

MINUTES

Tuesday, November 25, 2014

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

Regular Closed Session Meeting

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

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins, Director of Water and Natural Resources Richard G. Sykes (Items 1 and 2), Assistant General Counsel Craig S. Spencer (Items 1 and 2), Attorney Frederick S. Etheridge (Items 1 and 2), and Manager of Human Resources Delores A. Turner (Item 3).

PUBLIC COMMENT

Addressing the Board was Mark Foley, President, AFSCME Local 2019, who asked the Board to investigate why access to the website of newly elected Board member Marguerite Young is blocked on District computers.

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 1:24 p.m. in the Administration Center Board Room.

ROLL CALL

Directors John A. Coleman, Katy Foulkes, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Andy Katz were present at roll call. Director Doug Linney joined the meeting at 1:34 p.m. via teleconference.

Staff present included General Manager Alexander R. Coate, General Counsel Jylana Collins and Secretary of the District Lynelle M. Lewis.

BOARD OF DIRECTORS

President Katz led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

President Katz announced that the Board in closed session, by a unanimous vote of the Directors attending, authorized the General Counsel to initiate litigation in one matter. The action, defendants and other particulars will be disclosed, upon inquiry, once the action is formally commenced. There were no other announcements required from closed session.

PUBLIC COMMENT

There were no comments.

CONSENT CALENDAR

- Motion by Director McIntosh, seconded by Director Foulkes, to approve Items 1-8 on the Consent Calendar, carried (6-0) by the following voice vote: AYES (Coleman, Foulkes, McIntosh, Mellon, Patterson, and Katz); NOES (None); ABSTAIN (None); ABSENT (Linney).
1. **Motion No. 183-14** – Approved the Regular Meeting Minutes of November 12, 2014.
 2. The following correspondence was filed with the Board: 1) Presentation entitled “Drought Response, Drought Rates Recap, and Next Steps,” dated November 25, 2014; and 2) Letter dated November 25, 2014, to Ms. Sonia Diermayer, Sierra Club, from Alexander R. Coate, General Manager, in response to the Sierra Club’s November 19, 2014 letter to East Bay Municipal Utility District (attached) regarding Drought Rates Proposal.
 3. **Motion No. 184-14** – Awarded a contract to the lowest responsive/responsible bidder, Thermo Electron North America, Inc., in an amount, after the addition of taxes, not to exceed \$171,507 for supplying one TSQ 8000 gas chromatograph and tandem mass spectrometer and the associated data system to the District under Request for Quotation No. 1510.
 4. **Motion No. 185-14** – Authorized an agreement beginning on or after November 26, 2014 with Bay Line Concrete Cutting and Coring, Inc., Fine Line Cutting and Drilling, and Penhall Company in an amount not to exceed \$400,000 annually for rental of fully maintained and operated asphaltic cement/concrete sawcutting services for two years with three options to renew for an additional one-year period for a total cost of \$2,000,000.
 5. **Motion No. 186-14** – Authorized an agreement with Dynamic Systems Inc. in an amount not to exceed \$973,000 for the delivery of four servers, associated database licensing, technical training, and 1-year maintenance support for Oracle database licenses at the Administration Building Data Center and Sacramento Municipal Utility District Data Center during the period December 1, 2014 to November 31, 2015, with two options to renew for an additional 1-year period for annual maintenance support in an annual amount estimated to be \$126,000, for a total cost of \$1,225,000.

6. **Motion No. 187-14** – Authorized the Office of General Counsel to continue the employment of the law firm of Foster Employment Law for specialized legal services related to labor and employment law and litigation matters in an additional amount not to exceed \$80,000.
7. **Motion No. 188-14** – Authorized the Office of General Counsel to continue the employment of the law office of Remcho, Johansen & Purcell, LLP, for specialized legal services related to elections and conflicts of interest matters in an additional amount not to exceed \$60,000.
8. **Resolution No. 34010-14** – Amend Resolution No. 34005-14 To Correct Administrative Error (Policy 4.26 – Municipal Securities Disclosure).

DETERMINATION AND DISCUSSION

9. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine reported that the federal drought bill would not be moved this session and will likely come next year. It is anticipated that there will be increased interest in this bill and staff will continue to monitor and advance EBMUD's interests. Ms. Dumaine also provided an update on the plans for a federal omnibus spending bill budget which may impact federal drought legislation. Staff will keep the Board apprised on changes.

10. **General Manager's Report.**

Treasury Manager Sophia Skoda provided a recap of the District's drought response and drought rates outreach and proposed next steps. She reported that throughout 2014, EBMUD held a series of public workshops to address various topics related to Long-Term Financial Stability. One goal of those discussions has been to craft a long-term drought response strategy that would address the impacts of drought on costs and revenues, encourage conservation, and be fair, equitable and clear to customers. As dry conditions worsened, workshop topics also focused on developing a proposed drought rates structure.

To engage the public in considering drought issues and a proposed drought rates structure comprised of four stages, an incentive for low water use and a penalty for excessive water use, the Board of Directors conducted four special public meetings throughout the service area on: October 23 (Walnut Creek), October 29 (Richmond), November 5 (Oakland) and November 19 (Castro Valley). At each meeting, staff provided an overview of EBMUD's water supply situation, proposed drought rates structure and water conservation services.

Public feedback specific to the proposed drought rates structure focused on the features addressing customers at the low and high ends of the water use spectrum. While most comments focused on alternative water supplies (e.g. desalination), there were no comments received regarding the fundamental approach to structuring drought rates - a proposed staged system of uniform surcharges levied on top of existing District volume rates - or the proposed staged levels of conservation or supplemental supply purchases.

During the special meetings, the Board received several comments related to the proposed Supersaver credit and Excessive use penalty. The proposed credit would provide customers who continuously use less than 50 gallons per day (GPD) during the length of the drought or through the end of the fiscal year with a \$2/month credit on their bill for a maximum credit of \$24. The proposed penalty would require customers to pay \$2/unit for customer use over 60 units of water per month.

Based on feedback from the public meetings and further staff review, staff recommended the following approaches to the Supersaver credit and Excessive use penalty for Board consideration:

Supersaver credit

- Remove the credit from the proposed staged system of drought rates;
- Retain the proposed credit for low water users at the 2 unit per month level (50 gpd); or
- Replace the proposed credit with a non-monetary recognition reward for users who conserved a certain percentage more than requested by the District at some periodic interval.

Excessive use penalty

- Retain the 60 units of water trigger level or
 - Lower the penalty level to use over 45 units of water per month.
- Addressing the Board were the following persons: 1) Sonia Diermayer, representing the Sierra Club, San Francisco Bay Chapter, commented that her organization would like to see a stronger effort to encourage customers to voluntarily reduce water demand during a stage 1 drought in order to avoid having to use Freeport water, welcomed steps to develop an allocation based rate system, and supports an excessive use penalty level at use over 30 units of water per month in a severe drought; and 2) Marguerite Young thanked the Board for promoting public engagement on the drought and expressed support for developing an allocation based rates model to promote conservation and provide fairness. She also noted that she supports public recognition for supersavers instead of the proposed credit and that the proposed penalty level for excessive use needs additional review.

There was Board discussion regarding the recommended approaches. Director McIntosh requested that multi-family residences also be recognized with a non-monetary recognition reward and General Manager Coate replied that staff would look at opportunities to include this option. Director Foulkes commented that when developing the recognition reward parameters, staff take into consideration those customers who have already been continuously saving at or below the requested levels. There was consensus to replace the Supersaver credit with a non-monetary recognition reward for customers who continuously use less than 100 GPD and in a way that recognizes those customers who have already been continuously saving at or below the requested levels.

Regarding the excessive use penalty, Director Coleman requested staff review average customer use for east and west of hills, indoor (winter)/outdoor (summer) and by the District's three system capacity charges zones to develop customer allocation water budgets. Director McIntosh suggested applying the penalty in a Stage 3 drought since mandatory rationing starts during that stage; Director Foulkes agreed with this approach. Director Katz also suggested applying the penalty during Stage 3 and explore increasing the penalty to \$4-

\$5/unit in a Stage 4 drought. Director Linney agreed with Director Katz's suggestion and advised that we need to continue educating our customers about the process. Director Mellon recommended keeping the penalty in a Stage 4 drought because applying it in Stage 3 will impact the workloads of employees' already working on drought related issues. After further discussion, there was consensus to lower the penalty level to use over 45 units of water per month, keep the penalty at \$2/unit and begin applying the penalty in a Stage 3 drought.

Next, Ms. Skoda advised that the District has been informing the public at the special Board meetings and through other outreach activities that if dry weather patterns continue to impact our water supplies, then staff would recommend a series of drought-related actions for the Board's consideration at the December 9, 2014 Board meeting. To address the supply shortage in the short-term, the proposed actions will be to consider asking customers to expand their conservation efforts, to utilize the Freeport Water Project to convey additional Central Valley Project supplies from EBMUD's contract with the U.S. Bureau of Reclamation or other water transfer opportunities and to begin applying the supplemental water supply surcharge to customer bills. These changes would be effective at the beginning of January 2015. For the longer term, the actions would recommend that the Board establish the proposed set of drought rate stages, which presume that as drought severity increases EBMUD will ask customers to increase their conservation efforts and EBMUD will increase the volume of supplemental water supplies it brings into the system.

General Manager Coate announced that an update on the Water Shortage Emergency Action Plan was provided in the Board's packet.

REPORTS AND DIRECTOR COMMENTS

11. Committee Reports.

- Filed with the Board were the Legislative/Human Resources Committee Minutes of November 12, 2014.

12. Director Comments.

- Director Coleman reported attending/participating in the following events: East Bay Economic Development Association Legislative Committee teleconference meeting on November 14 in Oakland; Bay Planning Coalition and EBMUD meetings from November 16-19 in Washington, D.C.; ACWA teleconference meeting on November 20 in Oakland; ACWA Executive Committee and Board meetings on November 21 in Sacramento; EBMUD Interview on Talk Radio 910AM on November 24 in Oakland; and ACWA Executive Committee teleconference meeting on November 24. He reported on plans to attend/participate in the following upcoming events: ACWA Fall Conference December 1-5 in San Diego and ACWA teleconference Executive Committee meeting on December 8.
- Director Foulkes reported attending the Special drought rates meeting on November 5 in Oakland; Special drought rates meeting on November 19 in Castro Valley; and Pardee Home Museum Board meeting on November 24 in Oakland.
- Director Linney had no comment.

- Director McIntosh reported attending a water supply presentation at the Richmond Rotary Club on November 21.
- Director Mellon had no comment.
- Director Patterson reported attending the Inner City Advisors' Oakland Youth-Friendly Business Awards ceremony on November 13 in Oakland and accepting the 2014 Oakland Youth-Friendly Business Award on behalf of the District. The award recognizes the District for its participation in the Oakland Unified School District's Exploring College and Career Options Work Experience Education Summer Program. He thanked staff for their contributions, inspiration and guidance in bringing these students into the threshold of future water education. Director Patterson also reported attending the Special drought rates meeting on November 5 in Oakland; the EBMUD/East Bay Regional Park Liaison Committee meeting on November 10 in Oakland; the NFBPA Annual New Leaders Banquet on November 12 in Oakland; Oakland Workforce Investment Board Retreat on November 13 in Oakland; Attitudinal Healing Annual Benefit on November 15 in Oakland; Special drought rates meeting on November 5 in Oakland; and Private Industry Council Open House West Oakland Career Center Library on November 20 in Oakland.
- President Katz had no comment

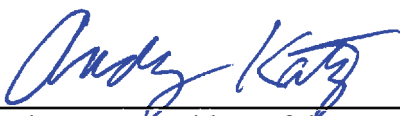
ADJOURNMENT

President Katz adjourned the meeting at 2:49 p.m.

SUBMITTED BY:


Lynelle M. Lewis, Secretary of the District

APPROVED: December 9, 2014


Andy Katz, President of the Board