

## MINUTES

**Tuesday, October 11, 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 11:42 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), 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, Assistant General Counsel Lourdes M. Matthew (Item 1a) and Director of Customer and Community Services Andrew L. Lee (Item 1a).

### PUBLIC COMMENT

- Addressing the Board were the following: 1) Ivette Rivera commented on the *Shaunte Scott v. East Bay Municipal Utility District* case and comments from EBMUD to reporter Melanie Woodrow regarding the case; and 2) George Cleveland commented today is the 35<sup>th</sup> anniversary of the National March on Washington for Lesbian and Gay Rights.

### 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 1:17 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 (remote), 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 that Engineering Manager, Elizabeth Z. Bialek received the San Francisco Section of the American Society of Civil Engineers' (ASCE) award for Outstanding Civil Engineer in the Public Sector at their annual meeting and awards dinner ceremony on September 28. The award is given to professional engineers employed by a public organization on the basis of outstanding engineering achievement in the public sector for professional activities, advancement of engineering leadership education, and ASCE involvement. ASCE's recognition noted that Ms. Bialek embodies ASCE's mission of advancing and amplifying the voice of the civil engineering profession. Director Katz presented Ms. Bialek with the award and on behalf of the Board, congratulated her for her work and achievement in receiving the award.

Next, Mr. Chan announced EBMUD won two awards at the 50th Anniversary of the California Association of Public Information Officers conference in late August. The first award was for the 2020 Epic Dollar Stretcher for the District's suite of virtual tours, including the Orinda Water Treatment Plant, EBMUD trails, the Main Wastewater Treatment Plant, and the upcountry fossil discovery. This award recognizes creative marketing strategies that were completed with a limited budget. The second award was the One-Time Special Event Award of Distinction for the online fossil discovery tour. This award recognizes an effort to promote an agency from a one-time event. EBMUD competed against public agencies throughout California who submitted more than 270 applications. Mr. Chan congratulated staff and Director McIntosh presented the awards and acknowledged the following team members: Special Assistant to the General Manager Kelly A. Zito; Senior Public Information Representative Andrea A. Pook; Public Information Representative II Nelsy C. Rodriguez; Manager of Watershed and Recreation Charles C. Beckman; Information Services Supervisor Nathalie Bogatirsky; Ranger/Naturalist II Gregory A. Francek; Senior Civil Engineer Michael J. Hartlaub; Wastewater Control Representative Zoe A. Lake; Maintenance Superintendent Theodore Q. Lam; Senior Software Engineer Dianne W. Mao; Public Information Representative III Tracie D. Morales; Graphic Designer II Camilo S. Rojas-Lavado; Manager of Water Quality Susan M. Teefy; Senior Administrative Clerk Cindy Vong; and the late Christopher G. Burquez, former Water Treatment Supervisor, who is no longer with us.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board were the following: 1) Joey D. Smith, President AFSCME Local 2019 commented October is Breast Cancer Awareness Month and read a resolution in support of Iranian women's human rights. Ms. Smith asked the Board to consider adopting a similar resolution; 2) Ivette Rivera commented on a booklet of information she provided to the Board of Directors, the *Shaunte Scott v. East Bay Municipal Utility District* case, and a Public Records Act request submitted for documents relating to the case; and 3) Kelly A. commented on District outreach and a San Francisco Chronicle article regarding EBMUD's Excessive Water Use Penalty Ordinance.

### CONSENT CALENDAR

- Motion by Director Mellon, seconded by Director McIntosh to approve the recommended actions for Items 1-6 on the Consent Calendar carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 185-22** – Approved the Regular Meeting minutes of September 27, 2022.
  2. The following correspondence was filed with the Board: 1) Presentation entitled, “Resolution Continuing Virtual Meetings of the Board,” dated October 11, 2022; 2) Speakers’ Bureau and CY 2023 Record dated October 10, 2022; 3) Document entitled, “Union AFSCME Local 2019 Resolution Regarding Iranian Women’s Human Rights;” and 4) Memo to Board of Directors from Ivette Rivera dated October 11, 2022 regarding Documents A (coversheet,) B & C: Presented to the EBMUD Board of Directors @ the 1:15 PM Public Meeting and booklet containing documents for B and C.
  3. **Motion No. 186-22** – Awarded a contract to the lowest responsive/responsible bidder, Guerra Bros. Plumbing Inc., in an amount not to exceed \$174,957 for installation of 50 pressure reducing valves to allow for water pressure rezoning on Kingsley Street, Excelsior Avenue, Emerson Street, 13th Avenue, Park Boulevard, and Park Boulevard Way in Oakland.
  4. **Motion No. 187-22** – Authorized an amendment to the agreement previously authorized under Board Motion No. 006-22 with Black & Veatch Corporation to increase the amount by \$40,730 to a total amount not to exceed \$153,268 for evaluating the business case of Advanced Metering Infrastructure.
  5. **Motion No. 188-22** – Authorized an amendment to the Power Purchase Agreement previously awarded under Board Motion No. 129-16 with the Port of Oakland to change the sale price from \$58 per megawatt-hour (MWh) to \$66/MWh and extend the agreement terms to June 30, 2025 for the sale of surplus renewable electricity generated at the Main Wastewater Treatment Plant.
  6. **Motion No. 189-22** – Authorized the Office of General Counsel to continue the employment of the law firm of Apex Employment Law, LLP, for specialized legal services related to public sector labor and employment law and litigation matters in an additional amount not to exceed \$200,000.

### DETERMINATION AND DISCUSSION

7. **Appoint Special Assistant IV (Manager of Legislative Affairs).**

General Manager Clifford C. Chan announced Kathy Viatella as the candidate for appointment to the position of Special Assistant IV in the Legislative Affairs Office and highlighted Ms. Viatella’s education and previous experience.

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

**Resolution No. 35318-22** – Appointing Kathy Viatella As Special Assistant IV (Manager Of Legislative Affairs) (*effective November 7, 2022*).

The Board welcomed Ms. Viatella to the District and Ms. Viatella thanked the Board for the opportunity.

8. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine reported the 2021-2022 state legislative session concluded on August 31, 2022 and the deadline for Governor Newsom to act on all bills that passed out of the legislature was September 30, 2022. She provided an overview of the final status of bills, by topic, on which EBMUD adopted a formal position during the 2021-2022 legislative session, as well as budget information and COVID-related actions. She concluded with an update on federal legislative activities and took the opportunity to thank the Board for their support during her years of service and said it was a privilege to work at the District. The Board members thanked Ms. Dumaine for her work, professionalism and willingness to work through challenging issues.

9. **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.**

Director of Operations and Maintenance David A. Briggs reviewed COVID-19 positive cases in Alameda and Contra Costa counties and the number of employee positive COVID-19 cases (974) as of October 7. He reviewed updates to the health code and regulations as well as state laws regarding workers' compensation presumption for COVID, paid COVID leave, and COVID exposure notification requirements. All District safety protocols remain in effect and at this time, indoor masking is still required. Staff continues monitoring and will update District safety protocols to reflect the latest CDPH recommendations, Cal/OSHA requirements, and local health orders and will continue contact tracing as required. Mr. Briggs reviewed Section 54953(e) of the Ralph M. Brown Act and said the Board is being asked to consider adopting the resolution to continue providing flexibility for conducting Board meetings.

- Motion by Director Mellon, seconded by Director McIntosh to approve the recommended actions for Item 8 carried (6-1) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, and Linney); NOES (Young); ABSTAIN (None); ABSENT (None).

**Resolution No. 35319-22** – Authorizing Continued Utilization Of Teleconferencing For Meetings Of The East Bay Municipal Utility District Board Of Directors.

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

General Manager's Monthly Report

General Manager Clifford C. Chan announced he was available to respond to questions regarding the September 2022 Monthly Report.

**REPORTS AND DIRECTOR COMMENTS**

11. **Committee Reports.**

- Filed with the Board were the Minutes for the September 27, Finance/Administration Committee.

- 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.
- Upper Mokelumne River Water Authority (UMRWA) representative William B. Patterson reported the Board met on October 7 and discussed filing the Third Quarter FY 2022 Treasurer's Report; possible action on the Director of the Governor's Wildfire and Forest Resilience Task Force presentation; and approving proposed Joint Powers Agreement amendments.

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

None.

- Director Mellon left the meeting at 2:22 p.m.

**13. Director Comments.**

- Director Coleman reported attending the DERWA Board meeting on September 26 and speaking at Alamo Rotary and Alamo Improvement Association meetings in Alamo on September 28. He reported plans to present at the Walnut Creek City Council meeting on October 11; attend Rossmoor town hall (remote) on October 14; attend East Bay Leadership Council Board meeting (remote) on October 21; and attend Los Vaquero Reservoir JPA Finance Committee meeting (remote) on October 28. Director Coleman announced he would be unable to attend the October 18, 2022 District Projects Tour.
- Director McIntosh reported attending EBMUD's Pardee BBQ at McLean Hall on October 7 and commended the staff that planned the event.
- Director Patterson reported attending the State of Black Education Oakland's Black Excellence Awards event and receiving the Wise Elder Award in Oakland on October 6; UMRWA Board meeting and EBMUD's Pardee BBQ at McLean Hall on October 7; and an NAACP meeting on October 8.
- Director Young reported attending a community meeting organized by an EBMUD Community Water Academy attendee and plans to attend a tour of EBMUD's Siesta Valley watershed with staff and Assembly Member Rebecca Bauer-Kahan on October 12.
- President Linney reported attending an EBMUD meeting with the public regarding the Oakland Inner Harbor Pipeline Crossings project (remote) on October 5 and EBMUD's Pardee BBQ on October 7. He thanked staff for coordinating the public meetings.
- Directors Katz and Mellon had no reports.

**ADJOURNMENT**

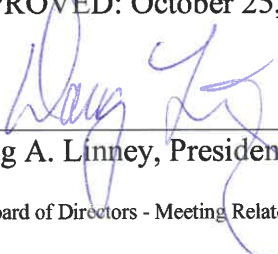
President Linney adjourned the meeting at 2:28 p.m.

SUBMITTED BY:



\_\_\_\_\_  
Rischa S. Cole, Secretary of the District

APPROVED: October 25, 2022



\_\_\_\_\_  
Doug A. Linney, President of the Board