

MINUTES

**Tuesday, September 27, 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 11:18 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, 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 Felicity L. Grisham (Item 1a), Director of Finance Sophia D. Skoda (Item 2), Chief Information Officer Orlando W. Leon (Item 2), Information Systems Division Manager William L. Johnson (Item 2), and Internal Auditor Supervisor Barry N. Gardin (Item 2).

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

PUBLIC COMMENT

- Addressing the Board was Ivette Rivera who commented on a previous request for public records, the Renato Zafra vs. EBMUD et al. lawsuit, and Director Coleman's lawsuit.

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. 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, 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.

PRESENTATIONS

General Manager Clifford C. Chan announced the EBMUD Ozonators won the American Water Works Association's California-Nevada regional Top Ops competition in April and secured EBMUD's first national championship during the national Top Ops competition at the American Water Works Association's annual conference in June. Top Ops is like the NCAA basketball national championship tournament for the water industry. Mr. Chan introduced this year's team comprised of Senior Water Treatment Operators Kevin Reagle, Mako Shoemaker, and Paul Stelzman and Water Treatment Supervisor David L. Morris who helped the team prepare for the competition. Director Frank Mellon presented the team with the winning plaque and trophies and thanked them for their achievements and positive representation of the District.

Next, the Board recognized General Manager Clifford C. Chan for 25 years of service to the District. On behalf of the Board, President Linney presented General Manager Chan with his 25-year service award.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board was Ivette Rivera who asked for an update on her request for the General Counsel to reconsider a previous request for public documents; the Renato Zafra vs. EBMUD et al. lawsuit; and Director Coleman's lawsuit.

CONSENT CALENDAR

- Item 15 was pulled from the Consent Calendar for a separate discussion.
 - Motion by Director McIntosh, seconded by Director Patterson to approve the recommended actions for Items 1-14 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. 171-22** – Approved the Regular Meeting minutes of September 13, 2022.
 2. The following correspondence was filed with the Board: 1) Presentation entitled, "Fiscal Year 2023 Financing Plan," dated September 27, 2022; 2) Presentation entitled, "Recycled Water Opportunities with Central Contra Costa Sanitary District," dated September 27, 2022; 3) Presentation entitled, "Drought Update," dated September 27, 2022; 4) Memo dated September 27, 2022 to the Board of Directors from Kelly A. Zito, Special Assistant to the General Manager entitled, "List of Customers in Violation of Excessive Water Use Penalty Ordinance;" 5) Speakers' Bureau and Outreach Record CY22 dated September 27, 2022; 6) Revised copies of Policy 8.02 and Policy 9.06; and 7) Notice of Motion and Motion to Dismiss in the case of Renato Zafra vs. East Bay Municipal Utility District, Sharon Hu, and DOES 1-10.

3. **Motion No. 172-22** – Awarded a contract to the lowest responsive/responsible bidder, Sweco Products, Inc., for supplying one Sweco 480 Trail Dozer for Mokelumne Watershed and Recreation, beginning on or after September 27, 2022, for a total cost, after the addition of taxes, not to exceed \$171,038 under Request for Quotation No. 2215.
4. **Motion No. 173-22** – Awarded a contract to the lowest responsive/responsible bidder, Holt of California, for supplying a Liftking rough terrain forklift model LK8M42 for Aqueduct Bixler Yard, beginning on or after September 27, 2022 for a total cost, after the addition of taxes, not to exceed \$106,782 under Request for Quotation No. 2219.
5. **Motion No. 174-22** – Awarded a contract to the lowest responsive/responsible bidder, Garney Pacific, Inc., in an amount not to exceed \$5,099,811 for construction of the Pardee Recreation Area and Pardee Center Water Treatment Plant Improvements Project, under Specification 2165.
6. **Motion No. 175-22** – Awarded a contract to the lowest responsive/responsible bidder, Guaranteed Plumbing, in an amount not to exceed \$279,285, for the relocation of an existing water meter from a difficult-to-maintain location to the public right-of-way, and the associated installation of a private houseline for 2300 Caballo Ranchero in Diablo.
7. **Motion No. 176-22** – Authorized an agreement beginning on or after October 1, 2022 with Collection Bureau of America Ltd for three years, with two options to renew for additional one-year periods, for providing collection services for the District on unpaid terminated customer accounts for a contingency fee of 18 percent of the collected amount.
8. **Motion No. 177-22** – Authorized an agreement beginning on or after September 27, 2022 with Schneider Electric Systems USA, Inc. for two years, in an amount not to exceed \$1,574,520, for on-site technical consulting services in support of cybersecurity improvements and Microsoft Windows infrastructure support for Industrial Control Systems.
9. **Motion No. 178-22** – Authorized an agreement beginning on or after November 1, 2022 with Shell Energy North America (US), L.P. for \$300,000 for three years, with one option to renew for an additional seven-year period for a total amount, including option years, not to exceed \$1,000,000 for Scheduling Coordinator services for the District's hydropower and biogas generation facilities at Pardee Reservoir, Camanche Reservoir, and the Main Wastewater Treatment Plant.
10. **Motion No. 179-22** – Authorized an amendment to the contract previously awarded under Board Motion No. 034-18, with Matheson Tri-Gas, Inc. to increase the contract amount by \$285,000 to a total amount not to exceed \$825,000 and extend the contract term by one year to April 1, 2024 for supplying liquid oxygen for Sobrante and Upper San Leandro water treatment plants.
11. **Motion No. 180-22** – Authorized an amendment to the agreement previously authorized under Board Motion 073-20 with Sherwood Design Engineers to increase the agreement amount by \$1,330,323, to a total amount not to exceed \$3,020,129 for additional design services and engineering services during construction for the Recreation Area Water and Wastewater Collection System Improvements projects.

12. **Motion No. 181-22** – Approved the assignment of the agreement previously authorized under Board Motion No. 010-22, from Sage Method to Campos Sage, LLC for replacement of the District's current construction management information system.
13. **Motion No. 182-22** – Approved the August 2022 Monthly Investment Transactions Report.
14. **Resolution No. 35314-22** – Authorizing Renewal And A Second Extension Of An Exclusive Negotiating Agreement With K To College, Doing Business As SupplyBank.Org.
15. **Approve revisions to the following District policies: Policy 3.07 – Responsibility to Serve Water Customers during Water Shortage; Policy 4.04 – Financial Planning and Budgetary Control; Policy 4.12 – Purchasing and Materials Management; Policy 4.20 – Use of District Technology Resources; Policy 7.05 – Sustainability and Resilience; Policy 8.02 – Biosolids Management; and Policy 9.06 – Bay-Delta Protection.**

General Manager Clifford C. Chan announced that during review of the proposed revisions to the policies with the Finance/Administration Committee earlier in the day, the Committee requested additional clarification on Policy 4.20 and additional, minor text changes in Policy 8.02 and Policy 9.06. Copies of the updates to Policy 8.02 and Policy 9.06 were provided at Board places. He said Policy 4.20 is being pulled to incorporate feedback received from the Committee and will be presented for Board consideration at a future meeting.

- Motion by Director Coleman, seconded by Director Katz 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).

Resolution No. 35315-22 – Adopting Revised Policy 3.07, Responsibility To Serve Water Customers During Water Shortage; Revised Policy 4.04, Financial Planning And Budgetary Control; Revised Policy 4.12, Purchasing And Materials Management; Revised Policy 7.05, Sustainability And Resilience; Revised Policy 8.02, Biosolids Management; And Revised Policy 9.06, Bay-Delta Protection.

DETERMINATION AND DISCUSSION

- 16a- **Adopt the proposed Fiscal Year (FY) 2023 financing plan and amend the FY 2023 Water**
- 16b. **System and Wastewater System budgets to pay down a portion of each system's outstanding debt.**

Treasury Manager Robert L. Hannay presented an overview of FY 2022 financing activities and the proposed FY 2023 Financing Plan. Debt outstanding for the District's Water System is approximately \$2.7 billion and approximately \$360 million for the Wastewater System. In FY 2022, the District paid down \$17.8 million in Water System commercial paper and \$1.3 million in Wastewater System Extendable Commercial Paper (ECP); issued \$134 million in Water System new money Green Bonds generating (with premium) \$150 million in capital funding proceeds and \$18.1 million in new money Wastewater System Green Bonds generating (with premium) \$20.0 million in capital funding proceeds; and refunded \$81.8 million in outstanding Water System bonds for present value debt service savings of \$11.4 million and \$20 million in Wastewater System outstanding bonds for present value debt service savings of \$3.2 million. In addition, \$105.3 million in variable rate debt was refunded and de-risked and an associated interest rate swap was terminated. In FY 2023, while no new money bonds are anticipated for

the Water or Wastewater systems, the proposed plan would use budgeted funds to pay down \$10 million in Water System commercial paper. The District has the opportunity to call early the outstanding Water System Series 2012B bonds which include \$14.3 million in maturities through 2026 that are callable early on December 1, 2022 at par (face value). Calling the bonds early will save the District \$1.6 million in interest over four years. While the District has sufficient cash to call the bonds early, the Board will need to approve an amendment to the FY 2023 budget to provide the budgetary authority to call the bonds. The District has budgeted to pay down \$1 million in Wastewater System ECP in FY 2023. As the amount of ECP continues to decline, it is cost effective for the District to fully pay off the remaining outstanding ECP balance early. Mr. Hannay discussed the rationale for paying it off and said the Wastewater System has sufficient cash reserves for the pay off. However, like the Water System cash call, an amendment to the FY 2023 Wastewater System budget is required. Finance/Administration Committee Chair William B. Patterson announced the Committee met earlier in the day and voted to support the staff recommendations.

- Motion by Director McIntosh, seconded by Director Young to approve the recommended actions for Item 16a 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. 183-22 – Adopted the proposed financing plan for FY 2023.

- Motion by Director McIntosh, seconded by Director Patterson to approve the recommended actions for Item 16b 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. 35316-22 – Amend Resolution No. 35296-22 To Amend Fiscal Year 2023 Water And Wastewater Systems' Budget To Accelerate Certain Debt Repayment.

17. **Authorize the General Manager to execute a Memorandum of Understanding (MOU) with Central Contra Costa Sanitary District (Central San) to evaluate recycled water partnership opportunities.**

Senior Civil Engineer Florence T. Wedington provided the presentation. The District's 2019 Recycled Water Master Plan Update evaluated the District's existing recycled water program, identified, and assessed both non-potable and potable reuse opportunities, and recommended a portfolio of non-potable projects to achieve the goal. The District developed a MOU with Central San to evaluate recycled water partnership opportunities, including the potential for potable reuse. Ms. Wedington summarized the MOU which includes a non-binding agreement to work collaboratively on a feasibility evaluation of multiple recycled water project concepts and defines agency goals, roles, and responsibilities. She reviewed six potential project concepts – direct potable reuse; indirect potable reuse; refinery recycled water exchange; packaging satellite water recycling treatment facilities at customer sites; providing recycled water to portions of Lamorinda; and exploring the concept of including Central San as a Dublin San Ramon Service District-EBMUD Recycled Water Authority (DERWA) partner and expanding the DERWA-Central San diversion project. The Board is being asked to consider authorizing the General Manager to execute the MOU with Central San so that the agencies can begin preparing the work plan. If approved, staff will provide an update on the feasibility evaluation at the 2023 Long-Term Water Supply Workshop and use feasibility evaluation results to inform the District's 2024 Recycled Water Master Plan Update. The Board discussed the information presented; options for the District to store recycled water in Los Vaqueros Reservoir as a part of the Los Vaqueros Reservoir Expansion Project; and the

District's current goal to recycle 20 million gallons per day by 2040. Director Mellon reported this item was discussed at the September 26, 2022 DERWA meeting and Director Young reported it was discussed at the August 9, 2022 Planning Committee meeting. The Board requested information on potentially increasing the District's recycled water goal during the 2023 Long-Term Water Supply Workshop.

- Motion by Director Coleman, seconded by Director Young to approve the recommended actions for Item 17 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. 184-22 – Authorized the General Manager to execute a Memorandum of Understanding with Central Contra Costa Sanitary District to evaluate recycled water partnership opportunities.

18. Adopt a resolution to declare October 5, 2022 to be “Clean Air Day” at the District and encourage all employees to participate in California Clean Air Day.

President Linney announced that on October 5, individuals and organizations pledge to take one or more specific actions to support California Clean Air Day which is a non-profit, statewide program to help organizations and people take action to improve our community air quality. He highlighted the various actions the District has taken over the years to address air pollution and promote Clean Air Day. The Board is being asked to consider adopting a resolution in support of California Clean Air Day.

- Motion by Director Patterson, seconded by Director Katz to approve the recommended actions for Item 18 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. 35317-22 – Resolution Supporting Declaration Of California Clean Air Day.

19. General Manager's Report.

2022 Drought Update.

Director of Operations and Maintenance David A. Briggs reported total storage in Pardee and Camanche reservoirs is 85 percent of average and 64 percent of capacity, and total storage in the East Bay reservoirs is 104 percent of average and 82 percent of capacity. The projections for end of season storage (September 30, 2022) are 510 thousand acre-feet (TAF), including expected water purchases and adjusted for gainshare obligations. Manager of Water Conservation Alice E. Towey provided an overview of the District's administration of its Excessive Water Use Penalty Ordinance. She reviewed the customer notification process which included courtesy notices and warning letters as well as the appeals process and timeline for customers that receive a violation notice. Under the California Public Records Act, the District is required to release the names, addresses, and consumption information of customers subject to the excessive water use penalty. Three customers received violation notices on bills that were sent between August 30 and September 2. These customers did not submit an appeal within the 15-day appeal period and their information is included on the first excessive use list provided at Board places. Ms. Towey reported that as of today, six media outlets have submitted Public Records Act requests for this information. Future excessive use lists are scheduled to be available by the

second Board meeting each month until the ordinance is repealed. She reviewed next steps which are to continue diverting transfer water from Placer County Water Agency; planning for additional water transfers if 2023 is dry; drought messaging and advertising activities through October; and monitoring customers subject to the excessive water use penalty and providing services to assist with reducing water usage. The District also began its media outreach regarding excessive use actions today. There was considerable Board discussion regarding the warning letter sent to customers; messaging on the envelope containing the warning letter; the process for reaching out to customers who receive violation notices; outreach to customers with potential leaks; and the District's leak adjustment policy. The Board requested a sample of the courtesy notice, warning letter and warning letter envelope as well as information on the number of customers that have contacted the District after receiving a warning letter. The Board also asked staff to review and consider including information about checking for leaks in future warning letters to customers and to explore options for proactively reaching out to customers whose information is scheduled to be listed on future excessive use lists.

REPORTS AND DIRECTOR COMMENTS

20. Committee Reports.

- Filed with the Board were the Minutes for the September 13, 2022 Planning Committee.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day and received information on the August 2022 Monthly Investment Transactions Report; Fiscal Year 2023 Insurance Summary; Proposed Fiscal Year 2023 Financing Plan; and Revisions to District Policies.
- Los Vaqueros Reservoir JPA representative John A. Coleman reported the JPA met on September 14 and approved an independent contractor agreement for Executive Director with T. Ravazzini Consulting and an amendment to the legal services contract; discussed an update on a September 19-21 Washington, D.C. Trip and related meetings for Authority Board members and staff, the interim funding agreement, the Conflict of Interest Code, and the Board policy and action calendar.
- EBMUD/East Bay Regional Park District Representative Andy Katz reported the Committee met on September 19 and received updates on East Bay watershed trail use; East Bay watershed forest health; tree mortality and vegetation management; NatureCheck (Ecological Health Assessment); the Redwood Canyon Golf Course; and the Joint Powers Authority Policing Agreement.
- Dublin San Ramon Services District/EBMUD Water Authority (DERWA) representative Frank Mellon reported the Board met on September 26 and approved Minutes, Treasurer's Reports, and Quarterly Investment Reports; approved the contract with ICF Jones & Stokes, Inc. for Public Information Services; approved Proclamations for Service for himself, former Authority Manager John Rossi, and former Authority Secretary Sue Montague; received a presentation and provided direction on supplemental supply efforts; and received an update on DERWA operations and amendments to the Conflict of Interest Code.

21. Other Items for Future Consideration.

None.

22. Director Comments.

- Director Coleman reported attending the ACWA Federal Affairs Committee and Los Vaqueros Reservoir JPA Board meetings on September 14 (remote); Future of Water for Central Contra Costa meeting in Rossmoor on September 15; EBMUD booth at the Lafayette Art & Wine Festival on September 17 in Lafayette; meeting with Diablo Country Club in Diablo on September 20; and DERWA Board meeting on September 26. He reported on plans to speak at Alamo Rotary and Alamo Improvement Association meetings in Alamo on September 28; presenting at the Walnut Creek City Council meeting on October 11 in Walnut Creek; participating in the Los Vaqueros Reservoir JPA Board meeting on October 12 (remote); and the Freeport Regional Water Authority meeting on October 13 (remote). Director Coleman announced he will be unable to attend the Pardee BBQ and UMRWA Board meeting on October 7 and that he may need to participate remotely in the EBMUD Board meetings on October 11.
- Director McIntosh reported participating in the Water Education for Latino Leaders “Untapped Legislative Water” Workshop on September 24 in Richmond.
- Director Patterson commented on the September 2, 2022 San Francisco Chronicle article highlighting the McClymond’s High School event honoring NBA Hall of Famer Bill Russell.
- President Linney reported participating in the EBMUD sponsored Coastal Clean Up event at the Martin Luther King Jr. Shoreline Park on September 17 in Oakland and expressed appreciation for staff coordinating the event.
- Directors Katz, Mellon and Young had no reports.
- Director McIntosh left the meeting at 2:38 p.m.

ADJOURNMENT

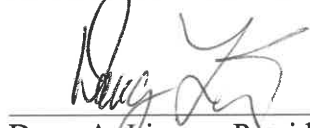
President Linney adjourned the meeting at 2:45 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: October 11, 2022



Doug A. Linney, President of the Board