EAST BAY DISCHARGERS AUTHORITY
COMMISSION MEETING MINUTES

February 16, 2017

1. Call to Order
Chair Johnson called the meeting to order at 9:30 A.M. on Thursday, February 16, 2017, at the Oro Loma Sanitary District Boardroom, 2655 Grant Avenue, San Lorenzo, CA 94580.

2. Roll Call
PRESENT: Timothy Becker, Oro Loma Sanitary; Marvin Peixoto, City of Hayward; Ralph Johnson, Castro Valley Sanitary District; Pauline Russo Cutter, City of San Leandro; Jennifer Toy, Union Sanitary District;

ABSENT: None

OTHERS PRESENT: Michael Connor East Bay Dischargers Authority
Eric Casher Legal Counsel
David Stoops East Bay Dischargers Authority
Juanita Villasenor East Bay Dischargers Authority
Paul Eldredge Union Sanitary District
Roland Williams Castro Valley Sanitary District
Dean Wilson City of San Leandro

3. Public Form
There were no members of the public in attendance at the meeting.

C O N S E N T  C A L E N D A R

4. Commission Meeting Minutes of January 12, 2017
5. List of Disbursements for January 2017
6. Treasurer’s Report for January 2017
Commissioner Peixoto moved to approve the Consent Calendar items. The motion was seconded by Commissioner Becker and carried unanimously, 5-0 (Becker, Peixoto, Cutter, Toy, Johnson; ayes).

R E G U L A R  C A L E N D A R

7. General Manager’s Report
The General Manager deferred comments to specific agenda items.

8. Report from the Managers Advisory Committee (MAC)
The MAC met with the General Manager on February 15, 2017. The MAC discussed the Strategic Plan Workshop. The Managers reviewed the administrative draft of the NPDES permit and provided comments for the Water Board.
9. **Report from the Financial Management Committee**
The Financial Management Committee met with the General Manager on February 14, 2017 and approved the January list of disbursements and Treasurer's Reports. The Committee reviewed second quarter expenses for fiscal year 2016/17 and noted expenses are under budget by about $104K (9%), which is mostly due to lower permit fees. Although mid-year expenses are under budget, spending by year-end may exceed budget projections due to the hiring of a replacement O&M Manager.

Eric Casher, the Authority's Legal Counsel, advised the Commission that each of the agencies that Meyers Nave represents will be asked to sign a Conflict Waiver. Meyers Nave will create an ethical wall within the firm to keep attorneys representing a member agency from communicating about the EBDA JPA amendment. Should a litigation issue arise, and at any point, EBDA and each member agency respectively could hire independent counsel outside of Meyers Nave for any issues related to the JPA amendment. The Commission approved Meyers Nave's request for the General Manager to sign a Conflict Waiver regarding the Fourth Amended Joint Exercise of Powers Agreement.

The Commission reviewed rate assumptions for the FY 2017/18 budget. The Commission discussed a staff recommendation to increase the Renewal and Replacement Fund budget from $450,000 to $500,000. The Commission requested staff research additional funding options that would keep the RRF annual assessment at $450,000.

Commissioner Cutter moved to approve the report from the Financial Management Committee with the caveat that the General Manager provide additional FY 2017/18 budget options for the RRF. The motion was seconded by Commissioner Toy and carried unanimously, 5-0 (Becker, Peixoto, Cutter, Toy, Johnson; ayes).

10. **Report from the Regulatory Affairs Committee**
The Regulatory Affairs Committee met with the General Manager on February 14, 2017. The Committee discussed permit compliance and reviewed the NPDES annual report. The Committee recommended the Commission authorize Amendment No. 1 to the EOA, Inc. agreement in the amount of $10,000 for assistance in developing comments for the draft NPDES permit.

Commissioner Becker moved to approve the report from the Regulatory Affairs Committee. The motion was seconded by Commissioner Toy and carried unanimously, 5-0 (Becker, Peixoto, Cutter, Toy, Johnson; ayes).

11. **Resolution Authorizing the General Manager to Issue Amendment No. 1 to the Eisenberg, Olivieri, and Associates, Inc. Agreement for Additional Professional Services Associated with the NPDES Permit Renewal in the Amount of $10,000**
Commissioner Peixoto introduced the resolution authorizing Amendment No. 1 to the EOA, Inc. agreement for services associated with NPDES permit renewal in the amount
of $10,000. The motion was seconded by Commissioner Becker and carried unanimously, 5-0.

Ayes: Commissioners Becker, Peixoto, Cutter, Toy, and Chair Johnson
Noes: None
Absent: None
Abstain: None

12. Report from the Operations and Maintenance Committee (O&M)
The Operations and Maintenance Committee met with the General Manager on February 13, 2017 and discussed the status of EBDA facilities. The Committee was updated on the status of the AEPS No. 1 Effluent Pump, Hayward MCC replacement project, and OLEPS fuel tank replacement. The Superintendent of O&M advised the Committee that the Skywest pump station No. 1 distribution pump was inspected by the OLSD maintenance department. The distribution pump was found to have damage with an estimated repair cost of $10,000.

The Committee discussed the renewal of a memorandum of understanding between EBDA and the City of Hayward for use of the Hayward Ponds. The Committee expressed its support for Commission approval of a resolution authorizing the renewal of the memorandum of understanding with the City of Hayward for the use of the Hayward Ponds for emergency overflow.

Commissioner Peixoto moved to approve the report from the Operations & Maintenance Committee. The motion was seconded by Commissioner Cutter and carried unanimously, 5-0 (Becker, Peixoto, Cutter, Toy, Johnson; ayes).

13. Resolution Authorizing the General Manager to Execute a Memorandum of Understanding Between East Bay Dischargers Authority and the City of Hayward for Use of the Hayward Ponds
Commissioner Peixoto introduced the resolution authorizing the renewal of a MOU between EBDA and the City of Hayward for the use of the Hayward Ponds for emergency overflow. The motion was seconded by Commissioner Toy and carried unanimously, 5-0.

Ayes: Commissioners Becker, Peixoto, Cutter, Toy, and Chair Johnson
Noes: None
Absent: None
Abstain: None

14. Report from the Ad Hoc
The Ad Hoc Committee met with the General Manager on February 15, 2017. Michele Tamayo of Tamayo Group, Inc. joined the Committee via telephone to review her report on EBDA’s strategic plan workshop that took place on January 25, 2017. Several key issues that were identified are: the length of term of the agreement, an escape clause for agencies to exit the agreement and spending cap on capital expenses in the transport system, as well as different models for appropriating costs among the member
agencies. To continue the process the Consultant recommends that the MAC meet to discuss the results of the workshop and provide specific options for the Commission to consider.

The Commission asked the Authority’s legal counsel to discuss the process by which termination of the EBDA JPA might occur if it is not renewed in January 2020 and the impact on the member agencies. Counsel advised that the EBDA JPA and government code are silent on the issue of a member agency having to fund EBDA if it has no flow entering the EBDA system. Two options were discussed: 1) have the member agencies negotiate the JPA agreement and find consensus on this issue, or 2) litigate the issue to allow the courts to decide. The Commission requested the MAC discuss the key points identified during the Strategic Plan workshop.

Commissioner Peixoto moved to approve the report from the Ad Hoc Committee. The motion was seconded by Commissioner Becker and carried unanimously, 5-0 (Becker, Peixoto, Cutter, Toy, Johnson; ayes).

15. **Closed Session**
The Commission met in closed session pursuant to Government Code Section 54956(d)(2) to discuss anticipated litigation.

16. **Reconvene to Open Session**
The reportable action taken in closed session is to notify the IRS of payroll adjustment issue.

17. **Items from the Commission and Staff**
There were no items from the Commission and Staff

18. **Adjournment**
With no further business, Chairman Johnson adjourned the meeting at 11:10 a.m.

[Signature]
Michael S. Connor
General Manager