

MINUTES

Tuesday, February 11, 2014

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

Regular Closed Session Meeting

President Katz called to order the Regular Closed Session Meeting of the Board of Directors at 11:10 a.m. in the Administration Center Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Attorney Derek McDonald (Item 1a), Director of Water & Natural Resources Richard Sykes (Items 1a and 2), Attorney Jonathan Salmon (Item 1b), Director of Wastewater Bennett K. Horenstein (Item 1b), Assistant General Counsel Craig Spencer (Item 2), and Manager of Water Supply Improvements Michael T. Tognolini (Item 2).

PUBLIC COMMENT

Addressing the Board was Kenneth Gertsman, 1st Vice-President of AFSCME Local 2019, who expressed concern that the change in classification of two Network Analyst IIIs to Senior System Programmer had not been resolved despite a letter of agreement. He reported that Employee Relations will not be including the letter of agreement as part of the printed Memoranda of Understanding (MOU), and this action is preventing the union from signing the final MOU. Additionally, he expressed concern about the way personnel policies and procedures are being disseminated, and he asked the Board to implore Employee Relations to work better with the union leadership.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Katz announced the Closed Session agenda. The Board convened to Conference Room 8A/B for discussion.

Regular Business Meeting

President Andy Katz called to order the Regular Business Meeting of the Board of Directors at 1:30 p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Katy Foulkes, Doug Linney, Lesa R. McIntosh, Frank Mellon, and President Andy Katz were present at roll call. Director William B. Patterson arrived at 1:32 p.m.

BOARD OF DIRECTORS

President Katz led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Motion by Director McIntosh, seconded by Director Foulkes, to approve Items 1-6 on the Consent Calendar, carried (7-0) by the following voice vote: AYES (Coleman, Foulkes, Linney, McIntosh, Mellon, Patterson, and Katz); NOES (none); ABSTAIN (none); ABSENT (none).
1. **Motion No. 022-14** -- Approved the Regular Meeting Minutes of January 28, 2014.
 2. The following correspondence was filed with the Board: 1) Email correspondence dated February 3, 2014 to Abby Figueroa, from Natalie Dolgireff, Alameda, requesting that the Board implement immediate, mandatory water rationing for all users; 2) Presentation entitled "Project Labor Agreements," dated February 11, 2014; 3) Presentation entitled "Water Supply Briefing and Dry Year Planning," dated February 11, 2014; and 4) Memorandum dated February 11, 2014 to Board of Directors, from Cheryl A. Farr, Special Assistant to the General Manager, regarding Speaking Points on Water Shortage Concerns – February 2014.
 3. **Motion No. 023-14** -- Awarded contracts to the lowest responsive/responsible bidders, Corpro Companies, Inc., and Sunwest Group of Companies, in the estimated annual amounts after the addition of taxes of \$104,263.95 and \$77,310.98 respectively, for supplying magnesium anodes for Oakport Distribution Center for the period beginning February 15, 2014 and ending February 14, 2016, with two options to renew for an additional one-year period for a total cost of \$726,299.72 under Request for Quotation No. 1413.
 4. **Motion No. 024-14** -- Awarded a contract to the lowest responsive/responsible bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$2,599,000 for construction of 39th Avenue and Redwood Pumping Plants Rehabilitation under Specification 2063.

5. **Motion No. 025-14** -- Awarded a contract to the lowest responsive/responsible bidder, JMB Construction, Incorporated, in the amount of \$1,531,400 for construction of Fontaine Street, El Portal Drive, and Euclid Avenue Pipeline Improvements under Specification 2071.
6. **Motion No. 026-14** -- Reaffirmed the District's Equal Employment Opportunity Policy 2.25 and Prevention of Sexual Harassment in the Workplace Policy 2.26, and Adopted the 2014 Affirmative Action Plan and Goals.

DETERMINATION AND DISCUSSION

7. Legislative Update.

Manager of Legislative Affairs Marlaigine K. Dumaine reported that Senator Feinstein recently introduced a bill to provide emergency drought funding. At the state level, efforts are focusing on funding for recycled water projects. While there are no earmarks included at this point, staff will be promoting EBMUD projects and will update the Board as these efforts evolve.

8. Authorize the Development of a Project Labor Agreement (PLA) for the Construction of the Chabot Dam Seismic Upgrade Project.

Engineering Manager Jimi Yoloye presented a proposed approach for piloting a PLA for the Chabot Dam Seismic Upgrade project to gain experience in the cost and benefits of using PLAs. Staff estimates that a PLA will require three to four months for consultant procurement and three to nine months to negotiate and put in place. This work will be done concurrent with project planning and design and completed before the project is put out to bid so potential bidders are aware of the PLA's conditions. Board members asked questions about the management and costs for developing a PLA. General Manager Coate commented that each project may have unique circumstances that could cause variances to the labor agreement.

- Addressing the Board were the following persons: 1) Rachel Bryan, representing the International Brotherhood of Electrical Workers, Local 595, spoke in support of PLAs citing training and employment opportunities; 2) Nicole Goehring, Government Affairs Director, Associated Builders and Contractors of Northern California, expressed support for developing a PLA and recommended that staff consider the "alternative bid approach;" 3) Rex Waggener, BECI Electric, Dublin, commented on his positive experience with PLAs; 4) Derek Barrett, Northern California Painting and Finishing Contractors Association, expressed support for a PLA and said that it provides access to trained workers; 5) Darlene Best, National Electrical Contractors Association, urged the Board to authorize the development of a PLA; 6) Matt Heavey, expressed opposition to PLAs, saying they discriminate against non-union companies; 7) Andreas Cluver, Secretary-Treasurer, Alameda County Building Trades Council, expressed support for a PLA citing its ability to create a career path through its apprenticeship program.

- Motion by Director Mellon and seconded by Director McIntosh, to authorize the development of a “pilot” PLA for the Chabot Dam Seismic Upgrade Project.

There was Board discussion. Director Coleman asked staff to provide information on contracts over \$5 million in the last 12 months for construction-related work to firms that would have been excluded if a PLA was in place. He also asked for information on the average percent of union versus non-union contracts the District has approved in prior years. General Manager Coate said staff would provide this information to the Board. Director Mellon commented that he did not want to see EBMUD renegotiate master agreements when PLAs are brought forward. President Katz concurred and voiced support for PLAs, but noted that he would like to have Board feedback on issues like community benefits, social justice, and local hire in developing the pilot PLA. Director McIntosh expressed support for PLAs and asked Director Mellon to amend the motion to include periodic reports to a Board committee.

- Director Mellon amended his motion to require periodic progress reports on PLA development to the Legislative/Human Resources Committee, and Director McIntosh seconded the motion.

President Katz asked that reports on negotiation of the PLA be provided to the full Board in Closed Session. General Counsel Collins will report back to the Board on this request. Director Linney voiced support and said he was dedicating his vote to Reggie Moore, Past President of AFSCME Local 444, who recently passed away. He said Mr. Moore taught him a lot about unions and why they are so important. Director Patterson concurred with this sentiment.

The motion carried (7-0) by the following voice vote: AYES (Coleman, Foulkes, Linney, McIntosh, Mellon, Patterson, and Katz); NOES (none); ABSTAIN (none); ABSENT (none).

Motion No. 027-14 -- Authorized the development of a “pilot” Project Labor Agreement for the construction of the Chabot Dam Seismic Upgrade Project and directed staff to provide periodic status updates to the Legislative/Human Resources Committee.

9. **Authorize Staff to Request That All Customers Voluntarily Reduce Their Water Use By Ten Percent Starting February 11, 2014 And Continue Until Further Notice To Help Keep Water In Storage During An Unprecedented Dry Year.**

Operations and Maintenance Department Manager Eileen M. White presented the water supply briefing. She reported that since the last water supply update, conditions have improved slightly due to a modest winter storm; however, she noted that it would not make up for the 7 prior months that were extremely dry. Current EBMUD reservoir storage is at 63 percent of capacity. Ms. White said that with 40 percent of the rain season left, the District would need five more good storms to assure normal water storage levels in reservoirs this September. Currently, end of September storage is projected to be between 340,000 – 480,000 acre feet.

Ms. White highlighted the 2014 Dry Year Response Plan which consists of: 1) Initiation of a ten percent voluntary customer demand reduction goal; 2) Preparation for use of supplemental water supplies; and 3) Ongoing monitoring of water supply and demand. She reported that the District is taking actions to secure supplemental supplies if needed. These supplies would be delivered via the Freeport Regional Water Facility to replenish District total system storage in the event voluntary conservation measures are insufficient and/or the next year is also dry. The sources of this water include the District's existing Central Valley Project (CVP) Contract with the U.S. Bureau of Reclamation (Bureau), and transfers pursuant to our agreement with the Placer County Water Agency (PCWA). Staff will be providing a preliminary water request to the Bureau in March. These preliminary requests do not obligate us to take the full volume or commit us to payment, but are required to reserve a specific volume of water. Actual deliveries are finalized approximately two months in advance of delivery concurrent with payment.

Staff has worked with PCWA staff to develop a one-year water transfer of up to 20,000 acre-feet. This agreement is scheduled for Board consideration on February 25th. A portion of the first 5,000 acre-feet of water under this contract could be used to perform a planned test of the Freeport facility fish screens. Additional water would only be used if needed as determined following adoption of the Water Supply Availability and Deficiency Report in April. Staff will provide regular water supply updates to the Board and continue to monitor and assess the situation.

Next, Special Assistant to the General Manager Cheryl A. Farr presented the proposed outreach and communication actions to alert customers to the voluntary Districtwide ten percent customer reduction request. Board members commented that our customers have done an exceptional job with conservation and provided the following input to staff:

1) Provide a guarantee to customers that if mandatory rationing becomes necessary, that customer allocations would not be based on use during the voluntary cut back period; 2) Consider whether a rebate for filling in old swimming pools is appropriate; 3) Prepare tabletop resources for restaurants; 4) Emphasize District effort on infrastructure investments; and 5) Provide a copy of the Board President's letter and mailing list to the full Board (which should include HOAs, city managers, and property managers).

- Motion by Director Foulkes and seconded by Director Coleman, to approve the recommended action, incorporating all of the comments from the Board, and particularly the guarantee that EBMUD would not penalize people who are conserving right now and that those people who are extraordinary conservers should not feel compelled to do more than their share. The motion carried (7-0) by the following voice vote: AYES (Coleman, Foulkes, Linney, McIntosh, Mellon, Patterson, and Katz); NOES (none); ABSTAIN (none); ABSENT (none).

Motion No. 028-14 -- Authorized staff to request that all customers voluntarily reduce their water use by ten percent starting February 11, 2014 and continue until further notice to help keep water in storage during an unprecedented dry year.

10. General Manager's Report.

Director McIntosh recommended that consistent with past practice, the Board appoint three members of the Board to serve on an ad hoc committee to negotiate amendments to the employment agreements with the General Manager and General Counsel. She suggested that the committee consist of the President of the Board, Vice-President of the Board, and Director Mellon.

- Motion by Director McIntosh, seconded by Director Foulkes, to appoint Directors Foulkes, Katz, and Mellon to the Ad Hoc Committee of the Board, carried (7-0) by the following voice vote: AYES (Coleman, Foulkes, Linney, McIntosh, Mellon, Patterson, and President Katz); NOES (none); ABSTAIN (none); ABSENT (none).

Motion No. 029-14 -- Appointed President Andy Katz, Vice-President Katy Foulkes, and Director Frank Mellon to serve on an Ad Hoc Committee to negotiate amendments to the employment agreements with the General Manager and General Counsel.

Next, General Manager Coate reported that the residential customer survey was provided to the Board, and the only area that seemed to be of concern was several demographic-related questions around birthdate, race, and employment status. Director Mellon commented that neither ethnicity nor employment had anything to do with the use of water. Special Assistant to the General Manager Cheryl A. Farr clarified the rationale for the survey questions. Director Coleman suggested re-wording the question on "being a renewable energy provider." Ms. Farr thanked the Board for its input and said that a preliminary report is anticipated by the first meeting in March and a final report in late March.

General Manager Coate said that the January 2014 Monthly Report for had been provided in the Board's packet.

REPORTS AND DIRECTOR COMMENTS

11. Committee Reports.

The Minutes of the January 28, 2014 Finance/Administration and Sustainability/Energy Committees were filed with the Board.

12. Director Comments.

- Director Foulkes had no comment.
- President Katz had no comment.
- Director Linney had no comment.
- Director McIntosh reported participating in an ACWA teleconference meeting on February 6 and an ACWA Federal Affairs Committee meeting on February 7.

- Director Mellon reported attending the following: Contra Costa Special Districts Association meeting on January 27; DSRSD/Zone 7 town meeting on January 30 in Dublin; Eden Township Healthcare District Open House Celebration on February 5; and the City of San Ramon monthly Mayor's meeting on February 7.
- Director Patterson commented on his friendship with "Morrie" Turner and provided a video.
- Director Coleman reported attending/participating in the following events: ACWA workshop on January 30 in Sacramento; ACWA Executive Committee and Board of Directors meeting on January 31 in Sacramento; ACWA 2014 Drought Action Committee teleconference meeting on February 3; teleconference meeting with Regional Water Board staff Judy Kelly on February 4 in Oakland; ACWA Executive Committee teleconference meeting on February 4 in Oakland; ACWA SWAP update teleconference meeting on February 6; ACWA Bay Area Council teleconference meeting on February 6; and fundraising event for Assemblyman Jim Frazier (on behalf of ACWA) on February 8 in Antioch. He reported on plans to attend the following upcoming events: ACWA Executive Committee and Board of Directors teleconference meeting on February 12; ACWA 2014 Drought Action Committee briefing and Drought Action Group teleconference meeting on February 14; ACWA Executive Committee and Board of Directors meeting on February 18; and the ACWA 2014 DC Conference from February 23-27 in Washington, DC.

ADJOURNMENT

President Katz announced that the Board would be adjourning the meeting in memory of four individuals who were important to the EBMUD family:

Dr. Parekh served for many years as the Director of Water Quality Compliance at the Los Angeles Department of Water and Power, and passed away on January 30, 2014. Dr. Parekh was active with ACWA and believed passionately in public service. He worked tirelessly to ensure the drinking water provided to over 4 million people in the Los Angeles area was safe and clean.

Mr. Morris "Morrie" Turner was a long-time Oakland resident and the first nationally syndicated African-American cartoonist. In 1965, Mr. Turner created the nationally syndicated "Wee Pals" cartoon strip. Mr. Turner was a popular guest speaker at EBMUD Black History month events. His son Morris Jr. is a retired EBMUD employee.

Mr. Reggie Moore, who retired in 2013, was an EBMUD Meter Reader for 18 years. Reggie served as President of AFSCME Local 444 from 2003-2007. He was also the first African-American to serve as a councilmember in Antioch, CA where he supported a variety of measures to improve community life and to recognize the diverse population of his city.


Mr. David Foulkes was the husband of Director Katy Foulkes, and he passed away on February 8th. Dave is remembered by the EBMUD staff and Board members as a warm gentleman who attended many EBMUD gatherings until health problems prevented him from doing so in recent years.

The meeting was adjourned at 3:35 p.m.

SUBMITTED BY:


Lynelle M. Lewis, Secretary of the District

APPROVED: February 25, 2014


Andy Katz, President of the Board

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