

## MINUTES

**Tuesday, July 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 11:00 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 11:11 a.m.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Attorney Lourdes Matthew (Item 1a), Attorney Derek T. McDonald (Items 1a and 2), Director of Water and Natural Resources Richard G. Sykes (Item 1b), Attorney Jon Salmon (Item 2), Manager of Wastewater Engineering Vincent P. De Lange (Item 2), and Manager of Real Estate Services Matt Elawady (Item 2).

### 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 were the following persons: 1) Tom Wilcox, former EBMUD employee, commented that he was unfairly accused of workplace violence because he was considered “intimidating” due to his size. He said the Board should look into bigotry towards “large men,” and 2) Jack Dalton, Castro Valley resident, expressed concern regarding his April bill which reflected over 33,000 gallons (45 units) of water consumed for his property and attributed this increase to pipeline work performed by EBMUD. President Mellon referred Mr. Dalton to staff for assistance and asked staff to provide the Board with an update of the findings.

## **CONSENT CALENDAR**

- Item 1 was removed from the Consent Calendar for discussion.
  - Motion by Director McIntosh, seconded by Director Linney, to approve the recommended actions for Items 2-7 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. 130-16** – Approved the Regular Meeting Minutes of June 28, 2016.
    - Director Coleman pulled Item 1 to point out the need for an administrative correction to the Minutes.
    - Motion by Director Coleman, seconded by Director Patterson, to approve Item 1 with the necessary correction, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
  2. The following correspondence was filed with the Board: 1) Written comments (undated) submitted by Tom Wilcox, Former WWTP II; 2) Presentation entitled “Water Supply Board Briefing” dated July 12, 2016; 3) Presentation entitled “Public Health Goal Report” dated July 12, 2016; 4) Presentation entitled “Delta Update” dated July 12, 2016; 5) Proof of Publication, Oakland Tribune, Legal No. 0005759892, Notice of Public Hearing Public Health Goal Report East Bay Municipal Utility District, dated July 1, 2016; and 6) Proof of Publication, Contra Costa Times, Legal No. 0005759892, Notice of Public Hearing Public Health Goal Report East Bay Municipal Utility District, dated July 1, 2016.

3. **Motion No. 125-16** – Authorized an agreement with Environmental Science Associates in an amount not to exceed \$237,000 to prepare California Environmental Quality Act environmental documentation for the San Ramon Valley Recycled Water Project Pump Station R3000.
4. **Motion No. 126-16** – Authorized a Power Purchase Agreement with SolarCity that provides for the purchase of up to 325 kilowatts of photovoltaic-generated electricity at the North Richmond Water Reclamation Plant at a fixed purchase price of \$0.096 per kilowatt hour. The agreement has an initial term of 15 years with three 5-year options to renew for up to an additional 15 years.
5. **Motion No. 127-16** – Authorized execution of a Funding Agreement for Implementation of Levee Improvements and Protection of Aqueducts with Reclamation Districts Nos. 2024 (Orwood Palm), 2072 (Woodward), and 2038 (Lower Jones Tract) to define roles and responsibilities for accepting up to \$16 million in funding, local share of funding, administrative management, project management, and construction management for the projects contingent on the State of California Department of Water Resources award of grant funding.
6. **Motion No. 128-16** – Authorized an amendment to the existing agreement beginning on or after July 13, 2016 with Carollo Engineers in an additional amount not to exceed \$757,941, increasing the total agreement not to exceed amount to \$4,230,976, to provide detailed design and construction support services for the Sobrante and Upper San Leandro Water Treatment Plants Ozone System Improvements Project.
7. **Motion No. 129-16** – Authorized execution of an amendment to the current Power Purchase Agreement (PPA) with the Port of Oakland to sell surplus electricity from the Power Generation Station at the Main Wastewater Treatment Plant. This amendment extends the term of the PPA for an additional five years (2017-2022) and changes the sales price from \$71/MWh to \$58/MWh.

### **PUBLIC HEARING**

8. **Conduct a Public Hearing to Provide the Public an Opportunity to Comment on the 2016 Public Health Goals Report.**

President Mellon opened the public hearing at 1:24 p.m.

Manager of Operations Eileen M. White presented a summary of the Report. She reported that the District is required to prepare a report every three years detailing the detection of any drinking water constituents found in the water system at levels above the public health goals (PHG) established by the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment or, in the absence of a PHG, the United States Environmental Protection Agency's Maximum Contaminant Level Goal (MCLG). For the reporting period of 2013-2015, total coliform and bromate results exceeded their respective PHGs or MCLGs, necessitating the presentation of the PHG report. PHGs and MCLGs are non-enforceable goals that represent the concentration of a constituent that poses no

significant health risk. The District's drinking water quality met all state and federal standards and requirements in this reporting period.

President Mellon called for public comment and no members of the public came forward.

President Mellon closed the public hearing at 1:29 p.m.

## **DETERMINATION AND DISCUSSION**

### **9. Accept the 2016 Public Health Goals Report.**

- Motion by Director Patterson, seconded by Director Coleman, to accept the Report, 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. 131 -16** – Accepted the 2016 Public Health Goals Report.

### **10. Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine highlighted information on SB 1298 (Hertzberg) Local Government: Fees and Charges which was presented in Legislative Report No. 09-16. SB 1298, as amended, would amend the Implementation Act in an effort to address three Proposition 218-related issues: (1) authorize voluntary lifeline rates for low-income customers, (2) provide more flexibility for voluntary conservation-based pricing to encourage water conservation, and (3) expand the exceptions to the voter-approval requirement to include stormwater-related charges and fees. However, concerns have been raised in the Legislature about the constitutionality of addressing some of these issues in statute rather than through a constitutional amendment. The author has agreed to narrow the scope of SB 1298 to address only the stormwater issue and the amended version of the bill is expected to be in print in early August.

- Motion by Director McIntosh, seconded by Director Patterson, to accept Legislative Report No. 09-16, 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. 123-16** – Received Legislative Report No. 09-16 and received information on SB 1298 (Hertzberg) Local Government: Fees and Charges.

In concluding, Ms. Dumaine reported that the California State Legislature and the United States Congress were on recess.

**11. General Manager's Report.**

Manager of Operations Eileen M. White presented an update on the rainfall year which ended June 30, 2016. She reported that precipitation in the East Bay totaled 25.30 inches (95% of average). Precipitation in the Mokelumne totaled 49.74 inches (103% of average). The total runoff in the Mokelumne watershed is projected to be 700,000 total acre-feet (TAF) on September 30, 2016 (95% of average) and the total system storage is projected to be less than full at 600 TAF. Therefore, there is no surplus water and the District will not be injecting water into the Bayside Groundwater Basin this year. Although there was greater than average precipitation in the Mokelumne watershed, runoff was less than average due to warm spring temperatures and reduced snowpack in the spring. After four years of record drought, a significant portion of the potential runoff has been lost to infiltration and the dry soils. In concluding she said that June water production was 189 million gallons per day (MGD), which is 32 MGD more than June 2015. The water savings for June compared to June 2013 is 18%. The cumulative savings since January 1, 2016 is 20%. Water production for FY16 was 147 MGD, which is 9 MGD less than FY15. Combined Pardee and Camanche reservoir storage is 516 TAF (98% of average) compared to 264 TAF last year. East Bay reservoir storage is 101% of average for this time of year.

Next, Environmental Affairs Officer Douglas I. Wallace presented an update on Delta issues. He said that EBMUD continues its active role in all the major arenas for planning and advocacy in the Sacramento-San Joaquin Delta. He summarized recent and ongoing activities with Governor Brown's Twin Tunnels project, State Board proceedings, the recent court decision on the Delta Plan, fisheries and ecosystem restoration, and Delta levee studies. In the coming months, staff will focus on preparing and presenting testimony for the State Board's hearing on the Department of Water Resources/United States Bureau of Reclamation petition to add new points of diversion to the State Water Project and the Central Valley Project water rights. Major uncertainties remain for the Twin Tunnels project including permitting, financing, and litigation that could postpone final decisions. EBMUD will continue to support ecosystem restoration in the Delta, which offers benefits to Mokelumne fisheries. Staff will also maintain an active stakeholder role in any revisions to the Delta Plan and in the various Delta levee studies underway. Following the presentation, the Board requested that staff provide information on: 1) whether the Delta Smelt Refuge at U.C. Davis would consider releasing smelt to help species in the Delta; and 2) explore federal legislation to encourage railroads to help pay for levee improvements.

General Manager Coate announced that staff had provided the 2016 Board Committee Summary and Forecast and the June 2016 Monthly Report.

**REPORTS AND DIRECTOR COMMENTS.**

**12. Committee Reports.**

- Filed with the Board were the Finance/Administration Committee Minutes of June 28, 2016.

**13. Other Items for Future Consideration.**

- Provide an update on what constitutes Board attendance and agenda discussion for a future meeting.

**14. Director Comments.**

- Director Coleman reported attending/participating in the following events: ACWA teleconference meeting on July 11 from Oakland; and Delta Levees Investment Strategy Risk Evaluation teleconference meeting on July 11 from Oakland. He also reported on plans to attend/participate in the following upcoming events: Cal Shakes Theatre event on July 13 in Orinda; Bay Planning Coalition restoration with biosolids meeting on July 14 in Oakland; Upper Mokelumne River Water Authority Board of Directors meeting on July 22 at Pardee Center; ACWA teleconference meeting on July 25 from Arnold, CA; and EBMUD Board Committee and Regular Business Meetings via teleconference on July 26 from Arnold, CA.
- Director Katz reported attending Oakland Rising Townie Awards on June 29 in Oakland.
- Director Linney had no comment.
- Director McIntosh had no comment.
- Director Patterson had no comment.
- Director Young reported that whitewater rafting pioneer and founder of O.A.R.S., George Wendt, passed away on July 9.
- President Mellon had no comment.

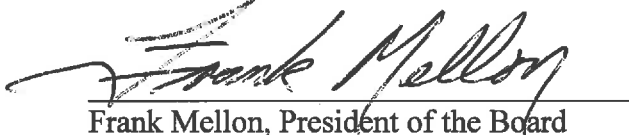
**ADJOURNMENT**

President Mellon adjourned the meeting in memory of whitewater rafting pioneer George Wendt and requested that a letter of condolence be sent to the family. President Mellon adjourned the meeting at 2:14 p.m.

SUBMITTED BY:

  
Lynelle M. Lewis, Secretary of the District

APPROVED: July 26, 2016

  
Frank Mellon, President of the Board