

MINUTES

Tuesday, August 9, 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 11:07 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 (remote), Lesa R. McIntosh, Frank Mellon, Marguerite Young, and President Doug A. Linney (remote) were present at roll call. Director Andy Katz arrived at 11:17 a.m. and Director William B. Patterson was absent (excused).

Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Manager of Risk Management Vladimir Bessarabov (Item 2a); Assistant General Counsel Fred S. Etheridge (Item 2b – 1st matter); Director of Water and Natural Resources Michael T. Tognolini (Item 2b – 1st matter); Manager of Fisheries and Wildlife Michelle L. Workman (Item 2b – 1st matter); Assistant General Counsel Lourdes M. Matthew (Item 2b – 2nd matter); Acting Director of Human Resources Vincent L. James (Item 2b – 2nd matter); Human Resources Regulatory Administrator Winnie W. Anderson (Item 2b – 2nd matter); and Principal Management Analyst Valerie R. Weekly (Item 2b – 2nd matter).

PUBLIC COMMENT

- Addressing the Board were the following: 1) Jose Perez, Steward, AFSCME Local 2019 commented in support of the Local 2019 petition regarding full-time telecommuting; 2) Justin Young, 1st Vice President, AFSCME Local 2019 commented on the amendment to the agreement for the San Pablo Reservoir Hypolimnetic Oxygenation System Project scheduled for Board consideration on August 23; 3) David Wilhite commented on discussions with District staff regarding the sale of District property adjacent to his client's property on Sydney Way in Castro Valley; 4) Evan T. Klein-Corman, Recording Secretary, AFSCME Local 444 commented on staffing at the Main Wastewater Treatment Plant and the proposal to reallocate two Wastewater Operator positions; 5) Anna Pritt, Management Analyst II commented in support of the Local 2019 petition regarding full-time telecommuting; 6) Ivette Rivera commented on redacted records received in response to a Public Records Act request and records staff determined are exempt under the Public Records Act. She asked the Board to direct staff to reconsider the exemptions; 7) George Cleveland, Chief Steward, AFSCME Local 2019, commented on the agreement amendment referenced by Justin Young; requested a copy of the memo from staff regarding the redacted records referenced by Ivette Rivera; and spoke in support of the Local 2019 petition regarding full-time telecommuting; and 8) Eric Larsen, President, AFSCME Local 444 commented on the proposal to reallocate two Wastewater Operator positions and the need to increase staffing levels to complete the work and maintenance at the Main Wastewater Treatment Plant.
- Director McIntosh left the meeting at 11:24 a.m. and returned at 11:25 a.m.

The Board asked staff to provide information on the exempted records discussed by Ms. Rivera and to continue working with Mr. Wilhite regarding his request. Director Coleman reported speaking with Eric Larsen on August 8 regarding issues at the Main Wastewater Treatment Plant. Staff was asked to provide information on how much the District is spending on fines due to equipment or operator errors. Planning Committee Chair Marguerite Young reported Mr. Larsen spoke at the Planning Committee meeting earlier in the day and the Committee had already requested additional information regarding issues raised by Mr. Larsen. General Manager Clifford C. Chan summarized the request for information from the Planning Committee.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

General Manager Clifford C. Chan announced Item 1 on the closed session agenda would be deferred to a future meeting. 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. 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 Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney (remote) were present at roll call. Director John A. Coleman joined the meeting at 1:20 p.m. (remote).

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

Director William B. Patterson announced the 35th anniversary of EBMUD's Customer Assistance Program (CAP). He highlighted program achievements over the years noting it is one of the most generous in the state and supports EBMUD residential customers and homeless shelters by providing up to a 50 percent discount on water and 35 percent discount on wastewater charges. Today, the program is helping more than 9,000 customers. The success of the program is the direct result of EBMUD's forward-thinking policies on customer affordability and the hard work of many employees. Director Patterson introduced Congresswoman Barbara Lee who was in attendance to help the District celebrate the CAP anniversary. Congresswoman Lee congratulated the District for the support provided to its customers and on behalf of the 13th Congressional District, presented a Certificate of Special Congressional Recognition to EBMUD in recognition of the 35th anniversary of the CAP. On behalf of the Board, President Linney thanked Congresswoman Lee for the recognition and continued support for EBMUD.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following: 1) Kelly A. commented on biosolids processing and Excessive Water Use Penalty Ordinance warning letters to customers; 2) George Cleveland, Chief Steward, AFSCME Local 2019 commented on the Local 2019 petition regarding full-time telecommuting; and 3) Ivette Rivera commented on current Special Employment Program trainees not being allowed to operate District dump trucks or use District purchase cards. She also commented on redacted records received in response to a Public Records Act request and records staff determined are exempt under the Public Records Act; she asked the Board to direct staff to reconsider the exemptions.
- Director Coleman left the meeting at 1:26 p.m.

CONSENT CALENDAR

- Motion by Director Mellon, seconded by Director Young to approve the recommended actions for Items 1-9 on the Consent Calendar carried (6-0) by the following roll call vote: AYES (Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (Coleman).
1. **Motion No. 146-22** Approved the Regular Meeting minutes of July 12, 2022.
 2. The following correspondence was filed with the Board: 1) Presentation entitled, "Drought Update," dated August 9, 2022; 2) Presentation entitled, "Public Health Goals Report," dated August 9, 2022; 3) Speakers' Bureau and Outreach Record CY22, dated August 8, 2022; 4) Letter dated July 26, 2022 from David Wilhite to Board of Directors regarding coordinating efforts to sell two adjoining properties on Sydney Way in Castro Valley; and 5) Email dated August 8, 2022 from Leslie Richardson to Board of Directors and General Manager Clifford Chan regarding support petition for full-time telecommuting during high transmission rate of COVID-19.
 3. **Motion No. 147-22** – Awarded a contract to the lowest responsive/responsible bidder, Capital Flow Inc., for supplying fire service detector check valves to the District for three years, beginning on or after August 9, 2022 with two options to renew for additional one-year periods for a total cost, after the addition of taxes, including options years, not to exceed \$1,575,585 under Request for Quotation No. 2207A.
 4. **Motion No. 148-22** – Authorized an agreement beginning on or after August 9, 2022 with L & L Cleaning in an amount not to exceed \$100,000 for five years for janitorial services at the Fisheries and Wildlife leased office located in Lodi and the Mokelumne River Fish Hatchery office and public restrooms located in Clements.
 5. **Motion No. 149-22** – Authorized an agreement beginning on or after August 9, 2022 with Lystek International Limited for two years, with three options to renew for additional one-year periods for a total amount, including option years, not to exceed \$3,610,000 for biosolids processing services.

6. **Motion No. 150-22** – Authorized an agreement beginning on or after August 9, 2022 with Woodard & Curran, Inc. in an amount not to exceed \$439,757 for preparation of the Camanche Reservoir Temperature Control Device Feasibility Study.
- 7.1. **Motion No. 151-22** – Authorized agreements beginning on or after August 9, 2022 with DRS Marine, Inc.; Global Diving & Salvage, Inc.; JF Brennan Company, Inc.; Power Engineering Construction Company; Tidal Marine Construction Inc.; and Underwater Resources, Inc. for three years with two options to renew for additional one-year periods, in an aggregate amount, including option years, not to exceed of \$750,000 for diving and remotely operated vehicle inspection and repair services at District-owned facilities.
- 7.2. **Motion No. 152-22** – Authorized agreements beginning on or after August 9, 2022 with DRS Marine, Inc.; Global Diving & Salvage, Inc.; Power Engineering Construction Company; Tidal Marine Construction Inc.; and Underwater Resources, Inc. for three years with two options to renew for additional one-year periods, in an aggregate amount, including option years, not to exceed of \$1,750,000 for diver cleaning services of District owned reservoirs.
8. **Motion No. 153-22** – Authorized an amendment to the agreement previously authorized under Board Motion No. 079-13 with the City of Berkeley (Berkeley) to implement a bi-monthly 35 percent sewer service charge credit for Berkeley customers participating in the District’s Customer Assistance Program.
9. **Resolution No. 35306-22** – Amend Resolution No. 35297-22 Mid-Cycle Resolution For Fiscal Year 2023 Authorizing The Number And Character Of Positions And Authorizing The General Manager To Take Action In Connection Therewith To Revise Salary Range And Re-Title The Classification Of Manager Of Business Continuity.

PUBLIC HEARING

- 10a. **Conduct a public hearing to provide an opportunity for public comment on the Public Health Goals Report.**

President Linney opened the public hearing at 1:37 p.m. He announced the public hearing is to receive public comment on the Public Health Goals Report.

Manager of Water Quality Susan M. Teefy presented a summary of the report which covers calendar years 2019-2021. The District is required to prepare a report every three years detailing the concentration of any drinking water constituents measured in the water system at levels above the Public Health Goals (PHGs) established by the California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment or, in the absence of a PHG, the United States Environmental Protection Agency’s Maximum Contaminant Level Goal (MCLG). PHGs and MCLGs are non-enforceable goals that represent the highest concentration of a constituent that poses no significant health risk. For the current reporting period, bromate results exceeded their respective PHGs or MCLGs necessitating the presentation of the PHG report. She discussed how bromate is formed, rolling annual average bromate levels during the report period, and upcoming capital improvements that will include methods to reduce bromate levels. Ms. Teefy reported EBMUD’s water supply met all state and federal water quality standards.

President Linney called for public comment. There was no public comment. President Linney asked for a motion to close the public hearing and closed the public hearing at 1:46 p.m.

- Motion by Director Patterson, seconded by Director Young to close the public hearing carried (6-0) by the following roll call vote: AYES (Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (Coleman).

Motion No. 154-22 – Conducted a public hearing to provide an opportunity for public comment on the Public Health Goals Report.

10b. Accept the Public Health Goals Report.

- Motion by Director Young, seconded by Director Mellon to approve the recommended actions for Item 10b carried (6-0) by the following roll call vote: AYES (Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (Coleman).

Motion No. 155-22 – Accepted the Public Health Goals Report.

DETERMINATION AND DISCUSSION

- 11. Make requisite findings and adopt a resolution to continue to hold meetings of the Board of Directors (Board) via teleconference under Government Code section 54953(e) until the State of Emergency resulting from the COVID-19 pandemic no longer impacts the ability of Board members to meet safely in person.**

General Manager Clifford C. Chan reported on the number of COVID-19 positive cases in Alameda County as well as the number of District employee positive cases to date noting overall positive cases are declining. The Board is being asked to adopt the resolution to continue providing flexibility for conducting Board meetings.

- Motion by Director Patterson, seconded by Director Young to approve the recommended actions for Item 11 carried (6-0) by the following roll call vote: AYES (Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (Coleman).

Resolution No. 35307-22 – Authorizing The Utilization Of Teleconferencing For Meetings Of The East Bay Municipal Utility District Board Of Directors.

12. General Manager's Report.

Drought Update.

Director of Operations and Maintenance David A. Briggs reported on the current status of the District's water supply (Pardee and Camanche reservoirs are at 81% of average and 66% of capacity while East Bay reservoirs are at 94% of average and 81% of capacity) and said Water Year 2022 end of season storage (September 30) is projected to be 510,000 acre-feet. These projections include expected water purchases and are adjusted for gainshare obligations. Water Year 2021 end of season storage was 435,000 acre-feet. The Freeport facilities were activated on August 2 to begin delivery of up to 20,000 acre-feet of water purchased from the Placer County Water Agency (PCWA). Diversions will continue through October 2022. While Freeport is operating this fall, the District is also working to divert up to 3,200 acre-feet of Contra Costa Water District's Central Valley Project water pursuant to the settlement agreement with EBMUD. Manager of Water Supply Improvements Linda H. Hu reported on

the transfer agreement with PCWA and said staff is working to extend the 2022 three-way agreement with Yuba County Water Agency through 2025 and has extended the option agreement with Sycamore Mutual Water Company through 2023 with no additional payments required for up to 6,000 acre-feet of water. Senior Civil Engineer Ana R. Ulloa provided an update on state and federal activities including emergency curtailment and reporting regulations from the State Water Resources Control Board (SWRCB) for the Sacramento-San Joaquin Delta Watershed on July 20; an inspection of Pardee and Camanche reservoir operations by the SWRCB on July 27; and a meeting between the governor and water agencies on July 29 to discuss continued action to reduce urban water use and to make permanent changes to adapt to climate change. Manager of Water Conservation Alice E. Towey discussed the Excessive Water Use Penalty Ordinance which was activated on April 26, 2022. In May, approximately 13,000 courtesy notices were mailed to customers with a history of high use and per the ordinance, 1,325 excessive use warning letters were mailed through the end of July. Excessive use violation notices are expected to be generated and sent to customers by the end of August. She reported the District will launch the "I Love My Garden" photo challenge which will run for the next six weeks and highlighted updates to the District's drought ad campaign. Senior Public Information Representative Andrea A. Pook reported on plans for a Bay Area media event on August 30 around the state's "Save Our Water Campaign" and overall EBMUD media activities to date. Ms. Towey concluded with a summary of upcoming actions and events.

- Addressing the Board was Kelly A. who commented on communications to customers regarding the Excessive Water Use Penalty Ordinance.

There was Board discussion about the information presented and the comments from Kelly A. President Linney thanked staff for their work and staff was asked to compare customer responses to excessive use surcharge notices for the current drought to their responses during the prior drought.

Monthly Report – July 2022

General Manager Chan announced the July 2022 Monthly Report had been provided in the meeting materials. He also pointed out the Board had received a memo regarding the Forecast and Summary of 2022 Board Committee and Workshop Agenda Topics and that the latest Speakers' Bureau and Outreach Record CY22 was at Board places. Director Young asked if the District will sponsor this year's Oakland Pride event and the Piedmont Harvest Festival. Special Assistant to the General Manager Kelly A. Zito confirmed the District will sponsor these events and will include them in the next Speakers' Bureau and Outreach Record CY22 provided to the Board.

REPORTS AND DIRECTOR COMMENTS

13. Committee Reports.

- Filed with the Board were the Minutes for the July 12, 2022 Planning and Legislative/Human Resources Committees.
- Planning Committee Chair Marguerite Young reported the Committee met earlier in the day and received updates on the Dam Safety Program Annual Report and Recycled Water Opportunities with Central Contra Costa Sanitary District.

- Legislative/Human Resources Committee Chair Lesa R. McIntosh reported the Committee met earlier in the day and received an update on the Diversity, Equity, and Inclusion Strategic Plan.
- Director Patterson left the meeting at 2:19 p.m. and returned at 2:22 p.m.

14. **Other Items for Future Consideration.**

None.

15. **Director Comments.**

- Director Coleman reported attending the Los Vaqueros Reservoir JPA Board meeting on July 13 (remote) and the UMRWA Board meeting in Pardee on July 22. He reported on plans to attend the following: speaking at Lafayette Rotary Club meeting in Lafayette on August 25; Los Vaqueros Reservoir JPA Board meeting on September 14 (remote); East Bay Leadership Council Board meeting on September 16 (remote); and speaking at Alamo Rotary and Alamo Improvement Association meetings in Alamo on September 22.
- Directors Katz, McIntosh, Mellon, Patterson, Young, and President Linney had no reports.

ADJOURNMENT

President Linney announced today's meeting would be adjourned in honor of Boston Celtics great and NBA Hall of Famer William F. "Bill" Russell who passed away on July 31. Director Patterson recounted Mr. Russell's career, his impact on and off the court, as well as his contributions to the civil rights movement. Director Patterson asked that a letter be sent to the Russell family advising today's meeting was adjourned in honor of Mr. Russell.

President Linney adjourned the meeting at 2:33 p.m. in honor of William F. "Bill" Russell.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: August 23, 2022



Doug A. Linney, President of the Board