

MINUTES

Tuesday, May 26, 2020

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

Regular Closed Session Meeting

President Marguerite Young called to order the Regular Closed Session Meeting of the Board of Directors at 11:38 a.m. She announced that due to COVID-19 and in accordance with Alameda County Health Order 20-10 (issued April 29, 2020), and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting would be conducted via teleconference only. In compliance with said orders, a physical location was not being provided for this meeting.

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 (all via teleconference).

Staff participants included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Attorney Derek T. McDonald (Items 1a and 2), Attorney Ayriel Bland (Item 1a), Director of Engineering and Construction Olujimi Yoloye (Item 1a), Engineering Manager Elizabeth Z. Bialek (Item 1a), Attorney Lourdes Matthew (Item 2), Director of Operations and Maintenance Clifford C. Chan (Item 2), Director of Wastewater Eileen M. White (Item 2), and Manager of Human Resources Laura A. Acosta (Item 2). Staff did not participate in discussion for Item 3.

PUBLIC COMMENT

The following persons addressed the Board: 1) John Hayden, Vice-President, AFSCME Local 21 commented on the audio quality during the Board workshop and asked the Board to consider alternatives to layoffs in light of financial impacts the District may face from the COVID-19 pandemic.

President Young acknowledged there were technological issues during the Board workshop that impacted the audio quality and said the Board did not discuss layoffs the workshop.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Young announced the closed session agenda. The Board convened for discussion (via teleconference).

Regular Business Meeting

President Young called to order the Regular Business Meeting of the Board of Directors at 1:20 p.m. She announced that due to COVID-19 and in accordance with Alameda County Health Order 20-10 (issued April 29, 2020), and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting would be conducted via teleconference only. In compliance with said orders, a physical location was not being provided for this meeting.

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 (all via teleconference).

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

BOARD OF DIRECTORS

President Young led the Pledge of Allegiance.

PRESENTATION

General Manager Alexander R. Coate announced that for the first time, the District received three awards for its Fiscal Years 2020 and 2021 budget documents. The Government Finance Officers Association (GFOA) of the United States and Canada awarded the District its Excellence in Government Finance and Distinguished Budget Awards and the California Society of Municipal Finance Officers awarded the District its Budget Excellence Award.

For the past 16 consecutive budget cycles, the GFOA has presented the District with a Distinguished Budget Presentation Award for its published budget document. Three independent reviewers from the U.S. and Canada rated the documents and provided suggestions for future improvements. For the fifth time, the California Society of Municipal Finance Officers awarded the District its Excellence in Budgeting Award. Similar to GFOA, the program is designed to recognize those agencies that have prepared a budget document that meets certain standards. In addition, an independent reviewer from a California agency rated the budget documents and provided suggestions for improvements. For the first time, the District was selected to receive the GFOA Award for Excellence for the District's FY20 & FY21 Budget-in-Brief publication. The award was given in the category of "Exceptionally Well Implemented Best Practice". GFOA said it is proud to recognize this initiative as a contribution to the practice of government finance that exemplifies outstanding financial management.

General Manager Coate congratulated staff and thanked the men and women from our field crews who share this document with our ratepayers as they represent us while working in our District. He recognized the following staff from various District departments for their work on achieving these awards under the leadership of Director of Finance Sophia D. Skoda and Budget Manager Jeanne M. Chase: Principal Management Analyst David A. Mercado, Management Analyst II Amy S. Yen, Management Analyst II Joan Louie, Management Analyst II Jenny Tam, Senior Administrative Clerk Cindy Vong, Senior Graphic Designer Michael J. Bergstrom, Manager of Distribution Maintenance and Construction Antonio Martinez, Water Distribution Crew Foreman Delorean M. Johnson, Senior Public Information Representative Andrea A. Pook, Executive Assistant II Suzanne E. Delbou, and Principal Management Analyst Richard C. Lou.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Item 7 was removed from the Consent Calendar for separate discussion.
 - Motion by Director McIntosh, seconded by Director Coleman, to approve the recommended actions for Items 1-6, and 8 on the Consent Calendar, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 090-20** - Approved the Regular Meeting Minutes of May 12, 2020 and Special Meeting Minutes of May 16, 2020 and May 20, 2020.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Union Pacific Railroad Easement Acquisition,” dated May 26, 2020; **2)** Presentation entitled, “Board Vacation Scheduling,” dated May 26, 2020; and **3)** Presentation entitled, “Board Appointment Authority Under Assembly Bill 408,” dated May 26, 2020.
 3. **Motion No. 091-20** – Awarded a contract to the lowest responsive/responsible bidder Rogue Jet Boatworks, Inc. in an amount, after the addition of taxes, not to exceed \$100,644 for supplying one Rogue Jet 22' Fastwater boat and one Guardian 22' aluminum boat trailer for the District's Mokelumne Ranger/Patrol Facility under Request for Quotation No. 2011.
 4. **Motion No. 092-20** – Authorized agreements beginning on or after May 26, 2020 with Badger Daylighting Corporation, Bess Testlab Inc., Exaro Technologies Corporation, Pipe and Plant Solutions Inc., and Subtronic Corporation in an amount not to exceed \$250,000 annually for utility locating and vacuum excavation potholing services for three years, with two options to renew for an additional one-year period for a total cost of \$1,250,000.
 5. **Motion No. 093-20** – Authorized an agreement beginning on or after May 26, 2020 with McMillen Jacobs Associates in an amount not to exceed \$2,078,023 to complete a tunnel alignment study for the East of Hills System Study.
 6. **Motion No. 094-20** – Authorized an agreement beginning on or after May 26, 2020 with SEL Engineering Services, Inc. in an amount not to exceed \$140,000 annually for the purchase of protection relay equipment and programming services at the Main Wastewater Treatment Plant and remote wastewater facilities for four years with an option to renew for an additional one-year period for a total cost of \$700,000.
 7. **Motion No. 096-20** – Authorized an amendment to the agreement awarded under Board Motion No. 145-19 with Bradley Tanks, Inc. (BTI) to increase the amount by \$2,598,000 to a total amount not to exceed \$3,298,000 and to add an additional one-year option for increased slurry management, treatment, hauling and disposal at two District sites.

- Addressing the Board was Eric Larsen, President, AFSCME Local 444 who commented the union opposed the staff recommendation and asked the Board to consider directing staff to buy equipment for District staff to perform the work. General Manager Coate and Director of Engineering and Construction Olujimi Yoloye responded to Board questions regarding the need to contract out this work, meetings with Local 444 about the contract, and how contract funds are allocated for labor, hauling, and disposal.
- Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Item 7, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

8. **Motion No. 095-20** – Approved the April 2020 Monthly Investment Transactions Report.

PUBLIC HEARING:

9.1. **Conduct a public hearing to receive comments on a Resolution of Necessity to acquire an easement on a Union Pacific Railroad Company property (APN: 74-906-41-1), adjacent to Barnhill Marina, in support of the Oakland Inner Harbor Pipeline Crossing Project.**

President Young opened the public hearing at 1:43 p.m.

Manager of Customer and Community Services Andrew L. Lee presented an overview of District actions to acquire an easement from the Union Pacific Railroad (Railroad) Company. The District is currently in the design phase of the Oakland Inner Harbor Pipeline Crossing Project to replace the Alice Street Crossing. After the project is completed, the Alice Street Crossing will be abandoned and portions of the pipeline will be repurposed for a future recycled water transmission main to serve Alameda. To allow for the abandonment, the District must relocate the domestic and fire service connections serving Barnhill Marina in Alameda through a new easement from the Railroad. After exploring all possible relocation options, the District determined the Railroad property is the only viable option to maintain water service to Barnhill Marina and complete the overall Project. The property is considered a remnant, and is currently vacant, unimproved, and provides no track services. He discussed negotiation efforts with the Railroad and said by January 2020, the District and Railroad were at an impasse thus, the District is beginning eminent domain proceedings to acquire the easement. Acquiring this crucial easement through eminent domain is the only option to complete the Alice Street Crossing abandonment, maintain the current schedule of the Project, avoid costly delays and ensure long-term water service reliability for Alameda. The District sent notice of today's proceedings to the Railroad via Federal Express on April 27. Under Agenda Item 9.2, the Board will be asked to consider adopting a Resolution of Necessity for eminent domain proceedings to acquire the easement from the Railroad; and to authorize the General Counsel to file eminent domain actions in Alameda County Superior Court. Planning Committee Chair Doug Linney said this item was presented to the Committee on May 12 and the Committee supported the staff recommendations. Mr. Lee confirmed the District has not heard from the Railroad since the notice was sent on April 27.

President Young asked for comments from representatives from the Railroad or other interested parties from the public. There were no comments.

President Young asked for a motion to close the public hearing. Director Patterson motioned to close the public hearing at 1:57 p.m.

- Motion by Director Patterson, seconded by Director Mellon, to close the public hearing, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, Mellon, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 097-20 – Conducted a public hearing to receive comments on a Resolution of Necessity to acquire an easement on a Union Pacific Railroad Company property (APN: 74-906-41-1), adjacent to Barnhill Marina, in support of the Oakland Inner Harbor Pipeline Crossing Project.

9.2. **Resolution No. 35179-20** – Resolution of Necessity for the Acquisition by Eminent Domain of an Easement in the Union Pacific Railroad Company Property Adjacent to Barnhill Marina in Alameda, California, and Authorizing Condemnation Proceedings.

- Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended actions for Item 9.2, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, Mellon, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

DETERMINATION AND DISCUSSION

10. **Board of Directors Vacation Scheduling.**

At its March 10, 2020 meeting, the Board discussed a proposal from President Young to consider revising its 2020 summer vacation schedule to cancel meetings scheduled for the 2nd Tuesday instead of the 4th Tuesday in August. The Board agreed to follow past practice for the 2020 summer vacation schedule (consider cancelling the meeting scheduled for the 4th Tuesday in August), and to calendar a discussion on revising its summer vacation schedule for a future meeting. Secretary of the District Rischa S. Cole presented an overview of the Board of Directors' vacation scheduling history, vacation schedules at other agencies, and potential impacts to key District actions and activities if the Board revises its vacation schedule. Ms. Cole presented proposed vacation schedules in 2021 and highlighted the potential impacts to key District actions and activities during these time periods. The Board discussed the information presented and some members voiced a preference to keep the vacation schedule as is while others expressed a willingness to evaluate revising the vacation schedule for 2021. President Young put forth a motion to direct staff to calendar the following items relating to the Board of Directors' summer vacation schedule for Board consideration in 2021: 1) cancel the Board meetings scheduled for the 4th Tuesday in July 2021 for the Board of Directors' summer vacation schedule; and 2) evaluate revising the Board of Directors' summer vacation schedule after July 2021. Director Linney seconded the motion. There was no additional Board discussion.

- Motion by President Young, seconded by Director Linney, to approve the recommended actions for Item 10, carried (5-2) by the following roll call vote: AYES (Coleman, Linney, Mellon, Patterson, and Young); NOES (Katz and McIntosh); ABSTAIN (None); ABSENT (None).

Motion No. 098-20 - Directed staff to calendar the following items relating to the Board of Directors' summer vacation schedule for Board consideration in 2021: 1) cancel the Board meetings scheduled for the 4th Tuesday in July 2021 for the Board of Directors' summer vacation schedule; and 2) evaluate revising the Board of Directors' summer vacation schedule after July 2021.

11. **Direct the Secretary of the District to schedule August 2020 meetings of the Board of Directors to allow the Board to exercise its Assembly Bill 408 authority within the narrow timeframe set forth in Section 11852.5 of the Municipal Utility District Act for the 2020 general election.**

Secretary of the District Rischa S. Cole reviewed the requirements of Assembly Bill 408, the timeframe in which the Board has to exercise its authority under the bill during the 2020 General Election (August 12 – August 19), and options for the Board to consider in determining a schedule for its August 2020 meetings to allow it to exercise its Assembly Bill 408 authority. There was Board discussion on whether Assembly Bill 408 requires the Board to appoint uncontested candidates; the Board's ability to require a candidate that has never held office to participate in an election even if the candidate is uncontested; and if Assembly Bill 408 allows the Board discretion to exercise different options for the various open Board seats. Ms. Cole advised staff would provide responses to the Board's questions.

- Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Item 11, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 097-20 – Directed the Secretary of the District to schedule August 2020 meetings of the Board of Directors to allow the Board to exercise its Assembly Bill 408 authority within the narrow timeframe set forth in Section 11852.5 of the Municipal Utility District Act for the 2020 general election.

12. **General Manager's Report.**

General Manager Alexander R. Coate announced he had no items to report.

REPORTS AND DIRECTOR COMMENTS:

13. **Committee Reports.**

- Filed with the Board were the May 12, 2020 Planning Committee and Legislative/Human Resources Committee Meeting Minutes.
- President Young announced the Board met in workshop session earlier in the day and received an update on the Fiscal Years 2020 and 2021 Long-Term Financial Stability, 2020 Strategic Plan Update, and FY20/21 Mid-Cycle Budget. Due to time constraints, the Board will hold an additional workshop on June 9 to receive information on collecting water system fixed charges on property tax bills.

14. **Other Items for Future Consideration.**

None.

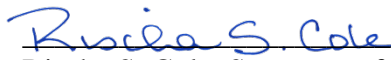
15. **Director Comments.**

- Director Coleman reported participating in the General Manager interviews on May 16 in Oakland and the DERWA Board meeting via teleconference on May 18.
- Directors Katz, Linney, McIntosh, Mellon, Patterson and President Young had no report.

ADJOURNMENT

President Young adjourned the meeting at 2:38 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: June 9, 2020



Marguerite Young, President of the Board