

MINUTES

Tuesday, March 10, 2015

**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 12:12 p.m. in the Administration Center Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Finance Eric L. Sandler (Items 1a & b) and Attorney Xanthe M. Berry (Items 1a & b).

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 Frank Mellon called to order the Regular Business Meeting of the Board of Directors at 1:20 p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman (via teleconference), 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) Brian Blum, Berkeley resident, requested clarification about the fees and charges on his water bill (fixed versus variable costs) and made suggestions on the rate structure (President Mellon referred Mr. Blum to staff); 2) Jahmese Myers, Campaign Director, East Bay Alliance for Sustainable Economy, urged the Board to include construction careers policy as part of the current Project Labor Agreement negotiations for the Chabot Dam Seismic Upgrade Project.

CONSENT CALENDAR

- Motion by Director Linney, seconded by Director Patterson, to approve Items 1-5 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. 031-15** -- Approved the Regular Meeting Minutes of February 24, 2015.
 2. The following correspondence was filed with the Board: 1) Letter dated February 27, 2015 to President Frank Mellon, from Kate O'Hara, Executive, Director East Bay Alliance for a Sustainable Economy regarding Project Labor Agreement negotiations for the Chabot Dam Seismic Upgrade Project (along with a business card for Jahmese K. Meyers, Campaign Director, Revive Oakland); 2) Letter dated March 10, 2015 to East Bay MUD Board of Directors, from Richard L. Farrington, President, Amador Water Agency, regarding Agenda Item 7 (Resolution Supporting Wild & Scenic Mokelumne River); 3) Presentation entitled "Water Supply Briefing" dated March 10, 2015; and 4) Presentation entitled "Amendment to EBMUD Retirement System Ordinance (No. 40) – Section 21 First Reading," dated March 10, 2015.
 3. **Motion No. 032-15** -- Awarded a contract to the lowest responsive/responsible bidder West Coast Pipe in an annual amount, after the addition of taxes, not to exceed \$241,326 for supplying mortar lined flanged nipples for 2 years, beginning on or after March 10, 2015 with 3 options to renew for an additional 1-year period for a total cost of \$1,206,630.00 under Request for Quotation No. 1504.
 4. **Motion No. 033-15** -- Awarded a contract to the lowest responsive/responsible bidder, California Trenchless, Inc., in the amount of \$2,390,000 for construction of the Alameda Interceptor Rehabilitation Project under Specification SD 365.
 5. **Motion No. 034-15** -- Authorized the General Manager to enter into a wheeling agreement with Dublin San Ramon Services District.

DETERMINATION AND DISCUSSION

6. **Introduction and First Reading of An Ordinance Amending the EBMUD Employees' Retirement System Ordinance (Ordinance No. 40) to Update the Actuarially Assumed Rate of Return to 7.50% in Section 21 of the Retirement Ordinance (*Introduction and First Reading*).**

Manager of Human Resources Delores A. Turner presented the recommended action to introduce for first reading amendments to Retirement Ordinance No. 40 to update the actuarially assumed rate of return to 7.50% in Section 21 of the Retirement Ordinance. The proposed update to the Retirement Ordinance (Section 21) ensures language is consistent with the change adopted by the Retirement Board. The second reading and vote on the ordinance is scheduled for March 24, 2015. A summary of the amendments will be published once a week for two successive weeks in a newspaper of general circulation published in the District. Direction Coleman asked about the fiscal impact of this change to the Retirement System and to ratepayers. Staff explained that this change does not impact the Retirement System or the District budget.

- Motion by Director Patterson, seconded by Director Young, to approve the recommended action for introduction and first reading of amendments to the ordinance carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAINED (None); ABSENT (None).

Ordinance No. 363-15 – An Ordinance, Effective As Of July 1, 2015, Amending Section 21 Of Ordinance No. 40, Which Is The Employees' Retirement System Ordinance. (*Introduction and First Reading – Ordinance No. 363-15*)

7. **Consider a Resolution Supporting A California Wild and scenic Designation for Approximately 35 miles of the Mokelumne River.**

Director of Water and Natural Resources Richard G. Sykes announced that staff had modified a proposed resolution that was circulated by Director Young at the February 10, 2015 Board meeting for future Board consideration. The changes incorporate previous Board comments and direction to express EBMUD's position that seeks to both protect the Mokelumne River through a Wild and Scenic designation and to preserve regional decision making. Director McIntosh, Chair of the Legislative/Human Resources Committee, reported that the Committee discussed the resolution and recommended adding the cities of Richmond and Berkeley to the resolution as the local agencies that previously supported a wild and scenic designation. Chair McIntosh also reported that the wording of "locally championed legislation" was also discussed at their meeting but no position was taken.

Addressing the Board were the following persons: 1) Henrik Albert, Alameda resident, urged the Board to pass a clean resolution and have "locally championed" stricken from the resolution; 2) Spreck Rosekrans, representing Restore Hetch-Hetchy, expressed support for a wild and scenic designation; 3) Tom Schwertscharf, Sierra Club Water Committee, expressed

support for a wild and scenic designation, urged the Board to take a strong position, and opposed Bay Delta Plan; 4) Keith Miller, Oakland resident, expressed support for a wild and scenic designation but opposed AB 142; 5) Jill Ratner, New Voices Are Rising Project, expressed support for a wild and scenic designation; 6) Theresa Simsiman, representing American Whitewater, expressed support for a wild and scenic designation; 7) Andrea Cassidy, representing the Golden Gate Audubon Society Conservation Committee, commented on the environmental importance of the Mokelumne River and expressed support for a wild and scenic designation; 8) Steve Evans, representing Friends of the River, urged the Board to pass a clean resolution and expressed support for a wild and scenic designation; 9) Teresa Hardy, Sierra Club, urged that Board to support a wild and scenic designation; 10) Renee Sharp, Berkeley resident, expressed support for a wild and scenic designation and opposition to AB 142; 11) Kenneth Gibson, Oakland resident, opposed AB 142, expressed support for a wild and scenic designation, and suggested deleting “locally championed” language from the resolution; 12) Katherine Evatt, representing Foothill Conservancy, said protection of the Mokelumne River is of statewide importance, expressed supported for a wild and scenic designation but urged the Board to pass a clean resolution, and she pointed out that upcountry residents are not represented by public officials who oppose a wild and scenic designation; 13) Gene Mancebo, Amador Water Agency, expressed the “support if amended” position for AB 142, suggested a collaborative process with EBMUD to reach consensus on a wild and scenic designation, and suggested revisions to the resolution; 14) Stephen Jones, Berkeley resident, expressed support for a wild and scenic designation for the Mokelumne River; 15) Dr. Richard Farrington, President, Amador Water Agency, expressed support for AB 142, asked for a stakeholder process to develop a wild and scenic designation, and opposed the proposed resolution; 16) Sonia Diermayer, Sierra Club, expressed opposition to AB 142, objected to “locally championed” language in the EBMUD resolution, and urged to Board to take a stronger position of support for a wild and scenic designation; and 17) Ed Gonzalez, Jackson Valley Irrigation District, commented that the Upper Mokelumne River Water Authority has not taken a position on AB 142 and said that while he favored a wild and scenic concept, more research is needed on its impacts to the Mokelumne River.

Director Young explained her reason for introducing the resolution for Board consideration. There was extensive Board discussion about the resolution.

- Motion by Director Young, seconded by Director McIntosh, to approve the resolution with amendments to the last sentence to delete “locally championed” and “in the Mokelumne Watershed by the local community and the local government.”

President Mellon asked for clarification of the motion. Director Young said that the sentence should read “urges the state Legislature and Governor Edmund G. Brown, Jr. to pass and sign legislation that is broadly supported to designate the Mokelumne a state Wild and scenic River.” Director Linney commented that he was concerned about the wording “broadly supported” as it could be incorrectly interpreted and made a motion to remove the wording “that is broadly supported.” Director McIntosh said that the wording “broadly supported” should be left in. Director Young indicated that for legislation to get passed, it had to have a broad support. Director Patterson said that the

wording “broadly supported” is important to keep in the resolution. Director Coleman noted that protecting the Mokelumne has been a top priority for the District and the resolution is a baseline to express EBMUD’s support. He added that upcountry interests should work to reach some compromise. Director Katz noted that the amendments presented for the resolution are a good first step to express the Board’s policy for the protection of the Mokelumne River.

Director McIntosh also clarified that the resolution should be amended to include support of a wild and scenic designation for the Mokelumne River by the cities of Richmond and Berkeley. The Board concurred with the amendment to add the two cities. President Mellon complimented Director Young for authoring the resolution and thanked everyone for coming out to speak on this issue.

Following discussion, the motion made by Director Young, seconded by Director McIntosh, to support the resolution as amended, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAINED (None); ABSENT (None).

Resolution No. 34024-15 -- Supporting A California Wild and scenic River Designation For The Mokelumne River (as amended).

8. Legislative Update.

Legislative/Human Resources Committee Chair John A. Coleman reported that the Committee approved the staff recommended positions in Legislative Report No. 02-15 for SB 181, SB 182, and SB 183. President Mellon requested separate discussion and vote on AB 142 (Bigelow) Wild and scenic Rivers: Mokelumne River.

- Motion by Director Patterson, seconded by Director Linney, to approve the staff recommended positions in Legislative Report No. 02-15 on SB 181, SB 182, and SB 183, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAINED (None); ABSENT (None).

Motion No. 035-15 -- Accepted Legislative Report No. 02-15 and approved positions on the following bills: SUPPORT SB 181 (Committee on Governance and Finance) Validations; SUPPORT SB 182 (Committee on Governance and Finance) Validations; SUPPORT SB 183 (Committee on Governance and Finance) Validations.

Manager of Legislative Affairs Marlaigne K. Dumaine highlighted provisions of SB 142 (Bigelow). She said that the intent of AB 142 is to inform a future designation of the Mokelumne River as a California “Wild and scenic” river by requiring a study of water supply and climate-related issues prior to any designation. The measure attempts to address a primary point of debate regarding a designation – its impact on future water supply reliability for Amador and Calaveras Counties. She said as written, the measure is overly broad and lacks the specificity necessary to effectively address key concern and achieve a designation with broad stakeholder support. Ms. Dumaine summarized the EBMUD’s five

key areas of concern where amendments are needed: 1) EBMUD facilities and operations must be protected; 2) AB 142 must not prevent a locally-championed and broadly supported measure from moving forward; 3) A deadline and explicit legislative recommendation must be added; 4) Stakeholder input is imperative; and 5) Existing studies should be recognized.

- Addressing the Board were the following persons: 1) Sonia Diermayer, representing the Sierra Club, recommended an oppose position for AB 142; 2) Dr. Richard Farrington, President, Amador Water Agency, urged support of AB 142; 3) Gene Mancebo, Amador Water Agency, recommended a “support if amended” position on AB 142; 4) Katherine Evatt, Foothill Conservancy, recommended an oppose position AB 142 and said no studies are needed; 5) Kenneth Gibson, Oakland resident, expressed opposition to AB 142 and didn’t support further study; 6) Hank Willy, Director, Jackson Valley Irrigation District, recommended that the Board obtain a report from the Upper Mokelumne River Water Authority; 7) Arthur Toy, Amador Water Agency, supported AB 142 as it is currently written; and 8) Steve Evans, Friends of the River, commented that conservationist oppose this legislation as written.

Director Linney suggested adding language about interim protections.

- Motion by Director Linney, seconded by Director Young, to approve an OPPOSE UNLESS AMENDED position on AB 142 (Bigelow) with two additional amendments to (1) remove “locally championed” language from amendment number two and (2) to add language regarding “interim protections,” carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAINED (None); ABSENT (None).

Motion No. 036-15 – Approved the following position in Legislative Report No. 02-15: OPPOSE UNLESS AMENDED AB 142 (Bigelow) Wild and Scenic Rivers: Mokelumne River (with two additional amendments).

9. **General Manager’s Report.**

Operations and Maintenance Department Manager Eileen M. White presented the water supply update. She reported that the dry weather pattern continues in the East Bay and the Mokelumne watershed. Mokelumne River basin runoff is 115 acre feet and projected end of water year storage is 260 to 360 acre feet. California’s overall water supply is also significantly below average. Ms. White reviewed the following water supply schedule of activities for Water Year 2015: Water Supply Update Drought Plan (March 24), Department of Water Resources April Snow Survey (April 1), and the Water Supply Availability and Deficiency Report and consideration of use of the Freeport Regional Water Project (April 14).

General Manager Coate announced that staff is developing modifications Water Service Regulations and the Schedule of Rates and Charges to capture the full cost associated for the unauthorized use of water of water theft. A public hearing for a water theft ordinance is

scheduled for consideration at the April 14, 2015 Board meeting. Next, General Manager Coate reported that staff continues to implement the 2015 Water Shortage Emergency Action Plan. Special Assistant to the General Manager Cheryl A. Farr briefly highlighted the customer outreach plans and the current water supply messages to alert customers of the water use reduction targets. These include media outreach, letters to stakeholders, website updates, robocalls to customers, and employee notification. The Board recommended that staff develop plans for robocalls and give the Board an opportunity to listen to the scripts before it goes live. The Board also recommended reaching out to non-bill paying customers, consider partnering with East Bay Conservation Corps for drought outreach activities, and explain considerations for moving beyond the 15 percent mandatory reductions. In concluding, General Manager Coate announced that the Monthly Report for February 2015 was provided in the Board's packet.

REPORTS AND DIRECTOR COMMENTS

10. Committee Reports.

- Filed with the Board were the Minutes of the February 24, 2015 Sustainability/Energy and the Finance/Administration Committees.

11. Director Comments.

- Director Coleman reported attending/participating in the following events: ACWA 2015 Washington, D.C. Conference that included meetings with congressional representatives from February 22-25 in Washington, DC; facilitated discussions between EBMUD, ACWA and Bay Planning Coalition on February 27 at Santa Clara Water District in San Jose; and ACWA Executive Committee teleconference meeting on March 2 in Oakland. He reported on plans to attend/participate in the following upcoming events: ACWA Executive Committee teleconference meeting on March 16 in Lafayette; presentation to the Lafayette Historical Society on March 22; and ACWA Executive Committee teleconference meeting on March 23.
- Director Katz reported attending/participating in the following events: Meeting with the City of El Cerrito Mayor Mark Friedman on March 3 in El Cerrito; Clean Power Healthy Communities Conference on March 5 in Oakland; and showing of "River Reflections" exhibit on March 27 in Oakland.
- Director Linney reported attending/participating in the following events: EBMUD/EBRPD Liaison Committee meeting on February 25 in Oakland; meeting with Alameda Mayor Trish Spencer on February 25 in Alameda; EBMUD Asian Pacific Employees Association luncheon on February 26 in Oakland; Biogas Association reception on March 4 in Sacramento; Sierra Nevada Conservancy 10-year Anniversary celebration on March 4 in Sacramento; Clean Power Conference on March 5 in Oakland; and Peralta Colleges Foundation Dinner on March 5 in Oakland.
- Director McIntosh reported attending the ACWA 2015 Washington, D.C. from February 24-25 in Washington, DC and meeting with Assemblymember Tony Thurmond on February 27 in Oakland.

- Director Patterson reported attending/participating in the following events: Funeral service for the mother of Congresswoman Barbara Lee on February 26 in Oakland; EBMUD Asian Pacific Employees Association luncheon on February 26 in Oakland; EBMUD Black History Month event on February 26 in Oakland; meeting with Assemblymember Tony Thurmond on February 27 in Oakland; speaking engagement at the Shiloh Church's Men's Day Black History Month Program on February 28 in Oakland; 2015 ACWA Legislative Symposium on March 4 in Sacramento; and Peralta Colleges Foundation Dinner on March 5 in Oakland.
- Director Young reported attending/participating in the following events: Dublin San Ramon Recycled Water Authority/EBMUD Board meeting (as alternate) on February 23 in Dublin; meeting with Mike Udkow of the Bicycle Trails Council of the East Bay about access issues in the local watershed on February 25; customer interactions regarding tunnel road pipeline maintenance and bike access issues from February 26 through March 3; teleconference with Chris Taylor of the West Coast Infrastructure Exchange about their West Coast Water Infrastructure Innovation Initiative which is focused on helping public sector decision makers assess opportunities to finance infrastructure needs on March 3; and attended a conference co-sponsored by UC Berkeley Institute on Labor and Employment and the Institute of Urban and Regional Development on "Reducing Inequality in a Sustainable World" on March 5.
- President Mellon reported attending/participating in the following events: Alameda County Mayors' Conference on February 25 in Alameda; City of San Ramon monthly mayor's breakfast meeting on February 27 in San Ramon; meeting with Assemblymember Tony Thurmond to discussion Proposition 1 and SB 188 on February 27 in Oakland; League of Women Voters "Meet the Electeds" event on February 27 in Hayward; meeting with the City of El Cerrito Mayor Mark Friedman to provide an EBMUD update on March 3 in El Cerrito; meeting with the City of Hayward Mayor Barbara Halliday to provide an EBMUD update on March 5 in Hayward; Contra Costa County Mayors' Conference on March 5 in Martinez; meeting with the City of Walnut Creek Mayor Bob Simmons to provide an EBMUD update on March 6 in Walnut Creek; meeting with the City of Lafayette Mayor Brandt Andersson to provide an EBMUD update on March 9 in Lafayette; and a meeting with City of Pleasant Hill Mayor Ken Carlson to provide an EBMUD update on March 9 in Pleasant Hill.


ADJOURNMENT

President Mellon adjourned the meeting at 4:31p.m.

SUBMITTED BY:


Lynelle M. Lewis, Secretary of the District

APPROVED: March 24, 2015


Frank Mellon, President of the Board