: Excessive Water Use: Urban Retail Water Suppliers.

## 9. **General Manager's Report.**

Director of Wastewater Bennett K. Horenstein provided a status update on the Harvest Power contract. Since the Food Waste Program workshop on March 22, staff has continued to negotiate terms of an agreement which focuses on capital costs, project scheduling, and allocation of risk. As the negotiations have progressed it has become apparent that there are significant challenges to the District finalizing a deal with Harvest Power. Key outstanding items include capital cost, scheduling, and performance bonding. Additionally, Harvest Power indicated that they are unable to transfer the \$4.8 million California Energy Commission grant funds to EBMUD which would increase project costs an additional \$4.8 million. Harvest Power is unable to commit to a guaranteed design/build contract price until they complete the project design (in 2 to 3 months) nor can they commit to meeting the schedule requirements for the Renewable Natural Gas (RNG) facility. Harvest Power still is not currently licensed to perform construction work in California and is unable to provide a performance bond up to the contract amount.

Mr. Horenstein reported that staff is working with Harvest Power to complete the work contracted under the Preliminary Engineering Services Agreement under which Harvest Power has been providing design and permitting services. The Preliminary Engineering Services Agreement also included a down payment on RNG facility equipment through a purchase order which Harvest Power must assign to the District, at the District's request, at the end of April. Staff will be refining its evaluation of proceeding with the RNG facility as a standalone project in order to make a recommendation on proceeding with the purchase order assignment. Staff will be evaluating the District's next steps on food waste, which may include continued negotiation with Harvest Power or an alternate approach. Staff also will be working with Waste Management of Alameda County and the City of Oakland to communicate the District's path forward.

Operations and Maintenance Department Manager Eileen M. White presented updates on the statewide and local water supply. She reported that the April 1 snow survey revealed the snow depth was 58 inches and the water content was 26 inches, a significant increase in the snow pack since last year. Shasta and Oroville, the state's two largest reservoirs, are currently at 90% capacity and flood control releases have started to make space for the incoming runoff from the melting snow. She noted that the large reservoirs in the southern part of the state did not benefit from the snow pack.

Ms. White reported that the District's water supply has significantly improved since last year as a result of improved precipitation and snow pack. To date East Bay cumulative precipitation is 24.77 inches (101% of average) and the Mokelumne basin 4-station average is 46 inches (109% of average). Pardee Reservoir is at 95 percent of capacity, Camanche Reservoir is at 48 percent of capacity compared to 18 percent last year, and East Bay reservoirs are at 92 percent of capacity. Overall customer demand reduction is 24 percent and end of water year gross water production is projected at 146 million gallons per day (20 million gallons per day less than budgeted). Total system storage is projected to be between 595 and 630 thousand acre feet. The Water Supply Availability and Deficiency Report will be presented at the April 26, 2016 Board meeting. State mandated conservation requirements are expected to come out in May and at that time the District will review its conservation levels. Director Coleman requested historical post-drought water use information.

Director of Finance Sophia D. Skoda presented an update on water sales projections and the impact on the budget. The adopted FY16/17 budget assumed a \$6.0 million revenue shortfall which would be absorbed by the Rate Stabilization Fund (RSF). Lower than budgeted water consumption resulting from drought related conservation has created a significant revenue shortfall and projected use of over \$10 million in RSF funds to meet coverage for FY16. Because water use recovers slowly post-drought, revenue shortfalls are projected over the next five years. Staff will be reevaluating strategies to address the projected shortfalls (i.e. rate increases, reducing expenses, etc.). Directors Katz and Linney urged staff to use RSF funds to buffer sharp rate increases as much as possible. Director Linney requested staff to provide various scenarios to address the financial shortfall including rate increases and use and replenishment of the RSF.

Manager Coate reported that staff provided the Board with information on the 2016 Critical Drought Action Plan Update, Monthly Report for March 2016, Food Waste Program Update, the African American Water Leadership Coalition Water Leadership Symposium, and the Freeport Regional Water Authority April 14, 2016 Board of Directors Meeting. In concluding, Mr. Coate introduced Special Assistant to the General Manager Alison A. Kastama. Director Coleman requested updated staff emergency contact information.

## **REPORTS AND DIRECTOR COMMENTS**

### **10. Committee Reports.**

There were no committee reports.

### **11. Other Items for Future Consideration.**

- Past Drought Recovery Information.

### **12. Director Comments.**

- Director Coleman reported attending/participating in the following events: Water Advisory Council meeting with Assemblywoman Catharine Baker on March 24 in San Ramon; ACWA Executive Board and Board of Directors meetings on March 25 in Sacramento; East Bay Council Environment and Water Task Force meeting on April 1 in Walnut Creek; and ACWA

teleconference meeting on April 6 in Oakland. He reported on plans to attend/participate in the following upcoming events: Las Aguilas de Diablo Dinner on April 14 in Moraga; Oakland Strokes meeting on April 18 in Oakland; ACWA teleconference meeting on April 18 in Oakland; and ACWA teleconference meeting on April 25 in Oakland.

- Director Katz had no comment.
- Director Linney had no comment.
- Director McIntosh reported attending the San Pablo Rotary meeting to present a water supply update on March 23. She requested an update on EBMUD construction activities near her home.
- Director Patterson reported attending/participating in the following events: Special District's Association Annual Dinner on March 24 in Pleasanton; San Francisco Bay Area Council Boy Scouts of America for an honoree's briefing session for the 'Lifetime Achievement Award' on March 29; Merritt College FRAM Center opening on March 30 in Oakland; East Bay Economic Development Alliance legislative reception on March 31 in Oakland; Friends of Oakland Parks and Recreation Foundation Annual Meeting on March 31 in Oakland; and a meeting and tour of Bishop O'Dowd High School on April 5 in Oakland. He reported on plans to attend/participate in the following upcoming events: Freeport Regional Water Authority Board of Directors meeting on April 14; Berkeley Community Media Real Talk Radio guest with Gloria Baily Ray on May 6 in Berkeley; and Oakland Elders (Engaging Leaders to Deliver Excellent Results) at the Boys & Girls Club on May 13 in Oakland; and the Freeport Regional Water Authority board of Directors meeting on April 14.
- Director Young had no comment.
- President Mellon reported attending/participating in the following events: Presentation to the San Leandro City Council regarding the Chabot Dam Seismic Project on March 21; legislative reception for the East Bay Economic Development Alliance on March 31 in Oakland; and the Contra Costa County Mayors' Conference on April 7 in Moraga.

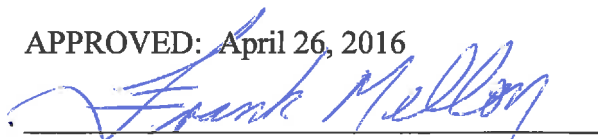
### ADJOURNMENT

President Mellon adjourned the meeting at 2:30 p.m.

SUBMITTED BY:

  
Lynelle M. Lewis, Secretary of the District

APPROVED: April 26, 2016

  
Frank Mellon, President of the Board