

## **MINUTES**

**Tuesday, February 28, 2023**

**East Bay Municipal Utility District  
Board of Directors  
375 Eleventh Street  
Oakland, California**

### **Regular Closed Session Meeting**

President Katz called to order the Regular Closed Session Meeting of the Board of Directors at 11:08 a.m. in the Administration Center Boardroom.

### **ROLL CALL**

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and President Andy Katz were present at roll call. Director April B. Chan was absent (excused).

Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Attorney Felicity Grisham (Item 1a), Assistant General Counsel Lourdes Matthew (Items 1b, 1c, and 2), Director of Human Resources Cindy R. Charan (Items 1b, 1c, and 2), Manager of Employee Relations Adam Smyer (Items 1b and 1c), and Special Assistant to the General Manager Derry L. Moten (Item 2).

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

### **PUBLIC COMMENT**

- Addressing the Board were the following: 1) Eric Larsen, President, AFSCME Local 444 commented on COVID-19 leave; 2) Frank Mellon commented on Board salary increase approved at January 24, 2023 meeting and upcoming District Centennial activities; 3) Ivette Rivera commented on closed session agenda Items 1a, 1b, and 1c.; 4) Joey D. Smith, President, AFSCME Local 2019 commented on Black History Month and local's upcoming 50 year anniversary; and 5) George Cleveland, President, Raining Pride Committee commented on June 6, 2023 kickoff event.

### **ANNOUNCEMENT OF CLOSED SESSION AGENDA**

At 11:25 a.m. President Katz announced the closed session agenda. The Board convened to the Administration Building Training Resource Center for discussion.

### **Regular Business Meeting**

President Andy Katz called to order the Regular Business Meeting of the Board of Directors at 1:45 p.m. in the Administration Center Boardroom.

### **ROLL CALL**

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and President Andy Katz were present at roll call. Director April Chan absent (excused).

Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Assistant to the General Manager Janetta M. Johnson, Executive Assistant II Robyn Johnson, Treasury Manager Robert L. Hannay, Director of Operations & Maintenance David A. Briggs.

### **BOARD OF DIRECTORS**

President Katz led the Pledge of Allegiance.

President Katz on behalf of the Board acknowledged Black History Month and thanked staff for the planning, implementation, education, and participation in the events around the theme "Black Resistance."

### **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

### **PUBLIC COMMENT**

- Addressing the Board were the following: 1) Ivette Riviera commented on Pierce/Bland case; and 2) Joey D. Smith, President, AFSCME Local 2019 commented on activist C. L. Dellums and AFSCME's 50 year anniversary at EBMUD.

### **CONSENT CALENDAR**

- Item 8 was removed from the Consent Calendar for separate discussion.
- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 1-7, 9-10 on the Consent Calendar, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (Chan).

1. **Motion No. 036-23** – Approved the Regular Meeting Minutes of February 14, 2023.
2. The following correspondence was filed with the Board: **1)** Approved Assignments for Board Committees, Joint Powers Authorities, and Associations dated February 28, 2023; **2)** List of Customers in Violation of Excessive Water Use Penalty Ordinance dated February 28, 2023; **3)** Pierce Bland Case Order on Motion for Summary Judgement dated February 24, 2023; **4)** Presentation entitled, “Water Supply Update,” dated February 28, 2023; **5)** Revised Agenda Item 6 entitled, “Maintenance and Management of Metering, Communications Equipment and Data for the Hydropower and Biogas Generating Facilities,” dated February 28, 2023; and **6)** Speakers’ Bureau and Outreach Record CY2023 dated February 28, 2023.
3. **Motion No. 037-23** – Awarded a contract to the lowest responsive/responsible bidder, Garney Pacific, Inc., in an amount not to exceed \$276,500 for the construction of the Main Wastewater Treatment Plant Laboratory Media Room Improvements Project under Specification SD-441.
4. **Motion No. 038-23** – Authorized an agreement beginning on or after March 1, 2023 with Fishery Foundation of California in an amount not to exceed \$280,000 over five years for the net pen acclimation and release of fall Chinook salmon smolts from the Mokelumne River Fish Hatchery.
5. **Motion No. 039-23** – Authorized an agreement beginning on or after February 28, 2023 with Sandis Civil Engineers Surveyors Planners in an amount not to exceed \$159,428 for traffic engineering and design services for four large diameter pipeline replacement projects.
6. **Motion No. 040-23** – Authorized an agreement beginning on or after February 28, 2023 with Trimark Associates, Inc. for \$145,000 for five years, with an option to renew for an additional five-year period for a total amount, including option years, not to exceed \$300,000 for meter data management services and Qualified Reporting Entity services for the revenue meters located at the District’s hydropower plants and biogas generation facilities and maintenance of the Remote Intelligent Gateway at the Pardee hydropower plant.
7. **Motion No. 041-23** – Approved the Water Supply Assessment requested by the City of Walnut Creek for the Toyota Walnut Creek Mixed-Use Special District Project pursuant to California Water Code, Sections 10910-10915.
8. **Motion No. 043-23** – Authorized the Office of General Counsel to continue the employment of the law firm of Meyers Nave for specialized legal services related to labor and employment matters in an additional amount not to exceed \$100,000.
  - President Katz pulled Item 8 to receive public comment.
  - Addressing the Board was Ivette Rivera who commented on missing dollar amount on agenda for Item 8.
  - Director Coleman commented on application of the three-minute time limit for public commenters. There was Board discussion.

- Motion by Director Linney, seconded by Director Young, to approve the recommended action for Item 8, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (Chan).
9. **Motion No. 042-23** – Approved the January 2023 Monthly Investment Transactions Report.
10. **Resolution No. 35337-23** – Amend Resolution No. 35296-22 To Amend Fiscal Year 2023 Wastewater System Operating Budget For Payment of Settlement Agreement.

#### **DETERMINATION AND DISCUSSION**

11. **Adopt a resolution to recognize Lunar New Year.**

General Manager Clifford C. Chan announced the importance of the Lunar New Year to the Asian community. He noted 20 percent of District employees are Asian Americans.

- Motion by Director Linney, seconded by Director Young, to recognize the cultural and historical significance of the Lunar New Year, carried (6-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (Chan).

**Resolution No. 35338-23** – Recognizing the Cultural and Historical Significance of the Lunar New Year.

12. **General Manager's Report.**

#### **Water Supply Update.**

Director of Operations and Maintenance David A. Briggs provided a water supply update for the District and the State. He also discussed early water supply projections (forecasted through October 1, 2023). He reported current total system storage as of February 23, 2023 is 619 thousand acre-feet. Pardee and Camanche reservoirs' storage is 92 percent and 69 percent, respectively. The East Bay reservoirs' storage is 95 percent of capacity. He responded to questions related to the number of feet of snow and state water contractors' allocation.

- Director McIntosh left the meeting at 2:05 p.m. and returned at 2:06 p.m.

## **REPORTS AND DIRECTOR COMMENTS**

### **13. Committee Reports.**

- Filed with the Board were the Minutes for the September 19, 2022 EBRPD/EBMUD Liaison Committee.
- Filed with the Board were the Minutes for the February 14, 2023 Planning Committee.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day and received an update on the monthly investment transactions report; Fiscal Year 2023 semi-annual budget performance; and the Fiscal Year 2023 semi-annual internal audit plan.
- President Katz reported the Board met earlier and received information on the challenges the District's long-term water supply is facing, and new and updated information on efforts to make the District's water supply portfolio resilient and reliable. He noted the workshop would be continued to a future date to consider the remaining topics of conservation and voluntary agreements.

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

None.

### **15. Directors Comments.**

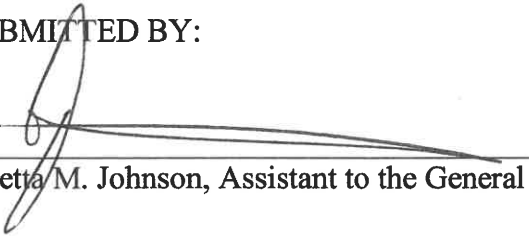
- Director Coleman reported participating in a meeting with constituent Tom Cotton in Lafayette on February 23; lunch with Director Chan in San Ramon on March 1; Dougherty San Ramon Rotary meeting in San Ramon on March 1; San Ramon Real Estate Marketing in Danville on March 2; Diablo Country Club in Danville on March 6; Assembly Member Rebecca Bauer-Kahn and Senator Glazer in Sacramento on March 7; San Ramon Exchange Valley Club in Danville on March 8; Lafayette Rotary Club in Lafayette on March 9; and Lafayette Chamber of Commerce in Lafayette on March 13.
- President Katz reported he made a trip to Vollmer Peak in the Berkeley hills for a photo op with snow in our region.

**ADJOURNMENT**

Director McIntosh asked for the today's meeting be adjourned in honor of Robert "Bob" Van Bibber who passed away on February 22, 2023.


President Katz adjourned the meeting at 2:16 p.m.

SUBMITTED BY:



Janetta M. Johnson, Assistant to the General Manager

APPROVED: March 14, 2023

  
Andy Katz, President of the Board