

MINUTES

Tuesday, July 23, 2019

**East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California**

Regular Closed Session Meeting

President Marguerite Young called to order the Regular Closed Session Meeting of the Board of Directors at 11:07 a.m. in the Administration Building Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Assistant General Counsel Frederick S. Etheridge (Item 1a), Director of Water and Natural Resources Michael T. Tognolini (Item 1a), Assistant General Counsel Xanthe M. Berry (Items 1b, 2a, and 2b), Attorney Derek T. McDonald (Items 1a, 1b, 2a, and 2b), Attorney Ayriel Bland (Items 1a, 1b, 2a, and 2b), and Engineering Manager Elizabeth Z. Bialek (Items 1b, 2a, and 2b).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Marguerite Young announced the closed session agenda. The Board convened to Conference Room 8 for discussion.

Regular Business Meeting

President Marguerite Young called to order the Regular Business Meeting of the Board of Directors at 1:15 p.m. in the Administration Building Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Marguerite Young led the Pledge of Allegiance.

PRESENTATION

General Manager Alexander R. Coate announced the District received the National Association of Clean Water Agencies' Workforce Development Award for the Wastewater Plant Operator Trades Training Program. The training program was recognized for implementing effective, sustainable solutions to address the need for a qualified, diverse, and knowledgeable utility workforce. On behalf of the Board, President Young congratulated staff and presented the award to the following team members: Technical Training and Writing Administrator Kevin R. Dickison, Wastewater Treatment Superintendent David L. Freitas, Wastewater Plant Operator II Jason Lee, Wastewater Operations Coordinator Ryan D. Maguire, Wastewater Plant Operator I Jesus Ochoa, and Wastewater Plant Operator II Rochelle Verspui.

Next, General Manager Coate announced the District had also received the Government Finance Officers Association (GFOA) of the United States and Canada Certificate of Achievement for the Excellence in Government Finance Award for Exceptionally Well Implemented GFOA Best Practice on "Capital versus Operating: Decisions for the Non-Accountant." Staff revised District Procedure 404 - Capitalization of District Assets to clarify the protocol for determining if construction costs are eligible for capitalization and to focus on compliance with Governmental Accounting Standards Board pronouncements. On behalf of the Board, Director Patterson congratulated staff and presented the certificate of achievement to the following team members: Controller D. Scott Klein, Accounting Technician Diane M. Eggering, Accountant I Matthew J. Houck, Senior Accounting and Financial Systems Analyst Marina C. Hughes, Accounting and Financial Systems Analyst Kirk E. Hutchins, Accounting Systems Supervisor Sandy F. Lindley, Accountant III Leanne J. Maloney, Accountant II Sammy Ng, Account Clerk II Patty Seu, Accounting Technician Tiffany H. Tran, Accounting Technician Anjanique J. Walsh, and Accountant II Tao Zhang. Controller D. Scott Klein thanked the Board for their continued support and staff for their contributions.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Motion by Director Coleman, seconded by Director Linney, to approve the recommended actions for Items 1-11 on the Consent Calendar, carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Linney, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 121-19** – Approved the Regular Meeting Minutes of July 9, 2019.
 2. The following correspondence was filed with the Board: 1) Presentation entitled "Wet Weather Facilities Charge on 2019-2020 Property Tax Rolls," dated July 23, 2019; 2) Documents entitled, "Attachment 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2019-2020 Property Tax Roll – As of July 22, 2019" and "Attachment 2 – Delinquent EBMUD Charges for Transfer to the Contra Costa County 2019-2020 Property Tax Roll – As of July 22, 2019";

3) Speakers' Bureau and Outreach Record CY19, dated July 22, 2019; 4) Affidavit of Posting dated July 30, 2019 for the "Notice of Public Hearing to Consider a Resolution Ordering the Wet Weather Facilities Charges to be Collected on the Property Tax Roll"; 5) Oakland Tribune Proof of Publication of the Notice of the Time and Place of a Public Hearing of the East Bay Municipal Utility District to Consider a Resolution Ordering the Wet Weather Facilities Charges to be Collected on the Property Tax Roll (Legal No. 0006367224 published July 12 and July 19, 2019); 6) West County Times Proof of Publication of the Notice of the Time and Place of a Public Hearing of the East Bay Municipal Utility District to Consider a Resolution Ordering the Wet Weather Facilities Charges to be Collected on the Property Tax Roll (Legal No. 0006367224 published July 12 and July 19, 2019); 7) Affidavit of Posting dated July 30, 2019 for the "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"; 8) Oakland Tribune Proof of Publication of the 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 (Legal No. 0006362030 published July 5 and July 12, 2019); and 9) Contra Costa Times Proof of Publication of the 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 (Legal No. 0006362030 published July 5 and July 12, 2019).

3. **Motion No. 122-19** – Awarded a contract to the lowest responsive/responsible bidder, Mountain Cascade, Inc., in the amount of \$9,608,541 for Birch, Cull Creek, and Sherwick Reservoirs Rehabilitation work under Specification 2144.
4. **Motion No. 123-19** – Authorized agreements, beginning on or after July 23, 2019, with two qualified consultants – Environmental Science Associates and Garcia and Associates – in an amount not to exceed \$90,000 annually for on-call cultural and paleontological resource management services for three years with two options to renew for additional one-year periods for a total cost of \$450,000.
5. **Motion No. 124-19** – Authorized an agreement beginning on or after August 1, 2019 with G4S Secure Solutions (USA), Inc., for contract security services for three years with two options to renew for additional one-year periods in an amount not to exceed \$18,274,555.
6. **Motion No. 125-19** – Authorized an agreement beginning on or after July 23, 2019 with Panorama Environmental in an amount not to exceed \$1,421,140 for preparing aesthetic conceptual design and technical reports for specific environmental assessments for the Fontaine, Montclair and Wildcat Pumping Plant Projects, pursuant to the California Environmental Quality Act.
7. **Motion No. 126-19** – Authorized an agreement beginning on or after July 23, 2019 with Salas O'Brien Engineers, Inc., in an amount not to exceed \$889,353 for design and construction management support services for building systems' improvements at District-occupied facilities.
8. **Motion No. 127-19** – Authorized the purchase of wet concrete on the open market in an annual amount, after the addition of taxes, not to exceed \$300,000 for five years for a total cost of \$1,500,000.

9. **Motion No. 128-19** – Approved the assignment of the contract for agile software licenses previously awarded under Board Motion No. 094-17 on June 13, 2017 from VersionOne, Inc., to CollabNet, Inc.
10. **Motion No. 129-19** – Approved the Water Supply Assessment requested by the City of Emeryville for the Onni Christie Mixed Use Project pursuant to California Water Code, Sections 10910-10915.
11. **Motion No. 130-19** – Approved the June 2019 Monthly Investment Transactions Report.

PUBLIC HEARINGS

- 12.1. **Conduct a Public Hearing to consider objections and protests to the General Manager’s report to Transfer Delinquent EBMUD Charges to the 2019-2020 Property Tax Rolls.**

President Young opened the Public Hearing at 1:25 p.m. She announced the hearing is to consider objections and protests to the General Manager’s report to Transfer Delinquent EBMUD Charges to the 2019-2020 Property Tax Rolls. She noted staff is available to meet with customers who are protesting and/or want to make payment arrangements. There were no comments from the public. President Young closed the public hearing at 1:26 p.m.

- 12.2. **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 August 9, 2019, the date in which reports will be sent to Alameda and Contra Costa counties.**

- Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended actions for Item 12.2, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35150-19 – Approving Transfer Of Unpaid Delinquent Charges To Alameda And Contra Costa Counties’ 2019-2020 Property Tax Rolls.

- 13.1. **Conduct a Public Hearing to consider objections and protests to EBMUD’s written report describing each parcel of real property subject to the Wet Weather Facilities Charge (WWFC) and amount of the WWFC to be imposed on each parcel for the counties’ Fiscal Year 2019-2020 Property Tax Rolls.**

President Young opened the Public Hearing at 1:28 p.m. She announced the hearing is to consider objections and protests to EBMUD’s written report describing each parcel of real property subject to the WWFC to be collected on the 2019-2020 property tax rolls for EBMUD’s Fiscal Year 2020 and the amount of the WWFC to be imposed on each parcel. She announced the process for lodging a valid protest and said all protests must be lodged before the close of the Public Hearing. Staff will report on the number of valid protests received after the close of the Public Hearing.

- Addressing the Board was Marcus Crawley, President, Alameda County Taxpayers Association, who expressed opposition to the WWFC and questioned the validity of the District's rate increase protest process. Mr. Crawley asked the Board to consider nullifying the resolution to approve the actions outlined in Agenda Items 13.2a-13.2d.

Director of Wastewater Eileen M. White presented an overview of the District's dry and wet weather wastewater treatment processes and explained how the WWFC funds capital expenses for the District's inflow and infiltration facilities (including wet weather facilities, interceptors, pumping stations and storage basins). These facilities are required to handle wet weather flows that enter the wastewater system through the local wastewater collection systems and sewer connections. She reviewed the procedural requirements outlined in the State's Health and Safety Code (H&SC) to have the WWFC collected on the counties' property tax rolls and highlighted the actions completed by staff to date. In compliance with H&SC section 5473, on July 11, 2019, staff filed a report with the Secretary of the District containing the parcel number and amount of the charge for each parcel. In accordance with California Government Code section 6066, the District published notices of the Public Hearing on July 12 and July 19 in the Oakland Tribune and West County Times. Ms. White said staff is recommending the Board consider approving the actions outlined in Agenda Items 13.2a-13.2d. If approved, the Secretary of the District will file a copy of the report with the auditors of Alameda and Contra Costa counties on or before August 10.

There was Board discussion regarding Mr. Crawley's comments and the information presented by Ms. White. General Counsel Spencer responded to the Board's request for clarification regarding Mr. Crawley's comments and reviewed the actions taken by the District relating to approval of the WWFC as required by Proposition 218, the Municipal Utility District Act and the H&SC. Mr. Spencer said the District's rate increase protest process and the steps staff have taken to have the WWFC collected on the counties' property tax rolls are valid. The Board asked for information on whether the H&SC or other statutes allow the District to administratively approve actions to collect the WWFC on the property tax rolls.

President Young announced no valid protests had been received to EBMUD's written report and closed the Public Hearing at 1:53 p.m.

- 13.2a- **Adopt EBMUD's written report describing each parcel of real property subject to the**
13.2d **WWFC and amount of the WWFC to be imposed on each parcel for the counties' Fiscal Year 2019-2020 Property Tax Rolls by at least two-thirds of the members of the Board (i.e., by five Board members); authorize the District to collect the Fiscal Year 2020 WWFC on the property tax rolls of Alameda and Contra Costa counties; authorize District staff to adjust the Fiscal Year 2020 WWFC for any affected parcels as new information is provided by the counties; and direct the Secretary of the District to file a copy of the Report on or before August 10, 2019 with the Alameda County Auditor and the Contra Costa County Auditor.**

- Motion by Director Patterson, seconded by Director Linney, to approve the recommended actions for Item 13.2a-13.2d, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35151-19 – Adopting The Report Of The East Bay Municipal Utility District Wet Weather Facilities Charge And Directing The Secretary To File Said Report With The Alameda County Auditor And The Contra Costa County Auditor And To Request The Auditors to Place The Fiscal Year 2020 Wet Weather Facilities Charge On The Property Tax Rolls.

DETERMINATION AND DISCUSSION

14. General Manager's Report.

- General Manager Alexander R. Coate reviewed the information in the July 23, 2019 memorandum from Secretary of the District Rischa S. Cole to the Board of Directors regarding Board member availability during District emergencies. He clarified the proposed process for notifying the Secretary and General Manager regarding availability to participate in meetings. There was Board discussion on whether the various statutes, policies and procedures that govern Board meetings allow the District to conduct business in the event a quorum of the Board is not available. General Counsel Spencer advised staff would provide follow up information in response to the Board's questions.

REPORTS AND DIRECTOR COMMENTS

15. Committee Reports.

- Filed with the Board were the Planning and the Legislative/Human Resources Committee Minutes of July 9, 2019.

Sustainability/Energy Committee Chair Doug Linney reported the Committee met at 10:00 a.m. and received an update on the Employee Retirement System's Environmental, Social and Governance considerations. Due to time constraints, the Committee did not hear an update on the Water Bottle Filling Stations Project. The item was held over to a future meeting.

Finance/Administration Committee Chair William B. Patterson reported the Committee met at 10:34 a.m. and received updates on the Financial and Procurement System Replacement Project; the Annual Internal Audit Report; the Monthly Investment Transactions Report for June 2019 approved under Agenda Item 11; and the District's quarterly financial reports for investment activities, payroll, disbursements, and real estate transactions.

16. Other Items for Future Consideration.

Display the Board meeting agenda onscreen during Board meetings.

17. Director Comments.

- Director Coleman reported attending the DERWA Board meeting on July 22 in Dublin. He reported on plans to attend the UMRWA Board meeting and tour on July 26 in Avery and to present to the Danville Town Council on August 3 in Danville.
- Director Mellon reported attending/participating in the following events: EBMUD Retirement Board meeting on July 18 in Oakland; Utility District Employee Association golf event on July 20 in Castro Valley; and DERWA Board meeting on July 22 in Dublin. Director Mellon filed written reports on his participation in the ACWA Spring Conference May 7-9 in Monterey, CA and the ACWA Region 5 meeting on June 13 in Santa Barbara, CA.
- Director Patterson reported attending the Oakland African American Chamber of Commerce President's Reception on July 17 in Oakland.
- President Young reported attending/participating in the following events: EBMUD Raining Pride Committee potluck luncheon on June 27 in Oakland and EBMUD Retirement Board meeting on July 18 in Oakland.
- Directors Katz, Linney, and McIntosh had no report.

ADJOURNMENT

President Young adjourned the meeting at 2:12 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: August 13, 2019



Marguerite Young, President of the Board