

## MINUTES

**Tuesday, October 8, 2024  
East Bay Municipal Utility District  
Board of Directors  
375 Eleventh Street  
Oakland, California**

### Regular Closed Session Meeting

President Lesa R. McIntosh called to order the Regular Closed Session Meeting of the Board of Directors at 11:00 a.m. in the Administration Building Boardroom.

### ROLL CALL

Directors April Chan, Doug A. Linney, William B. Patterson, Marguerite Young and President Lesa R. McIntosh were present at roll call. Director Andy Katz arrived in Conference Room 8 at 11:14 a.m. Director Luz Gómez was absent (excused).

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

### PUBLIC COMMENT

- Addressing the Board was Ivette Rivera who commented on documents she provided to the Board, the District's employee experience survey, the Pierce/Bland case, the temperature of employee satisfaction at the District, and the employment contracts for the General Manager and General Counsel.

### ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

### Regular Business Meeting

President Lesa R. McIntosh called to order the Regular Business Meeting of the Board of Directors at 1:15 p.m. in the Administration Building Boardroom.

### ROLL CALL

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

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 McIntosh led the Pledge of Allegiance.

## **PRESENTATION**

General Manager Clifford C. Chan announced the District received the U.S. Environmental Protection Agency's (EPA) 2024 WaterSense Partner of the Year award. This award recognizes leaders and partners who have gone above and beyond in supporting EPA's WaterSense mission of protecting human health and the environment. The EPA recognized the District for its unwavering commitment to helping consumers and businesses conserve water through a variety of impactful initiatives including Fix a Leak Week. The District distributed toilet leak detection tablets and informational fliers at local hardware stores, shared information on social media, and created a multilingual video library on YouTube with water-saving tips in English, Spanish, and Chinese. Sustainability Committee Chair Doug A. Linney offered congratulations and presented the award to the following staff representing the Water Conservation Division: Charles Bohlig, Manager of Water Conservation; Geneva Gondak, Water Conservation Supervisor; and Jolene Bertetto, Water Conservation Representative.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board was Ivette Rivera who commented on documents she provided to the Board, documents she provided at the Planning Committee meeting, and staff applying for awards for the District.

General Manager Clifford C. Chan commented he does not direct staff to apply for awards for the District.

## **CONSENT CALENDAR**

- Item 7 was pulled from the Consent Calendar for separate discussion.
  - Motion by Director Katz, seconded by Director Linney, to approve the recommended actions for Items 1-6 and 8-9 on the Consent Calendar carried (6-0) by the following voice vote: (Chan, Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Gómez).
1. **Motion No. 185-24** – Approved the Special and Regular Meeting Minutes of September 24, 2024.
  2. The following correspondence was filed with the Board: 1) Speakers' Bureau and Outreach Record CY24, dated October 8, 2024; 2) Email dated October 5, 2024 from Ivette Rivera to [SecOffice@ebmud.com](mailto:SecOffice@ebmud.com) et. al regarding the Complex Litigation Appellate Group on the EBMUD Board meeting agenda for October 8, 2024; 3) Email dated October 8, 2024 from Eric Larsen to Risha Cole regarding Board Comments on Regular Board meeting agenda items 5 & 6 (with written comments attached); 4) Document (untitled, undated) containing questions from EBMUD's employee experience survey; 5) Document titled Mobbing – Emotional Abuse in the American Workplace (undated); 6) Notice of Insufficiency dated May 29, 2015 from Michael J. Pattenau to Ivette Rivera regarding Claim Number 2015-L-129; and 7) Document titled Saji Pierce, et al., Plaintiffs, v. East Bay Municipal Utility District, et al., Case No. 21-cv-04325-AGT United States District Court Northern District of California Subject to Stipulated Protective Order-

Confidential (undated).

3. **Motion No. 186-24** – Awarded a contract beginning on or after October 8, 2024, to Cenveo Worldwide Limited for supplying billing envelopes to the District for one year, with four options to renew for additional one-year periods for a total cost, after the addition of taxes, including option years, not to exceed \$425,986 under Request for Quotation No. 2502.
4. **Motion No. 187-24** – Awarded a contract beginning on or after October 8, 2024 to the lowest responsive/responsible bidder, WestAir Gases & Equipment, Inc., for supplying liquid oxygen (LOX) at the District’s Main Wastewater Treatment Plant (MWWTP) for two years and one preliminary inspection, with one option to renew the contract for supplying LOX at the MWWTP and to supply additional LOX for top-offs or emergency outages for an additional one-year period, for a total cost, after the addition of taxes, not to exceed \$726,644 under Request for Quotation No. 2501.
- 5a- **Motion No. 188-24** – Authorized agreements beginning on or after October 8, 2024 with  
5b. Arrowhead Concrete Construction; Bruce Enterprises; Gary Golobe dba Cornerstone Paving; Pacific General Engineering; Solid Ground Masonry & Concrete Inc.; and Sonnikson and Stordahl Construction for one year in an aggregate amount not to exceed \$2,060,000 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 8, 2024, 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.
  - Director Katz referenced the letter from Eric Larsen, President of AFSCME Local 444, regarding the agreements. He requested that the General Manager review the letter and meet with Mr. Larsen about the union’s concerns before the Board’s first Budget Workshop in 2025. In consultation with the Board President, he also suggested considering bringing the concerns to the Legislative/Human Resources Committee for discussion.
- 6a- **Motion No. 189-24** – Authorized agreements beginning on or after October 8, 2024 with Bradley  
6b. Tanks, Inc.; Diede Construction, Inc. dba Hydro X Services; and Presidio Systems, Inc. for one year in an aggregate amount not to exceed \$1,150,000 for hydro/air-vacuum excavation services; and authorized additional agreements for hydro/air-vacuum excavation services, on an as needed basis and subject to the total aggregate amount authorized by the Board for such services on October 8, 2024, 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.
  - Director Katz referenced the letter from Eric Larsen, President of AFSCME Local 444, regarding the agreements. He requested that the General Manager review the letter and meet with Mr. Larsen about the union’s concerns before the Board’s first Budget Workshop in 2025. In consultation with the Board President, he also suggested

considering bringing the concerns to the Legislative/Human Resources Committee for discussion.

7. **Authorize the Office of General Counsel to continue the employment of the law firm of Complex Appellate Litigation Group LLP, for services of special counsel related to providing representation in the appeal in the *Pierce, et al. v. East Bay Municipal Utility District, et al., matter.***
  - Addressing the Board was Ivette Rivera who commented on an email she sent to the Board requesting the amount EBMUD has been invoiced by this company and on the make-up of the company’s employees.
  - Motion by Director Young, seconded by Director Patterson to approve the recommended actions for Item 7 carried (6-0) by the following voice vote: (Chan, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Gómez).

**Motion No. 190-24** – Authorized the Office of General Counsel to continue the employment of the law firm of Complex Appellate Litigation Group LLP, for services of special counsel related to providing representation in the appeal in the *Pierce, et al. v. East Bay Municipal Utility District, et al., matter.*

8. **Resolution No. 35421-24** – Authorizing Applications To The California Department Of Water Resources For The Dam Safety And Climate Resilience Local Assistance Program And Designating An Authorized Representative To Perform Certain Actions In Furtherance Thereof.
9. **Resolution No. 35422-24** – Authorizing An Application To The United States Bureau Of Reclamation For A Watersmart Water And Energy Efficiency Grant For Fiscal Year 2025 And Designating An Authorized Representative To Execute A Grant Agreement.

## **DETERMINATION AND DISCUSSION**

### 10. **Legislative Update.**

Special Assistant Jennifer B. Williams provided an overview of the final status of those bills on which EBMUD adopted a formal position during the 2023-24 legislative session. Key bill topics include customer assistance; local government finance; water quality protection; water rights/water supply/resource management; wildfire and forest restoration; workforce development; and validations. Additional bills of direct interest (on which the District did not take a position) include a budget bill – water arrearages; discontinuation of water service; system capacity charges; and water rights/resources. Next, Manager of Legislative Affairs Kathy Viatella provided an update on state and federal legislative activities.

11. **Adopt a resolution to recognize and commemorate October 17, 2024, as “Imagine a Day Without Water” and to encourage all employees, customers, and community members to participate in this national day of action.**

Special Assistant to the General Manager Kelly A. Zito announced October 17 is a national day of action as a reminder of how vital water is to every aspect of life and the need to invest in the

nation's water infrastructure. The Board is being asked to adopt a resolution to underscore the District's dedication to safeguarding water resources, maintaining high-quality service, and supporting investments in critical infrastructure that ensure water delivery for future generations. To recognize and commemorate this day, the District is collaborating with the California Urban Water Agencies, launching a social media campaign, asking employees to pledge to "make every drop count" as part of the District's internal campaign, and hosting education events for the community. Director Chan pointed out the District's Water on Wheels trailer will be at the Oakland Roots Soccer Club game on October 26. Staff was asked to contact the club about promoting "Imagine a Day without Water" at the event.

- Motion by Director Linney, seconded by Director Katz to approve the recommended actions for Item 11 carried (6-0) by the following voice vote: (Chan, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Gómez).

**Resolution No. 35423-24** – Recognizing And Commemorating The 2024 "Imagine A Day Without Water" Campaign.

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

General Manager Clifford C. Chan announced the Monthly Report was included in the agenda materials and the Speakers' Bureau and Outreach Record CY24 had been provided at Board places. He reminded Board members to submit their comments and feedback on the draft Board Governance Manual and policies as the items are scheduled for discussion at the October 22 Finance/Administration Committee and Board meetings. He also announced the October 22 Regular meeting agenda would include an item requesting the Board to consider appointing an ad hoc committee to provide input on facilitators and the agenda for a 2025 Board of Directors retreat.

**REPORTS AND DIRECTOR COMMENTS**

13. **Committee Reports.**

- Filed with the Board were the Minutes for the September 24, 2024 Finance/Administration Committee. Director Chan asked if the minutes would be approved at the next Finance/Administration Committee meeting. Secretary of the District Rischa S. Cole clarified Committee meeting minutes are filed with the Board by the Secretary through the General Manager.
- Director William B. Patterson reported the UMRWA Board met on October 4 and accepted the Third Quarter FY 2024 Treasurer's Report for filing; discussed possible action regarding the Watershed Protection Fee; approved the Arbor Fuels Reduction Project (Bid Item 1) Contract Award; approved the Aspen Restoration Project Archeological Survey Contract Award; discussed the Biomass Joint Power Authority Initiative Update; and discussed the State Water Resources Control Board Healthy Rivers and Landscapes (Voluntary Agreement) Update. He reported the UMRWA Board did not approve implementation of the Watershed Protection Fee and emphasized the importance of EBMUD's continued alliance with upcountry entities with interests in the watershed. He closed by commending EBMUD staff for their efforts and said it was a privilege and

an honor to represent the District on the UMRWA Board over the years.

- Chair Marguerite Young reported the Planning Committee met earlier and received the Water Quality Program Semi-Annual Update – 2024; Backflow Protection Program Update; and Placer County Water Agency-EBMUD Memorandum of Understanding Amendment No. 4.

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

None.

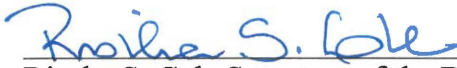
**15. Director Comments.**

- Director Young reported on plans to participate in the presentation on the Sobrante Water Treatment Plant Reliability Improvements Project to the El Sobrante Municipal Advisory Council in El Sobrante on October 9, and the Ward 3 briefing at San Pablo Reservoir and a virtual public meeting on the Sobrante Water Treatment Plant Reliability Improvements Project on October 10.
- Director Patterson reported associates from various entities are discussing plans to host events to honor his years of public service and his desire that the planners consider creating a corpus that would provide funding for families and the communities we serve.
- Director Katz reported attending the Berkeley FireSafe Council meeting over the weekend where EBMUD was informally acknowledged for cooperating on a number of facilities of interest and participation in the East Bay Wildfire coalition along with East Bay Regional Park District and a number of other regional stakeholders.
- Directors Chan, Gómez, Linney, and President McIntosh had no reports.

**ADJOURNMENT**

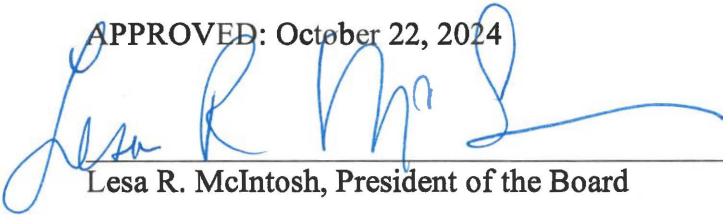
President McIntosh adjourned the meeting at 2:16 p.m.

SUBMITTED BY:



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

APPROVED: October 22, 2024



\_\_\_\_\_  
Lesa R. McIntosh, President of the Board