

## **MINUTES**

**Tuesday, March 23, 2021**

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

### **Regular Closed Session Meeting**

President Doug A. Linney called to order the Regular Closed Session Meeting of the Board of Directors at 11:20 a.m. He announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders, a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

### **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. All Directors participated remotely.

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer\*, Attorney Derek T. McDonald (Item 1a), Workers Compensation Manager and Risk Specialist Penny Terry (Item 1a), Attorney Rachel R. Jones (Item 2), Attorney Anna P. Gunderson (Item 2), Director of Engineering and Construction Olujimi O. Yolo (Item 2), Director of Water and Natural Resources Michael T. Tognolini (Item 2), Manager of Water Conservation Alice E. Towey (Item 2), Engineering Manager David J. Rehnstrom (Item 2), Assistant General Counsel Lourdes Matthew (Item 3), Manager of Human Resources Laura A. Acosta (Items 3 and 4), Manager of Employee Relations Niger M. Edwards (Item 3), Industrial Employers Distributors Association representatives Gregory Ramirez and Jeff Bailey (Item 3), and Manager of Recruitment and Classification Richard G. Jung (Item 5).

*\*General Counsel Spencer did not participate in discussions for Items 4 and 5.*

### **PUBLIC COMMENT**

- Addressing the Board was Ivette Rivera, EBMUD Gardener Foreman who commented on a recent settlement agreement with the District and the Stand Together Against Non-Disclosure (STAND) Act signed by former California Governor Jerry Brown.

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

President Linney announced the closed session agenda and the Board convened for discussion (remotely).

### **Regular Business Meeting**

At 1:05 p.m. General Manager Clifford C. Chan informed Secretary Cole that due to an extended Closed Session Meeting, the Regular Business Meeting would start at 1:30 p.m. President Linney called to order the Regular Business Meeting of the Board of Directors at 1:31 p.m. He announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders, a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

### **ROLL CALL**

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Doug A. Linney were present at roll call. Director Marguerite Young joined the meeting at 1:36 p.m. All Directors participated remotely. Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, 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) Suzanne Fox commented on dying Monterey Pine trees at San Pablo Reservoir; 2) Ivette Rivera, EBMUD Gardener Foreman commented on a recent settlement agreement with the District and the Stand Together Against Non-Disclosure (STAND) Act signed by former California Governor Jerry Brown. Ms. Rivera commented she would be submitting a Public Records Act Request to the District for all employment settlement agreements that were entered into by EBMUD between January 2019 to March 15, 2021; 3) Kristen Font, EBMUD employee commented on an incident pertaining to her intermittent work schedule and flexible options for working mothers at the District; 4) Mat Fogarty commented on the District's hiking permit system, the system's potential to exclude poor people from hiking, and the enforcement and cost of citations for hiking without a permit; 5) LaTanya Hawkins, Program Director for the Construction Resource Center commented her organization sent a letter of appreciation to the Board for the District's continued support and invited the Board to their virtual Project Management Certificate Ceremony at 8:00 p.m. where EBMUD Contract Equity Administrator Beverly Johnson would be a guest speaker; and 6) Charles Porges commented on hiking permits and dying Monterey Pine trees at San Pablo Reservoir.

The Board asked for information on intermittent positions at the District and on the East Bay trail permit process. At the request of President Linney, General Manager Clifford C. Chan responded to the comments regarding the dying Monterey Pine trees at San Pablo Reservoir and said staff would be providing an update on this item at an upcoming Planning Committee meeting and at a meeting with the community on April 14.

### **CONSENT CALENDAR**

- Motion by Director McIntosh, seconded by Director Coleman, to approve the recommended actions for Items 1-9 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. 051-21** – Approved the Regular Meeting Minutes of March 9, 2021.
2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Water Supply Update,” dated March 23, 2021; **2)** Presentation entitled, “Coronavirus Update,” dated March 23, 2021; **3)** Speakers’ Bureau and Outreach Record CY21, dated March 19, 2021; **4)** Letter dated March 17, 2021 to the EBMUD Board of Directors from LaTanya L. Hawkins, Program Director for the Construction Resource Center; and **5)** Email dated March 22, 2021 to Director Marguerite Young from Charles Porges regarding wildfire risk reduction.
3. **Motion No. 052-21** – Awarded a contract to the lowest responsive/responsible bidder, Ferguson Enterprises LLC dba Ferguson Waterworks, for supplying fusion bonded epoxy pipe, beginning on or after March 23, 2021 for a total cost, after the addition of taxes, not to exceed \$1,148,985 under Request for Quotation No. 2104.
- 4.1. **Motion No. 053-21** – Awarded a contract to the lowest responsive/responsible bidder, Integra Construction Services, Inc., in an amount not to exceed \$2,380,000 for construction of the Main Wastewater Treatment Plant Dechlorination Facility Improvements Phase 2B project under Specification SD-290A.
- 4.2. **Motion No. 054-21** – Awarded a contract to the lowest responsive/responsible bidder, NMI Industrial Holdings, Inc., in an amount not to exceed \$1,241,494 for construction of the Main Wastewater Treatment Plant Secondary Clarifier Mechanical Repairs Phase 2 project under Specification SD-430.
- 5.1. **Motion No. 055-21** – Authorized an agreement beginning on or after March 23, 2021, with Panorama Environmental, Inc., in an amount not to exceed \$1,921,527 for preparation of an Environmental Impact Report for the Sobrante Water Treatment Plant Reliability Improvements Project pursuant to the California Environmental Quality Act.
- 5.2. **Motion No. 056-21** – Authorized an agreement beginning on or after March 23, 2021 with Woodard & Curran, Inc., in an amount not to exceed \$2,408,091 for preparation of an Environmental Impact Report for the Walnut Creek Water Treatment Plant Pretreatment Project pursuant to the California Environmental Quality Act.

6. **Motion No. 057-21** – Authorized an amendment to the agreement previously authorized under the General Manager’s authority with Enterprise Holdings, Inc. to increase the agreement amount by \$150,000 to a total amount not to exceed \$230,000 and extend the agreement term to August 31, 2021 for long-term vehicle rental.
7. **Motion No. 058-21** – Corrected an administrative error under Board Motion No. 065-19 to authorize a one-year option to extend the agreement term with Scott Johnston, Inc., for providing software engineering and development services for the District’s Laboratory Information Management System.
8. **Motion No. 059-21** – Approved the February 2021 Monthly Investment Transactions Report.
9. **Resolution No. 35217-21** – Authorizing and Approving East Bay Municipal Utility District's Application to Modify the Contractor's Service Area Described in Its Central Valley Project Contract with the United States Bureau of Reclamation to Include the Magee Ranch and Meineke Trust Annexations Approved by the Contra Costa County Local Agency Formation Commission.

## **DETERMINATION AND DISCUSSION**

### **10. General Manager’s Report.**

#### Water Supply Update

Director of Operations and Maintenance David A. Briggs presented an update on the District’s and the state’s water supplies. All information provided was as of March 16. He reviewed gross water production; East Bay and Mokelumne precipitation; snow depth at Caples Lake; and state water supply projections. The District’s total system storage was 551,560 acre-feet or 91% of average and 72% of capacity. Mr. Briggs reported that today, the U.S. Bureau of Reclamation announced that due to worsening hydrology, it may not have water available for agricultural users; however, allocations for municipal and industrial contractors, including the District remain unchanged at 55 percent of current contractual value. He also reported the California State Water Project reduced its allocations from 10 percent to 5 percent. He reviewed data comparing this year’s upcountry precipitation to previous dry years since 1961 and discussed projected hydrology for upcountry through June and the District’s projected total system and carryover storage for 2021.

Director of Water and Natural Resources Michael T. Tognolini provided a brief overview of lessons learned from the 2014-2016 drought. The District’s Central Valley Project (CVP) allocations were not reliable, especially in the second year of the drought and water transfer costs increased significantly due to limited supplies. Based on this experience, staff recommends that the District consider taking more CVP supplies earlier in future droughts. Mr. Tognolini reviewed 2021 water supply considerations and the potential for the District to purchase 10 thousand acre-feet (TAF) of transfer water from Placer County Water Agency if needed. Because the District’s monthly Freeport capacity is 8.5 TAF, if the District decides to take its 73 TAF of CVP allocation earlier than scheduled, the water will need to be diverted through Freeport between June 2021 and February 2022. He discussed the District’s water supply plan if dry conditions continue and said staff will provide another water supply update and more detailed water supply alternatives and costs at the April 13 Board meeting. At the April 27 Board meeting, staff will present the Water

Supply Availability and Deficiency Report, and if dry conditions continue, ask the Board to consider the possibility of demand reductions and supplemental supply actions. In response to a question from the Board, Mr. Tognolini said the current 10 percent voluntary rationing level is based on 2013 demand levels. This is an item the Board will also be asked to consider at the April 27 Board meeting. He also responded to questions regarding a potential correlation between conditions in Australia and conditions in the Mokelumne because of jet streams; discussions with the CVP, Yuba County and others on potential water transfers; agreements with other local reservoir owners for assistance during a drought; and potential funding from Contra Costa Water District for CVP supplies or water transfers. Mr. Briggs and General Manager Chan responded to questions regarding the projections in the graph on presentation slide 10; the hydrology in the District's watershed; and whether the Freeport surcharge will be implemented if the District decides to use the facility. Director Katz commented if the Board has to consider using Freeport in the next few months, he would like more information on snow depth and concentration prior to making a decision.

#### Coronavirus Update

Director of Operations and Maintenance David A. Briggs reported District counties remain in the Red Tier on the state's positivity matrix and that if health metrics continue to improve, Alameda County may reach the Orange Tier by next week. No significant impacts on District operations and no significant changes to safety protocols are expected because of tier status. He highlighted the number of positive COVID-19 cases at the District to date and the latest data on state vaccinations. Utility and disaster service workers were added to the state's Phase 1B vaccination schedule on March 11 and the District provided this information to employees on March 12. The District is continuing to provide educational information to employees and encouraging them to get vaccinated. The Safe Return to Workplace Plan is still being updated and management continues to communicate to employees that all safety protocols need to remain in place. He said staff vaccination levels will affect future District safety protocols. The Safe Return to Workplace Plan focuses on building occupancy levels, providing public access and transitioning to a long-term work from home plan after June 18. The plan for the Board is also being developed. He provided follow up information as requested during the March 9 Board meeting regarding face covering compliance at District recreation sites. Mr. Briggs responded to questions on the number of staff currently in quarantine and General Chan advised the Board would be updated on the Safe Return to Workplace Plan for staff and Board members at the April 27 Board meeting.

- Director Marguerite Young left the meeting at 2:27 p.m.

General Manager Clifford C. Chan reported staff discovered fossilized trees and other fossilized remains at Camanche Reservoir in July 2020. Staff engaged paleontologists, including a paleontologist from Chico State who assessed the fossils and found they dated back to the Neogene period about five to 10 million years ago. Staff will provide an update on the site and the findings at the April 27 Board meeting and the District will issue a press release on the findings. Mr. Chan also announced that in light of the recent acts of violence against Asian Americans across the country, staff will be presenting a resolution to the Board for consideration at its April 13 meeting condemning violence and anti-Asian hate and in support of the Asian American Pacific Islander community. Management will work with members of the District's Asian Pacific Employees Association, Black Employee Network, union leaders and other staff to draft the resolution. Director Patterson voiced support for the proposed resolution and said during the

Finance/Administration Committee meeting held earlier in the day, a moment of silence was observed for those who lost their lives in the shootings that occurred in Atlanta, Georgia on March 16 and Boulder, Colorado on March 22.

## **REPORTS AND DIRECTOR COMMENTS**

### **11. Committee Reports.**

- Filed with the Board were Minutes for the March 9, 2021 Planning Committee and Legislative/Human Resources Committee meetings.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day (remotely) and received updates on February 2021 Monthly Investment Transactions Report and Electronic Bill Presentment and Payment and Payment Processing.

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

None.

### **13. Director Comments.**

- Director Coleman reported attending the ACWA Washington D.C. Federal Affairs Program #1 (remotely) on March 17 and the ACWA Washington D.C. Leadership Program #2 (remotely) on March 19. He reported on plans to attend the ACWA Washington D.C. Leadership Program #3 (remotely) on March 31 and interviews for the EBMUD General Counsel recruitment (remotely) on April 10.
- Directors Katz, McIntosh, Mellon, Patterson, and Young and President Linney had no report.

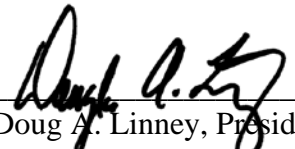
## **ADJOURNMENT**

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

SUBMITTED BY:

  
Rischa S. Cole, Secretary of the District

APPROVED: April 13, 2021

  
Doug A. Linney, President of the Board