

## MINUTES

**Tuesday, March 22, 2022  
East Bay Municipal Utility District  
Board of Directors  
375 Eleventh Street  
Oakland, California**

### Regular Closed Session Meeting

President Doug A. Linney called to order the Regular Closed Session Meeting of the Board of Directors at 11:02 a.m. in the Administration Building Boardroom.

### ROLL CALL

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

Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Attorney III Felicity L. Grisham (Item 1a); Meyers Nave Attorneys Camille Hamilton Pating and Janice Brown (Item 1a); Special Assistant to the General Manager Kelly A. Zito (Item 1a); Director of Engineering and Construction Olujimi Yoloye (Item 1b); Manager of Risk Management Vladimir Bessarabov (Items 1b and 1c); Director of Finance Sophia D. Skoda (Items 1b, 1c and 2); and Interim Director of Human Resources Winnie W. Anderson (Item 2).

General Counsel Derek T. McDonald was not present for Item 1a.

### PUBLIC COMMENT

- Addressing the Board was the following: 1) Ivette Rivera, EBMUD ratepayer, commented on the filing of the Ayriel Bland and Saji Pierce lawsuit and read excerpts from Ayriel Bland's tort complaint.

### ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Linney announced the closed session agenda and the Board convened to the Administration Building Training Resource Center for discussion.

### Regular Business Meeting

President Doug A. Linney called to order the Regular Business Meeting of the Board of Directors at 1:15 p.m. in the Administration Building Boardroom.

### ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, and Secretary of the District Rischa S. Cole.

## **BOARD OF DIRECTORS**

President Linney led the Pledge of Allegiance.

## **PRESENTATION**

General Manager Clifford C. Chan announced the District received the National Association of Clean Water Agencies' National Environmental Achievement Award for Public Service for the District's early, multi-pronged, and sustained efforts to support the use of wastewater-based epidemiology in response to the COVID-19 pandemic. This work contributed to important method development work at leading universities and has informed Alameda and Contra Costa counties and state public health decisions makers. Mr. Chan thanked and congratulated staff for their contributions and Director Marguerite Young presented the award to the following team members: Manager of Wastewater Environmental Services Alicia Chakrabarti; Wastewater Control Inspector II Gabriela Esparza; Associate Civil Engineer James Hake; Senior Wastewater Control Inspector Paula Hansen; Wastewater Control Inspector II Kiley Kinnon; Senior Wastewater Control Inspector Khi Lai; Research Microbiologist Melissa Lash; Laboratory Supervisor Irene Lui-Wong; Wastewater Control Inspector II Christine Pagtakhan; Senior Wastewater Control Inspector Daniel Siu; Senior Wastewater Control Inspector David Williams; and Wastewater Control Inspector II Yonas Woldeaband. The Board commended staff for their work.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board were the following: 1) Ivette Rivera, EBMUD ratepayer, commented on her personal Youtube channel and the filing of the Ayriel Bland and Saji Pierce lawsuit; and read excerpts from the 1983 McIntosh Irving vs. EBMUD case document; and 2) Nick Lawrence commented on the dangerous condition on public property on Tappan Terrace in Orinda and a broken fire hydrant.

## **CONSENT CALENDAR**

- Motion by Director Coleman, seconded by Director Patterson to approve the recommended actions for Items 1-8 on the Consent Calendar carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 057-22** – Approved the Regular Meeting Minutes of March 8, 2022.
  2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Update to Guidance for Issuing Green Bonds,” dated March 22, 2022; **2)** Presentation entitled, “Coronavirus Update,” dated March 22, 2022; **3)** Presentation entitled, “Water Supply Update,” dated March 22, 2022; and **4)** Speakers Bureau and Outreach Record for CY22 dated March 11, 2022.

3. **Motion No. 058-22** – Awarded a contract to the lowest responsive/responsible bidder, Mountain Cascade, Inc., in an amount not to exceed \$6,677,500 for construction of the Mokelumne Aqueduct No. 2 Relining Phase 1 under Specification 2176.
4. **Motion No. 059-22** – Authorized an agreement beginning on or after March 22, 2022 with Environmental Systems Research Institute, Inc. (ESRI) for one year with four options to renew for additional one-year periods for a total amount, including option years, not to exceed \$580,000 for services under its ESRI Enterprise Advantage Program in support of its ArcGIS system.
5. **Motion No. 060-22** – Authorized an interim agreement among the Dublin San Ramon Services District (DSRSD)/East Bay Municipal Utility District (EBMUD) Recycled Water Authority (DERWA), DSRSD, and EBMUD to facilitate future negotiations regarding the potential reallocation among DERWA member agencies of capital and program costs, facility capacity rights, and recycled water supply, to provide for development and implementation of demand management measures, and for other purposes.
6. **Motion No. 061-22** – Authorized an amendment to the agreement previously authorized under Board Motion No. 170-20 with Trussell Technologies, Inc. to increase the agreement amount by \$1,165,759 to a total amount not to exceed \$2,208,536 for the East Bayshore recycled water quality improvement pilot testing.
7. **Motion No. 062-22** – Approved the February 2022 Monthly Investment Transactions Report.
8. **Resolution No. 35278-22** – Adopting Revised Policy 1.13, Customer Identity Theft Prevention Program; and Revised Policy 4.21, Land and Conservation/Mitigation Credit Sales – Use of Funds.

#### **DETERMINATION AND DISCUSSION**

9. **Approve the updated Guidance for Issuing Green Bonds.**

Acting Manager of Budget Samuel A. Feldman-Crough presented the update. The District is planning to issue new revenue bonds in Fiscal Year 2022 for the Water and Wastewater systems. The Board approved the District's Guidance for Issuing Green Bonds in 2015 which was used for three previous Water System revenue bond issuances. In preparing for the upcoming bond sales, which will include Wastewater System revenue bonds labeled as green bonds for the first time, staff reviewed and recommends updating the existing guidance to be consistent with the latest Board-approved policies and new and updated frameworks released since 2015. Green bonds are intended to be used for environmentally beneficial projects and the definition of green projects depends on the issuer and the standards they choose. In addition to green bonds, there are now several similar or related types of bonds with a focus on Environmental, Social and Governance (ESG) factors. Bonds issued for water and wastewater systems are the third largest type of ESG bonds, with state bonds issued for single-family or multi-family housing as the top two categories. Mr. Feldman-Crough described the criteria used to label the District's green bonds and developments in green bond labeling since 2015. While self-labeling remains the most common method, particularly for water and wastewater utilities, the District recently explored using an external verifier to designate its bonds as "green." Based on investor and underwriter feedback and staff's analysis of the costs and benefits of using external verification, the consensus was to continue to self-label the bonds with a moderate

increase in the amount of information provided about the projects being funded by the bonds. He explained external verifiers do not currently have a single accepted standard for green bonds and their costs are about \$20,000 or more per bond series. He reviewed the proposed updates to the District's Guidance for Issuing Green Bonds document which include new language from District policies, and changes to align the document with current market practices, including specific references to other green bond or sustainable development frameworks that have been established since 2015. Staff is also working with its external advisors to increase the amount of information available in offering documents about the projects funded by the bonds to better align with current green bond disclosure practices. Staff is recommending the Board approve the updated Guidance for Issuing Green Bonds document which will be used to guide the upcoming bond sales. The Board commented on the information presented and Mr. Feldman-Crough responded to questions regarding benefits of labeling green bonds, efforts to create a regulatory framework for green bonds, and the District's participation in these efforts. General Manager Chan said staff will look for information on efforts to create a regulatory framework for green bonds and report back to the Board.

- Motion by Director Coleman, seconded by Director Katz to approve the recommended actions for Item 9 carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 063-22** – Approved the updated Guidance for Issuing Green Bonds.

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

Coronavirus Update

Director of Operations and Maintenance David A. Briggs presented the update. He reviewed COVID-19 positive cases in Alameda and Contra Costa counties and the number of employee (466) and contractor (34) positive COVID-19 cases to date; reported that as of March 18, approximately 15 employees were off work or unable to telecommute; and said presently, no employees are hospitalized with COVID-19. The District has continued to see minimal impacts on essential operations due to the District's high vaccination rate as exposed and asymptomatic employees are permitted to continue work. Mr. Briggs reported there have been no recent changes to federal, state or local health regulations or guidance and on March 14 the District ceased requiring face coverings for employees working outside. Face coverings at indoor District facilities are still required and while minor adjustments have been made to accommodate work-related travel and gatherings, all other safety protocols and the District's vaccination requirement remain in place. As employees return to the office, the District will continue to monitor and update safety protocols as needed and will consider lifting the indoor face covering requirement if pandemic conditions continue to improve; however, masking requirements may remain in place for staff and the public attending Board meetings. The District has reduced the number of testing sites to three locations per week and employees with an approved religious or medical exemption will continue weekly testing. Staff was asked to consider stable cohorts when evaluating the decision to lift the indoor face covering requirement.

### Water Supply Update

Director of Operations and Maintenance David A. Briggs provided the update. As of March 16, 29,680 acre-feet of water have been diverted through the Freeport Regional Water Authority facilities. The diversions include water from the District's Central Valley Project Contract Year 2021 allocation (33,250 acre-feet) and Central Valley Project transfer water purchased from Contra Costa Water District (2,000 acre-feet). Mr. Briggs reported on the District's current water supply through March 16 including gross water production; precipitation in the Mokelumne watershed which was 31.24 inches or 83 percent of average; and precipitation in the East Bay which was 18.71 inches or 85 percent of average. He reviewed the lowest January through June precipitation years between 1934 and 2022; the snow depth at Caples Lake; total system storage which was 535,390 acre-feet or 88 percent of average and 69 percent of capacity; data on the state's water supply; changes in snow water content in the Sierras between December 1, 2021 and March 17, 2022; the national, seasonal precipitation outlook for April 2022 through June 2022; storage levels in the state's reservoirs; Mokelumne watershed precipitation for Rainfall Year 2022; and the District's projected total system storage for 2022. Staff was asked to include 99 percent exceedance data to future charts depicting the District's projected total system storage for 2022.

- Director McIntosh left the meeting at 1:59 p.m. and returned at 2:01 p.m.

### Wastewater Online Tour

Associate Civil Engineer James E. Hake presented an overview of the online virtual tour of the District's Main Wastewater Treatment Plant. The tour, entitled "From your tap to the San Francisco Bay" is available on the District's website and features a variety of engaging videos and interactive maps to teach audiences about the many processes and work that is performed at the plant. Director of Wastewater Eileen M. White acknowledged Mr. Hake and Wastewater Control Representative Zoe Lake for leading the effort and thanked staff from various workgroups for their work on the virtual tour. Staff has updated the tour webpage to include information on three tour options – virtual, online; virtual with a live guide; and in-person. The Board commended staff for their work and provided suggestions for enhancing the tour for educators and on additional educational materials for K-12 students. Some Board members said they had challenges locating the tour and other information on the District's website. Staff will work on the search engine function and review how information is currently organized on the website.

### Monthly Report – March 2022

General Manager Clifford C. Chan said the Board received the Speakers Bureau and Outreach Record for the remainder of calendar year 2022 at their places and that he was available to answer questions on it and on information in the monthly report.

- Addressing the Board was the following: 1) Kelly A. commented on the Water Supply Update, the upcoming mega-drought, and conservation efforts to meet the state mandate.

General Manager Chan commented on customer conservation levels and said staff will continue reaching out to customers to encourage them to conserve water. The Board will continue to be updated on these efforts.

- Director McIntosh left the meeting at 2:33 p.m.

## **REPORTS AND DIRECTOR COMMENTS**

### **11. Committee Reports.**

- Filed with the Board were the Minutes for the March 8, 2022 Special Planning Committee meeting.
- President Linney reported the Board met this morning for the Long-Term Water Supply Workshop No. 2 during which staff responded to questions from the February 22, 2022 workshop and continued presenting information on desalination, the Los Vaqueros Reservoir Expansion Project, groundwater, and the Bay Area Regional Reliability Partnership.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier and received the Quarterly Payroll, Disbursement and Real Estate Summary reports for the Water and Wastewater Systems for the quarter that ended December 31, 2021; the February 2022 Monthly Investment Transactions Report; revisions to two District policies; and the Update to Guidance for Issuing Green Bonds.
- Los Vaqueros Reservoir Joint Powers Authority (LVR JPA) representative John A. Coleman reported the JPA met on March 9 and adopted resolutions on committing to diversity and accessibility and on decorum for Board members and the public at Board meetings. He also reported he is a representative on the JPA Finance Committee which is scheduled to meet on March 31.
- Freeport Regional Water Authority (FRWA) representative John A. Colman reported the FRWA Board met on March 10 to select a new Program Manager after the passing of former manager Forrest Williams. Kerry Schmitz was appointed Program Manager effective March 10.

### **12. Other Items for Future Consideration.**

None.

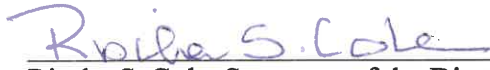
### **13. Director Comments.**

- Director Coleman reported attended the following virtual events: Los Vaqueros Reservoir JPA meeting on March 9, FRWA Board meeting on March 10, and the Walnut Creek Water Treatment Plant Pretreatment Project community meeting on March 16; and plans to attend the following virtual events: DERWA Board meeting on March 28, Los Vaqueros Reservoir JPA Finance Committee meeting on March 31, Los Vaqueros Reservoir JPA meeting on April 13, and FRWA Board meeting on April 14.
- Director Mellon reported attending the 150<sup>th</sup> anniversary celebration for the City of San Leandro on March 21 and presented photos of the event.
- President Linney and Directors Katz, McIntosh, Patterson and Young had no reports.

**ADJOURNMENT**

President Linney adjourned the meeting at 2:43 p.m.

SUBMITTED BY:

  
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Rischa S. Cole, Secretary of the District

APPROVED: April 12, 2022

  
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Doug A. Linney, President of the Board