

MINUTES

**Tuesday, June 27, 2023
East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California**

Regular Closed Session Meeting

President Andy Katz called to order the Regular Closed Session Meeting of the Board of Directors at 11:02 a.m. in the Administration Building Boardroom.

ROLL CALL

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

Staff participants included General Manager Clifford C. Chan and General Counsel Derek T. McDonald.

PUBLIC COMMENT

- Addressing the Board were the following: 1) Lonna Coleman commented on the Retirement Ordinance; the Board of Directors' ethics policy; retaliation by the Board; Brown Act violations; and a request to initiate an investigation into the topics in her comments; 2) George Cleveland, Chief Steward, AFSCME Local 2019 commented on discussions regarding compensation for New Business Office staff; and 3) Ivette Rivera commented on public comments she made at the Sustainability and Finance/Administration Committee meetings today regarding the Pierce/Bland trial and on documents she provided to the Board. She played an excerpt of comments made by Director Linney at a previous Board meeting.
- Director Coleman left the meeting at 11:03 a.m. and returned at 11:08 a.m.

General Manager Clifford C. Chan was asked to provide an update on the topic discussed by George Cleveland.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Katz announced the closed session agenda and the Board convened to the Administration Building Conference Room 8 for discussion.

Regular Business Meeting

President Andy Katz called to order the Regular Business Meeting of the Board of Directors at 1:18 p.m. in the Administration Building Boardroom.

ROLL CALL

Directors April Chan, John A. Coleman, Doug A. Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young and President Andy Katz 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 Katz 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) George Cleveland, President, Raining Pride Affinity Group commented on Pride month activities at the District; and 2) Ivette Rivera commented on the Pierce/Bland trial and played an excerpt of comments she and Director Linney made at a previous Board meeting.

CONSENT CALENDAR

- Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended actions for Items 1-11 on the Consent Calendar carried (7-0) by the following voice vote: (Chan, Coleman, Linney, McIntosh, Patterson, Young, and Katz); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No 105-23** – Approved the Regular Meeting Minutes of June 13, 2023 and the Special Closed Session Meeting Minutes of June 18, 2023.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Close Out of Emergency Declarations for Interceptor Repairs,” dated June 27, 2023; **2)** Presentation entitled, “Update on Coronavirus Disease 2019 (Covid-19),” dated June 27, 2023; **3)** Speakers’ Bureau and Outreach Record CY23 dated June 27, 2023; **4)** Excerpt page from Case 3-21-cv-04325-AGT; **5)** Document entitled, “Exhibit 108 – Case 3-21-cv-04325-AGT”; **6)** Amador Ledger Proof of Publication of Notice of the Time and Place of a Public Hearing on the Report and Recommendation of the General Manager of the East Bay Municipal Utility District on Proposed Revisions to the Water and Wastewater System Schedules of Rates and Charges, Capacity Charges, Other Fees, and Regulations for Fiscal Years 2024 & 2025 (Legal No. W983 published May 19 and May 26, 2023); **7)** Contra Costa Times Proof of Publication of Notice of the Time and Place of a Public Hearing on the Report and Recommendation of the General Manager of the East Bay Municipal Utility District on Proposed Revisions to the Water and Wastewater System Schedules of Rates and Charges, Capacity Charges, Other Fees, and Regulations for Fiscal Years 2024 & 2025 (Legal No. 0006753376 published May 19 and May 26, 2023); **8)** Lodi News - Sentinel Proof of Publication of Notice of the Time and Place of a Public Hearing on the Report and Recommendation of the General

Manager of the East Bay Municipal Utility District on Proposed Revisions to the Water and Wastewater System Schedules of Rates and Charges, Capacity Charges, Other Fees, and Regulations for Fiscal Years 2024 & 2025 (published May 19 and May 26, 2023); 9) Oakland Tribune Proof of Publication of Notice of the Time and Place of a Public Hearing on the Report and Recommendation of the General Manager of the East Bay Municipal Utility District on Proposed Revisions to the Water and Wastewater System Schedules of Rates and Charges, Capacity Charges, Other Fees, and Regulations for Fiscal Years 2024 & 2025 (Legal No. 0006753376 published May 19 and May 26, 2023); and 10) West County Times Proof of Publication of Notice of the Time and Place of a Public Hearing on the Report and Recommendation of the General Manager of the East Bay Municipal Utility District on Proposed Revisions to the Water and Wastewater System Schedules of Rates and Charges, Capacity Charges, Other Fees, and Regulations for Fiscal Years 2024 & 2025 (Legal No. 0006753376 published May 19 and May 26, 2023).

3. **Motion No. 106-23** – Awarded a contract beginning on or after June 27, 2023 to the lowest responsive/responsible bidder, Augusta Fiberglass Coatings, Inc., for two fiberglass-reinforced plastic tanks for the Walnut Creek Water Treatment Plant for a total cost, after the addition of taxes, not to exceed \$147,465.65 under Request for Quotation No. 2210.
4. **Motion No. 107-23** – Awarded a sole source contract beginning on or after June 27, 2023 to MuniQuip LLC for supplying four grit dewatering classifier systems and associated services for the Main Wastewater Treatment Plant for a total cost, after the addition of taxes, not to exceed \$2,350,000.
5. **Motion No. 108-23** – Authorized an agreement beginning on or after June 27, 2023, with Engineered Soil Repairs, Inc. in an amount not to exceed \$350,000 for replacing an eight-inch water main along a hillside in rights-of-way 3050 and 3051 between Tappan Terrace and Ichabod Lane in the City of Orinda.
6. **Motion No. 109-23** – Authorized the purchase of miscellaneous parts, fasteners, electrical terminals, tools, and supplies for various District sites, effective on or after June 27, 2023, from Fastenal Company, MSC Industrial Supply Co., and W.W. Grainger Inc. for one year with four options to renew for additional one-year periods in an aggregate amount, after the addition of taxes, including option years, not to exceed \$3,200,000.
- 7a. **Motion No. 110-23** – Authorized an agreement beginning on or after June 27, 2023 with Surf to Snow Environmental Resource Management, Inc. for local watershed landscape planning, planting, and tree establishment services in an amount not to exceed \$455,933 for two years. The total amount for the two agreements under Items 7a and 7b shall not exceed \$815,748.
- 7b. **Motion No. 111-23** – Authorized an agreement beginning on or after June 27, 2023 with Surf to Snow Environmental Resource Management, Inc. for local watershed tree monitoring and maintenance services in an amount not to exceed \$359,815 for six years. The total amount for the two agreements under Items 7a and 7b shall not exceed \$815,748.
8. **Motion No. 112-23** – Authorized an amendment to the agreement previously authorized under Board Motion No.136-19 with Sierra-Cedar, LLC to increase the agreement amount by \$190,000 to a total amount not to exceed \$4,322,475 and extend the agreement term to June 30, 2025 for

system enhancement services for the Oracle Enterprise Resource Planning system which replaced the District's previous financial, procurement, inventory and budgeting software systems.

9. **Motion No. 113-23** – Approved the May 2023 Monthly Investment Transactions Report.
10. **Resolution No. 35355-23** – Adopting Revised Policy 4.09, Memberships; Revised Policy 7.03, Emergency Preparedness/Business Continuity; Revised Policy 9.03, Water Supply Availability And Deficiency; Revised Policy 9.04, Watershed Management And Use; And Revised Policy 9.07, Dam Safety Program.
11. **Resolution No. 35356-23** – Appointing Crystal Zermeño As Standby Officer For The Board Of Directors As Standby Officer Number 2 For Ward No. 3 Under The Emergency Succession Plan For The Board Of Directors.

Director Young thanked Crystal Zermeño for being willing to serve as a Standby Officer for Ward No. 3. Crystal joined the meeting via Zoom and thanked the Board and Director Young for the opportunity to serve. There were comments regarding the current number of Standby Officers and their intended purpose. Secretary of the District Rischa S. Cole confirmed the current number of Standby Officers and noted there is one vacancy in Ward No. 3; one vacancy in Ward No. 6; and two vacancies in Ward No. 7. Under the Board of Directors' Emergency Succession Plan, each ward has three Standby Officers – two that reside within the ward boundaries and one that resides outside the ward boundaries. Director Chan acknowledged she is working to identify candidates for the vacant positions in Ward No. 7.

DETERMINATION AND DISCUSSION

- 12.1.- **Declare an end to two District emergencies: District emergency initiated on March 30, 2022,**
- 12.2. **and ratified on April 12, 2022, under Board Resolution No. 35284-22, for repair of portions of the South and Alameda Interceptors; and District emergency initiated on December 12, 2022, and ratified on December 13, 2022, under Board Resolution No. 35330-22, for repair of a portion of the North Interceptor.**

Senior Civil Engineer Brian P. Dunston provided the presentation. On March 28, 2022, the District was notified of a sinkhole at the corner of Kennedy and Dennison Streets in Oakland. An inspection indicated a portion of the South Interceptor at this location had failed. Subsequently, three additional sections of the South Interceptor and one section of the Alameda Interceptor were identified as needing emergency repairs. On March 30, the General Manager, in consultation with the Board President, declared a District Emergency, in accordance with District Policy 7.03 - Emergency Preparedness/Business Continuity, to make emergency repairs. The emergency declaration was ratified on April 12. A contractor was retained, and repairs were completed in May 2023. On December 12, 2022, the District discovered a severely corroded segment of the North Interceptor at Second Street in Berkeley. On December 13, the General Manager, in consultation with the Board President, declared a District Emergency, in accordance with Policy 7.03, to make emergency repairs. The emergency declaration was ratified on December 13. A contractor was retained, and repairs were also completed in May 2023. Mr. Dunstan reviewed images of the interceptors, the damages, and the repair efforts at the various locations. The total cost of repairs for the South and Alameda Interceptors is estimated to be \$15.5 million and the total cost of repairs for the North Interceptor is estimated to be \$1.8 million. Next steps include updating the

District's Interceptor Master Plan and initiating capital projects that involve rehabilitating sections of the interceptors. In conclusion, Mr. Dunstan acknowledged the many stakeholders that worked together to address the emergency repairs. Mr. Dunstan responded to questions from the Board on whether all interceptors have been assessed to determine which are in need of repair over the next five years; the methods used to repair the interceptors including sliplining; and the information on the map on slide 17. The Board requested a map that includes a legend outlining planned and prioritized interceptor repairs.

- Motion by Director Young, seconded by Director Patterson, to approve the recommended actions for Items 12.1-12.2 carried (7-0) by the following voice vote: (Chan, Coleman, Linney, McIntosh, Patterson, Young, and Katz); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35357-23 - Resolution Terminating The Existence Of Two East Bay Municipal Utility District Emergencies.

13. General Manager's Report.

COVID-19 Update

Direction of Operations and Maintenance David A. Briggs provided the update. State and federal emergency declarations regarding COVID-19 were rescinded in early 2023 and most COVID-19 related regulations and laws have expired or have also been rescinded. State-required paid COVID leave expired on January 1, 2023. He reviewed California laws and regulations that remain in effect including AB 1751 which states employers remain liable for work-based infections through January 1, 2024; Cal/OSHA regulations that require contact tracing through February 3, 2025 for employees with a positive test; and masking requirements during a Cal/OSHA defined outbreak. He discussed community COVID data, employee impacts from COVID and recent changes to District protocols. The District still has an active COVID hotline with reduced hours and protocols have been updated to define when an employee should use the hotline, manage illness similar to before the pandemic, and use accrued leave if isolation may be required. Mr. Briggs noted no additional changes to District safety protocols are anticipated until Cal/OSHA regulations or state laws are modified. Staff was asked to explore providing onsite COVID vaccinations during onsite flu shot clinics.

General Manager Clifford C. Chan announced copies of the Speakers' Bureau and Outreach Record CY23 had been provided at Board places.

REPORTS AND DIRECTOR COMMENTS

14. Committee Reports.

- Filed with the Board were the Minutes for the June 13, 2023 Planning Committee and the Legislative/Human Resources Committee meetings.
- Sustainability Committee Chair Marguerite Young reported the Committee met earlier in the day and received updates on Renewable Energy Projects and the District's Energy Policy.

- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day and received updates on the May 2023 Monthly Investment Transactions Report and Revisions to District Policies.

15. Other Items for Future Consideration.

None.

16. Director Comments.

- Director Chan reported she will be traveling on a delegation with the United States Department of State during the July 11, 2023 Board meetings and asked that topics pertaining to, or projects located within Ward No. 7 not be included on the agendas for the July 11 meetings.
- Director Coleman reported participating in a meeting with Lafayette Mayor Anduri and Lafayette Councilmember Kwok regarding the Lafayette Reservoir tower design (remote) on June 15; Special EBMUD Closed Session meeting in Oakland on June 18; East Bay Leadership Council Reception for Sue Noak in Walnut Creek on June 20; the USACE Change of Command ceremony in Tiburon on June 23; and a meeting with Sunset Gate regarding a Lafayette issue in Orinda on June 26. He reported on plans to participate in the following: a presentation to the San Ramon City Council in San Ramon on June 27; Aspen Woods Apartment Wet Tap meeting in La Quinta on June 29; Lafayette Reservoir community meeting in Lafayette on July 26; and the UMRWA Board meeting in Pardee on July 28.
- Director Young reported participating in the staff-led San Pablo Dam Water Walk event in El Sobrante on June 24 and asked staff to explore ways to encourage new attendees to participate in future Water Walk events.
- Directors Linney, McIntosh, Patterson, and President Katz had no reports.
- Director McIntosh left the meeting at 2:07 p.m. and returned at 2:08 p.m.

ADJOURNMENT

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

SUBMITTED BY:



Risha S. Cole, Secretary of the District

APPROVED: July 11, 2023



Andy Katz, President of the Board

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