

MINUTES

Tuesday, October 25, 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 11:01 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, 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 was Ivette Rivera who commented on the *Shaunte Scott v. East Bay Municipal Utility District* case and records the District produced in response to a Public Records Act request submitted to the District.

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.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following: 1) Ivette Rivera commented on records the District produced in response to various Public Records Act requests; and 2) Kelly A. commented on the items listed under various sections of the Regular meeting agenda.

CONSENT CALENDAR

- Motion by Director Coleman, seconded by Director Mellon to approve the recommended actions for Items 1-12 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. 190-22** – Approved the Special and Regular Meeting minutes of October 11, 2022 and the Special Meeting minutes of October 18, 2022.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Drought Update,” dated October 25, 2022; **2)** Presentation entitled, “Service Award Recipients July 2022 - September 2022,” dated October 25, 2022; **3)** Speakers’ Bureau and CY 2023 Record dated October 25, 2022; **4)** Memo dated October 25, 2022 to Board of Directors from Kelly A. Zito, Special Assistant to the General Manager regarding List of Customers in Violation of Excessive Water Use Penalty Ordinance; and **5)** Email dated October 22, 2022 to EBMUD Board of Directors from Maya McBride regarding frequency of customer billing can help leak detection.
 3. **Motion No. 191-22** – Awarded a contract to the lowest responsive/responsible bidder, William E. Munson Company, for supplying one Munson 21-foot PackCat survey-utility boat and one EZ Loader trailer for the District’s Lodi Office, beginning on or after October 25, 2022, for a total cost, after the addition of taxes, not to exceed \$166,030 under Request for Quotation No. 2220.
 4. **Motion No. 192-22** – Awarded a contract to the lowest responsive/responsible bidder Diamond Fiberglass, for supplying three fiberglass reinforced plastic tanks for the Oakport Wet Weather Facility, beginning on or after October 25, 2022 for a total cost, after the addition of taxes, not to exceed \$552,305 under Request for Quotation No. 2301.
 5. **Motion No. 193-22** – Awarded a contract to the lowest responsive/responsible bidder, Trace3, LLC, for supplying three Dell PowerEdge servers including a hardware warranty and mission-critical technical support services for the Administration Building for five years, beginning on or after October 25, 2022 for a total cost, after the addition of taxes, not to exceed \$186,385.

6. **Motion No. 194-22** – Authorized an agreement beginning on or after October 25, 2022 with Logik Systems, Inc. in an amount not to exceed \$126,000 for three years for supplying Logikcull Discovery Solutions software for processing and review of litigation discovery documents and in-app technical support for the Office of General Counsel.
7. **Motion No. 195-22** – Authorized an agreement beginning on or after October 25, 2022 with Nautilus Data Technologies, Inc. for \$406,000 for five years, with two options to renew for additional one-year periods for a total amount, including option years, not to exceed \$581,000 for data center colocation services.
8. **Motion No. 196-22** – Authorized an agreement beginning on or after October 25, 2022, with Woodard & Curran, Inc. in an amount not to exceed \$246,710 for the preparation of a Wastewater Electrical Resiliency Master Plan.
- 9a-9b. **Motion No. 197-22** – Authorized agreements beginning on or after October 25, 2022 with Arrowhead Concrete Construction, Bruce Enterprises, Gary Golobe dba Cornerstone Paving, Pacific General Engineering, and Sonnikson and Stordahl Construction for one year in an aggregate amount not to exceed \$1,300,000 for concrete repair services; and authorized additional agreements for concrete repair services, on an as-needed basis and subject to the total aggregate amount authorized by the Board for such services on October 25, 2022, with service providers that meet District standards and offer pricing at or below the range in the proposed agreements with the service providers above to increase flexibility and ensure service provider availability. The Board of Directors will be notified of additional qualified service providers by means of the General Manager's monthly report.
- 10a- **Motion No. 198-22** – Authorized amendments to the agreements previously authorized under Board
- 10b. **Motion No. 183-21**, with service providers listed below to increase the aggregate amount of those agreements by \$980,000 to a total aggregate amount not to exceed \$1,480,000 and extend the agreement terms to October 26, 2023 for hydro/air-vacuum excavation services: AIMS/PVIC CA, LLC dba AIMS Companies; Bradley Tanks, Inc.; Pipe and Plant Solutions, Inc.; Badger Daylighting Corp.; Hydro-X Services, Inc.; and Presidio Systems, Inc.; and authorized additional agreements for hydro/air-vacuum excavation services, on an as needed basis and subject to the total aggregate amended amount authorized by the Board for such services on October 25, 2022, with service providers that meet District standards and offer pricing at or below the range in the proposed agreements with the service providers above to increase flexibility and ensure service provider availability. The Board of Directors will be notified of additional qualified service providers by means of the General Manager's monthly report.
11. **Motion No. 199-22** – Approved the assignment of the agreement previously authorized under Board Motion No. 182-21 from CPM Associates, Inc. to Consor PMCM, Inc. for as-needed construction management and inspection services.
12. **Motion No. 200-22** – Approved the September 2022 Monthly Investment Transactions Report.

DETERMINATION AND DISCUSSION

13. Appoint the Director of Wastewater.

General Manager Clifford C. Chan announced Amit Mutsuddy as the candidate for appointment to the position of Director of Wastewater and highlighted Mr. Mutsuddy's education and experience.

- Motion by Director McIntosh, seconded by Director Patterson to approve the recommended actions for Item 13 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. 35320-22 – Appointing Amit Mutsuddy As Director of Wastewater (*effective December 5, 2022*).

- Addressing the Board was Kelly A. who commented on electrical failures at the District's Main Wastewater Treatment Plant and a facility in Antioch. Kelly A. confirmed these comments were in reference to Agenda Item 8.

The Board welcomed Mr. Matsuddy who thanked the Board and General Manager Clifford C. Chan. Mr. Matsuddy recounted his previous experience in the wastewater industry which includes working on nutrient management and changing regulations.

14. General Manager Report.

2022 Drought Update: Discussion of District operations; Excessive Water Use Penalty Ordinance, including excessive user list; conservation activities; and media and advertising

Director of Operations and Maintenance David A. Briggs reported total storage in Pardee and Camanche reservoirs is 89 percent of average and 63 percent of capacity, and total storage in the East Bay reservoirs is 111 percent of average and 84 percent of capacity. The end of season storage on September 30, 2022 was 520 thousand acre-feet (TAF), including 20 TAF of purchased water from Placer County Water Agency. A gainshare obligation of 12 TAF is being released in October 2022 to benefit fisheries on the Mokelumne River. 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 before violation 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. Over 300 customers received violation notices on bills sent between September 3 and September 30. These customers did not submit an appeal within the 15-day appeal period and their information is included on the excessive use list provided at Board places. In response to Board comments during the September 27 meeting, staff has increased outreach to customers who received violations and will also begin sending additional, written violation notifications.

- Addressing the Board was Kelly A. who commented on State law requirements for excessive use penalties.

Ms. Towey 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 will also announce the winners of the “I Heart My Garden” photo challenge and staff will provide additional detail on the challenge at the November 8, 2022 Board meeting. There was considerable Board discussion regarding the steps taken to reach out to customers; the number of customers on the current excessive use list that received warning letters; data on the payment history for customers that received a violation notice; and the number of entries received for the “I Heart My Garden” photo challenge (40). The Board requested information on the number of customers who received a warning letter but did not violate the Excessive Water Use Penalty Ordinance; a list of customers who violated the Excessive Water Use Penalty Ordinance sorted by water use; aggregated information on the number of customers who violated the Excessive Water Use Penalty Ordinance that are current on their bills; and information on multi-family residences that are on the current excessive use list.

Employees With Milestone Service Years

Special Assistant to the General Manager Derry L. Moten announced the District will begin acknowledging employees that have achieved employment milestones by highlighting their names and years of service in a quarterly presentation to the Board. Between July 1, 2022 and September 30, 2022, sixty-seven employees achieved employment milestones from 5 years to over 40 years. Mr. Moten noted that during this period, two employees celebrated 40 years of service and two celebrated 35 years of service. The Board viewed the presentation and applauded the employees for their years of service.

REPORTS AND DIRECTOR COMMENTS

15. Committee Reports.

- Filed with the Board were the Minutes for the October 11, 2022 Legislative/Human Resources Committee.
- President Linney reported the Board held a special meeting on October 18 and participated in tours of the Point Isabel Wet Weather Facility in Richmond; the San Pablo Water Treatment Plant in Kensington; and the UC Berkeley Center for Smart Infrastructure in Richmond.
- Sustainability/Energy Committee chair Marguerite Young reported the Committee met earlier in the day and received updates on the Resource Recovery Program; Renewable Energy; and Calendar Year 2021 Greenhouse Gas Inventory.
- Finance/Administration Committee chair William B. Patterson reported the Committee met earlier in the day and received updates on the Fiscal Year 2022 Key Performance Indicators Report; Fiscal Year 2022 Annual Power Sales Report; Monthly Investment Transactions Report for September; and Quarterly Financial Reports (Quarterly Investment Report – September 30, 2022 and Quarterly Payroll, Disbursement and Real Estate Summary Reports for the Water and Wastewater Systems for Quarter Ended September 30, 2022).

16. **Other Items for Future Consideration.**

None.

17. **Director Comments.**

Director Coleman reported presenting at the Walnut Creek City Council meeting in Walnut Creek on October 11 and attending the Rossmoor Town Hall planning meeting (remote) on October 14 and the East Bay Leadership Council Board meeting (remote) on October 21. He reported on plans to attend the Rossmoor Town Hall meeting in Lafayette on October 26; the ACWA Critical Peak Pricing meeting (remote) on October 31; and the Los Vaqueros Reservoir JPA meeting (remote) on November 9. Director Coleman acknowledged Community Affairs Representative Kathryn Horn and Manager of Water Supply Linda Hu for their assistance with preparing for the Rossmoor Town Hall meeting.

- Director Young reported attending a tour of EBMUD's Siesta Valley watershed with staff and Assembly Member Rebecca Bauer-Kahan on October 12.
- Directors Katz, McIntosh, Mellon, Patterson, and President Linney had no reports.

ADJOURNMENT

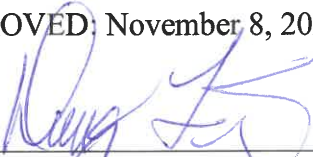
President Linney adjourned the meeting at 2:08 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: November 8, 2022



Doug A. Linney, President of the Board