

MINUTES

Tuesday, June 28, 2022
East Bay Municipal Utility District
Board of Directors
****Virtual****

Regular Closed Session Meeting

President Doug A. Linney called to order the Regular Closed Session Meeting of the Board of Directors at 11:06 a.m. and announced in accordance with Government Code section 54953(e), this meeting was being conducted by webinar and teleconference only. A physical location was not provided for this meeting.

ROLL CALL

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

Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Assistant General Counsel Jon D. Salmon (Item 1a), Director of Wastewater Eileen M. White (Item 1a), Attorney II George Croton (Items 1a and 2), and Director of Operations and Maintenance David A. Briggs (Item 2).

PUBLIC COMMENT

There was no public comment.

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 1:16 p.m. and announced in accordance with Government Code section 54953(e), this meeting was being conducted by webinar and teleconference only. A physical location was not provided for this meeting.

ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, Marguerite Young, William B. Patterson, 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.

ANNOUNCEMENTS FROM CLOSED SESSION

President Linney announced the Board met in closed session to consider a request by the General Counsel to authorize initiation in one matter. All Directors were present at the closed session. Director Coleman abstained from voting on the matter. The remaining Directors voted to authorize the General Counsel to initiate litigation in the 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.

PRESENTATIONS

General Manager Clifford C. Chan announced the District received two awards for its FY22 and FY23 budget documents. For the past 17 consecutive budget cycles, the District has received the Distinguished Budget Presentation Award from the Government Finance Officers Association and for the sixth time, the District received the California Society of Municipal Finance Officers' Excellence in Budgeting Award. Mr. Chan acknowledged the following current and former staff for their work: Richard Lou, Principal Management Analyst; Jenny Tam, Management Analyst II; Theresa Won, Management Analyst II; Bernadette de Leon, Management Analyst II; Cindy Vong, Senior Administration Clerk; and Director of Finance Sophia D. Skoda. Also recognized for their many years of service including preparing budget documents was Jeanne Chase, retired Manager of Budget and David Mercado, retired Principal Management Analyst. Finance/Administration Committee Chair William B. Patterson presented the awards to the team members in attendance and thanked them for their efforts.

Director Marguerite Young announced that June marks the 4th anniversary of the Mokelumne River Wild and Scenic designation. This landmark accomplishment involved the work of EBMUD and many local stakeholders in protecting 37 miles of the Mokelumne River due to its extraordinary recreational or scenic value. Designated under the State's Wild and Scenic Rivers Act, the listing allows for continuation of some existing activities but excludes new dams. Wild and Scenic designation is consistent with the District's core values of stewardship and teamwork and honors the District's mission to preserve natural resources. John Silva with Give Back Adventures highlighted his multi-sport fundraising expedition, Mokelumne River Source to the Sea in which he plans to engage in multiple sports to traverse the entire length of the river. Katherine Evatt with Foothill Conservancy thanked the District for commemorating the 4th anniversary of the river's Wild and Scenic designation and expressed appreciation for the District's dedication to the health of the river. President Linney thanked Foothill Conservancy and others for their efforts in getting the Wild and Scenic designation for the Mokelumne.

- Director McIntosh left the meeting at 1:23 p.m. and returned at 1:25 p.m.

PUBLIC COMMENT

- Secretary of the District Rischa S. Cole reported written comments from Lorena Coose regarding concerns with interactions with staff during a visit to the Mokelumne River Fish Hatchery Public Day Use area on June 25 would be filed with the meeting record.

CONSENT CALENDAR

- Items 7 and 8 were pulled from the Consent Calendar for separate discussion.
 - Motion by Director Mellon, seconded by Director Patterson to approve the recommended actions for Items 1-6 and 9-13 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. 124-22** – Approved the Regular Meeting minutes of June 14, 2022.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Drought Update,” dated June 28, 2022; **2)** Presentation entitled, “Equal Employment Opportunity Program / Affirmative Action Program Fiscal Year 2022 Report,” dated June 28, 2022; **3)** Email from Lorena Coose to the Board of Directors dated June 25, 2022 regarding Public Comment for Next Regular Board Meeting Re Concern at Mokelumne River Fish Hatchery Public Day Use; and **4)** Speakers’ Bureau and Outreach Record CY22 dated June 27, 2022.
 3. **Motion No. 125-22** – Awarded a contract to the lowest responsive/responsible bidder Papé Machinery, Inc., for supplying one John Deere tractor with cab and flail mower configuration for the District’s fleet to support mowing operations for fire abatement, beginning on or after June 28, 2022 for a total cost, after the addition of taxes, not to exceed \$120,907 under Request for Quotation No. 2211.
 4. **Motion No. 126-22** – Awarded a contract to the lowest responsive/responsible bidder CNC Solutions, Inc., for supplying one TRAK TMC10 with Proto TRAK RMX CNC milling machine, beginning on or after June 28, 2022 for a total cost, after the addition of taxes, not to exceed \$105,906 under Request for Quotation No. 2216.
 5. **Motion No. 127-22** – Authorized an agreement beginning on or after June 28, 2022 with Aspen Technology, Inc., for five years in an amount not to exceed \$204,785 for software for the District’s operations network data historian system which will gather, store, and display operational data.
 6. **Motion No. 128-22** – Authorized agreements with Denali Water Solutions LLC and Synagro-WWT, Inc. for biosolids handling services during the period July 1, 2022 to June 30, 2024, with three options to renew for additional one-year periods, in an aggregate amount, including option years, not to exceed \$24,240,000.
 7. **Authorize an agreement beginning on or after June 28, 2022 with Fox Corporation dba KTVU, Inc. in an amount not to exceed \$100,300 for television and online drought advertising services.**

Director Coleman inquired about the decision to contract with KTVU. Director of Customer and Community Services Andrew L. Lee and Manager of Water Conservation Alice E. Towey discussed the scope of services which include running drought-related ads during KTVU’s morning news cast; use of KTVU’s “over the top TV” feature which will push drought messaging to other platforms in English and Spanish; and a dedicated section on KTVU.com where the District will be able to post drought related messaging. There was additional discussion on whether other agencies are using

other news networks for similar services and Special Assistant to the General Manager Kelly A. Zito reported on meetings with other Bay Area Public Information Officers to coordinate shared messaging and the District's work in partnership with the State's "Save Our Water" campaign.

- Motion by Director Coleman, seconded by Director Patterson to approve the recommended actions for Item 7 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. 134-22 – Authorized an agreement beginning on or after June 28, 2022 with Fox Corporation dba KTVU, Inc. in an amount not to exceed \$100,300 for television and online drought advertising services.

8. **Authorize an amendment to the agreement previously authorized under Board Motion No. 056-18 with AECOM Technical Services, Inc. to increase the agreement amount by \$961,460, to a total amount not to exceed \$2,018,863 for additional design and engineering services during construction for the Lafayette Reservoir Tower Retrofit.**

Director Coleman asked about public outreach. Staff was asked to ensure the District conducts ample public outreach before the start of construction and to keep Board members informed about scheduled meetings with the public on this project.

- Motion by Director Coleman, seconded by Director Patterson to approve the recommended actions for Item 8 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. 135-22 – Authorized an amendment to the agreement previously authorized under Board Motion No. 056-18 with AECOM Technical Services, Inc. to increase the agreement amount by \$961,460, to a total amount not to exceed \$2,018,863 for additional design and engineering services during construction for the Lafayette Reservoir Tower Retrofit.

9. **Motion No. 129-22** – Authorized an amendment to the agreement previously authorized under Board Motion No. 114-20 with Industrial Employers and Distributors Association to increase the agreement amount by \$241,186 to a total amount not to exceed \$473,091 for labor relations negotiating and consulting services until June 30, 2024.
- 10.1. **Motion No. 130-22** – Authorized an additional amount of \$500,000, to a total amount not to exceed \$1,800,000, to the agreement authorized under Board Resolution No. 35171-20 with Axiom Medical Consulting, LLC for COVID-19 contact tracing services, employee interviews, return to work clearance, and recordkeeping for COVID-19 positive employees.
- 10.2. **Motion No. 131-22** – Authorized an additional amount of \$150,000, to a total amount not to exceed \$900,000, to the agreement authorized under Board Resolution No. 35171-20 with WorkCare, Inc. for services to support the District's COVID-19 response by providing testing kits, health care professionals to perform on-site testing, physician oversight, and assistance with case management.

- 11.1.- **Motion No. 132-22** – Ratified the extension of the contract and payment of \$5,231.27 to Carahsoft Technology Corp., for DocuSign electronic signature services rendered between April 15, 2022 and June 28, 2022; and authorized an amendment to a direct award contract previously awarded under Purchase Order Nos. 256-43880-A and 256-45162-AY with Carahsoft Technology Corp., to increase the contract amount by \$68,957.53 for one year, beginning on or after June 28, 2022, with two options to renew for additional one-year periods, to a total cost, after the addition of taxes, including option years, not to exceed \$133,574.40 for supplying electronic signature services.
12. **Motion No. 133-22** – Approved the May 2022 Monthly Investment Transactions Report.
13. **Resolution No. 35299-22** – Adopting Revised Policy 4.13, Establishing Water And Wastewater Rates; And Revised Policy 9.05, Non-Potable Water.

DETERMINATION AND DISCUSSION

14. **Appoint Director of Human Resources.**

General Manager Clifford C. Chan announced Cindy R. Charan as the candidate for appointment to the position of Director of Human Resources and highlighted Ms. Charan's education and previous experience.

- Motion by Director Coleman, seconded by Director Young to approve the recommended actions for Item 14 carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35300-22 – Appointing Cindy R. Charan as Director of Human Resources (*Effective August 15, 2022*).

The Board welcomed Ms. Charan to the District. Ms. Charan was asked to assess current processes in the Human Resources Department and provide an update to the Board on plans to address issues identified in the assessment. Ms. Charan thanked the Board for the opportunity and provided additional information on her background and previous experience.

15. **Adopt the Fiscal Year 2022 Equal Employment Opportunity Program/Affirmative Action Program (EEOP/AAP) Report.**

Officer of Diversity and Inclusion Jennella M. Sambour-Wallace presented the update. As a federal contractor, the District is required by federal regulations to have an EEOP/AAP that complies with Executive Order 11246, the Vietnam Era Veterans Readjustment Assistance Act, and Section 503 of the Rehabilitation Act. Ms. Sambour-Wallace reviewed FY21 data on the gender and racial makeup of the District's workforce (excluding maintenance and field operations job groups); progress on placement goals established for eight of the 22 District job groups; placement rates for protected veterans and individuals with disabilities; and described how the District determines workforce availability (i.e., an estimate of the proportion of each gender and racial group available and qualified for employment at the District for a given job group in the relevant labor market during the life of the EEOP/AAP). Minority placement goals in FY22 remain the same for seven of the groups with placement goals in FY21. The female goal for technicians was eliminated due to an overall decrease in the total number of employees

in this group. There was discussion on how the District collects data from job applications to determine if candidates are veterans or individuals with disabilities; the difference between a veteran and a protected veteran; and continued disparity among the racial makeup of the District's workforce.

- Addressing the Board were the following: 1) Joe Pangelinan, Chief Steward, AFSCME Local 444, commented on training programs and encouraged recruitments for entry level positions in the trades; and 2) Sherricka Love, EBMUD employee requested additional information on the pilot programs referenced by Ms. Sambour-Wallace.

Ms. Love was referred to staff for follow up. The Board asked staff to continue addressing disparity among ethnic group placement goals; explore reinstituting maintenance trainee programs; and to review and consider revising the language on District job applications to clarify how information is collected for individuals with disabilities.

- Motion by Director McIntosh, seconded by Director Young to approve the recommended actions for Item 15 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. 136-22 – Adopted the Fiscal Year 2022 Equal Employment Opportunity Program/Affirmative Action Program Report.

16. **General Manager's Report.**

2022 Drought Update

Director of Customer and Community Services Andrew L. Lee introduced the update. Senior Civil Engineer Hasan M. Abdullah provided an overview of the District's water supply and the status of short-term water transfers. Staff is working to secure permits from the State Water Resources Control Board (SWRCB) and U. S. Bureau of Reclamation to implement the transfer of up to 20,000 acre-feet of water purchased from Placer County Water Agency. The transfer will occur between July and September 2022 and all water will be diverted from the Sacramento River and delivered to local reservoirs. Due to local hydrology, Yuba County Water Agency (YCWA) will not have any water to transfer to the District this year. Staff is working to extend the 2022 agreement between the District, Contra Costa Water District, and YCWA through 2025 and the option agreement for 6,000 acre-feet with Sycamore Mutual Water Company to 2023. Senior Civil Engineer Ana R. Ulloa provided an update on recent state and federal activities. On June 7, the SWRCB reimposed curtailment on all water rights holders with a priority junior to 1900 in the San Joaquin River watershed effective on June 8 and curtailed EBMUD's Pardee and Camanche water rights. On June 8, staff met with the SWRCB and requested the curtailment order be lifted immediately based on staff's review of the appropriateness of the order. On June 14, the SWRCB approved the District's request which helped save about 4,600 acre-feet of Mokelumne River water. On June 22, the SWRCB reimposed the curtailment order on the Mokelumne River; however, the curtailment order should not affect water supply since diversions to storage have ceased. Director of Customer and Community Services Andrew L. Lee reviewed plans to increase rebate allowances for several components of the Landscape Rebate Program beginning July 1 including rebates for lawn conversion, smart irrigation controllers and high efficiency rotating spray nozzles.

Later this summer, the District will also pilot a new landscape design assistance program. Customers can receive a \$200 rebate for a two-hour initial consultation with a qualified landscape designer to develop an initial plan. Other efforts include a pilot to expand the current Custom Rebate Program to include single-family residential customers; updated drought ads on billboards in the service area this month; continued outreach and work with homeowners' associations and their residents, renters and non-billpayers regarding conservation; and exploring options to acknowledge Super Savers. Public Information Representative II Nelsy C. Rodriguez provided an update on customer and media outreach. Mr. Lee summarized the presentation and the Board asked questions about the pilot landscape design assistance program; providing templates or tutorials to assist customers with landscape designs; benefits of expanding the Custom Rebate Program to single-family residential customers; and outreach to stakeholders not mentioned in the presentation. Staff was asked to consider collaborating with local colleges to include students in the pilot landscape design assistance program; explore renewal options for customers participating in the Custom Rebate Program; and to conduct outreach to chambers of commerce, rotary clubs, and social service organizations regarding the District's rebate programs.

REPORTS AND DIRECTOR COMMENTS

17. Committee Reports.

- Filed with the Board were the Minutes for the June 14, 2022 Planning and Legislative/Human Resources Committees.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day and received information on the May 2022 Monthly Investment Transactions Report; Annual Employees' Retirement System Update; and Revisions to District Policies. Due to time constraints, the update on Foreign Owned Business Policy was held over to a future committee meeting.
- Los Vaqueros Reservoir JPA representative John A. Coleman reported the JPA Board met on June 8 and discussed approving the Fiscal Year 2022-2023 budget; establishing a reserve policy; approving charters for the Finance Committee and Operations and Engineering Committee; program management approach; and the Board policy and action calendar.

18. Other Items for Future Consideration.

None.

19. Director Comments.

- Director Coleman reported attending the following: San Ramon City Council meeting in San Ramon on June 14; East Bay Leadership Council Water Task Force meeting on June 21 (remote); and the Los Vaqueros Reservoir JPA Finance Committee meeting on June 23 (remote). He reported on plans to attend the Los Vaqueros Reservoir JPA Board meeting on July 6 (remote); UMRWA Ad Hoc JPA Review meeting on July 6 (remote); Los Vaqueros Reservoir JPA Finance Committee meeting on July 13 (remote); UMRWA Board meeting on July 22; DERWA Board meeting on July 25; and Los Vaqueros Reservoir JPA Finance Committee meeting on July 28 (remote).

- Director Patterson reported attending the first annual Public Safety BBQ Cook-Off hosted by the NAACP Oakland Branch and City of Oakland Parks, Recreation, and Youth Development Department at Defremery Park in Oakland on June 19; a meeting with District staff and outside auditors on June 23; and announced a community event hosted by the Oakland Police and Fire Departments in Oakland on June 29.
- Director Young reported participating in the District's Community Water Academy session on June 22 and recognized Community Affairs Representative II Kathryn A. Horn for her work. Directors Young, Coleman and Mellon asked staff to evaluate conducting multiple academies annually and to consider increasing the number of participants.
- Directors Katz, McIntosh, Mellon, and President Linney had no reports.

ADJOURNMENT

President Linney announced today's meeting would be adjourned in honor of Jonas Magruder Minton, water advocate and former Deputy Director at the California Department of Water Resources. Mr. Minton passed away on June 22. President Linney and Director Young highlighted Mr. Minton's career, achievements, and countless contributions to the water community over the past 40 years as well as his impact on their lives.

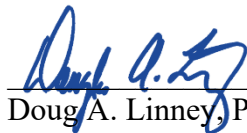
President Linney adjourned the meeting at 2:52 p.m. in honor of Jonas Magruder Minton.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: July 12, 2022



Doug A. Linney, President of the Board