

## **MINUTES**

**Tuesday, August 27, 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 11:05 a.m. in the Administration Building Boardroom.

### **ROLL CALL**

Directors April Chan, Luz Gómez, Andy Katz, Doug A. Linney, William B. Patterson, Marguerite Young and President Lesa R. McIntosh 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) Joe Pangelinan (online), Chief Steward, AFSCME Local 444, commented on workplace violence incidents; and improper handling of investigations by supervisors; 2) Ivette Rivera commented on an email dated August 27, 2024 9:34 a.m. she provided to the Board regarding response to EEO complaint; 3) Eric Larsen President, AFSCME Local 444 commented on increased interactions with the Office of General Counsel on arbitration and PERB complaints; 4) KC Evans (online), Chief Steward, AFSCME Local 2019 commented on increased issues going to arbitration and PERB complaints to consider when evaluating the General Counsel; and 5) Ivette Rivera commented the General Counsel's performance evaluation and how the Board should consider racism and discrimination at EBMUD.

### **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 1:21 p.m. in the Administration Building Boardroom.

### **ROLL CALL**

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

Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, and Assistant to the General Manager Janetta M. Johnson.

## **BOARD OF DIRECTORS**

President McIntosh led the pledge of allegiance.

### **Recognizing National Hispanic Heritage Month and EBMUD's Fuerza Latina Affinity Group**

Director Gómez announced Fuerza Latina, also known as the Latin Heritage Committee, was founded in 1996 to promote Latin culture, enhance visibility, and educate District staff through art, food, music, crafts, and history. Fuerza Latina plays a vital role in our culturally diverse agency and supports the District's mission and goals of serving the public and representing our community. In honor of Latin Heritage Month from September 15 to October 15, Fuerza Latina is hosting events to highlight different aspects of the Latin and Hispanic culture. This year's theme is "Hispanic Influencers in Northern California." Planned activities include: Opening Ceremony featuring a performance by the District staff band "Los Lodos"; weekly trivia; jeopardy game; loteria; travel series: presentations on Costa Rica, Tijuana, and El Salvador at the Administration Building & upcountry; and Cafe con Leche Spanish Class. These events will provide opportunities for staff to learn about and celebrate our rich Latin & Hispanic history and culture. Encourage your support of Fuerza Latina and Latin Heritage Month.

## **ANNOUNCEMENTS FROM CLOSED SESSION**

President McIntosh announced due to time constraints the Board did not hold the annual performance evaluation of the General Counsel. The evaluation will continue to the September 10, 2024 Regular Closed Session meeting. There were no other announcements required from closed session.

## **PUBLIC COMMENT**

- Addressing the Board were the following: 1) KC Evans (online), Chief Steward Local 2019 who commented on retiring Board members efforts and contributions over the years; and 2) Ivette Rivera read an excerpt from an email dated August 27, 2024 regarding historic election costs of Board members.

## **CONSENT CALENDAR**

- Motion by Director Patterson, seconded by Director Linney to approve the recommended actions for Items 1-8, on the Consent Calendar carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 161-24** – Approved the Approve the Regular Meeting Minutes of June 25, 2024 and August 13, 2024, and the Special Meeting Minutes of August 20, 2024.
  2. The following correspondence was filed with the Board: 1) Presentation entitled, "Los Vaqueros Reservoir Expansion Updates," dated August 27, 2024; 2) Presentation entitled, "Fiscal Year 2025 Financing Plan," dated August 27, 2024; 3) Speakers' Bureau and Outreach Record CY24, dated August 27, 2024; 4) Email dated August 06, 2024 from Ivette Rivera to Board of Directors et. al, transmitting attachments titled Email from I. Rivera re: EEOC charges # 555-2024-01560 against & #555-2024-01436 against AFSCME444 & AFSCME COUNCIL 57 & AFSCME International; 5) Email dated August 15, 2024 from Ivette Rivera to Board of Directors et. al, transmitting attachments titled, Rischa, Please distribute these two State of California Civil Rights Department,

(formally known as Department Of Fair Employment & Housing) Right to Sue letters to Board members attending the next EBMUD afternoon BOD Public Meeting on 8/25/2024 (sic): # 55... 6) Email dated August 27, 2024 from Ivette Rivera to Board of Directors et. al, titled, As you know, I have three years to file DFEH complaints for retaliation. Since I will be at EBMUD for at least 2 more years, I will let DFEH investigate the continued retaliation outside of the bad-faith class study. Re: Confidential: D1O Notification...; and 7) Email dated August 27, 2024 from Ivette Rivera to Rischa Cole et. al, titled, CPRA Request: 1. Please provide historical cost of having an incumbent Board Director's name on an election ballot ...”

3. **Motion No. 162-24** – Awarded a contract beginning on or after August 27, 2024 to the lowest responsive/responsible bidder, Tesco Controls, LLC, for supplying a switchboard for the Lafayette Water Treatment Plant for a total cost, after the addition of taxes, not to exceed \$158,066 under Request for Quotation No. 2406A (Schedule II).
4. **Motion No. 163-24** – Authorized an agreement beginning on or after August 27, 2024 with InVizion, LLC for \$152,307 for three years, with three options to renew for additional one-year periods for a total amount, including option years, not to exceed \$225,525 for financial modeling software, as well as implementation, training and on-going support, to manage the capital prioritization process and perform financial modeling of the capital budget and rate scenarios.
5. **Motion No. 164-24** – Authorized an amendment to the agreement previously authorized under the General Manager’s authority with Trussell Technologies, Inc. to increase the agreement amount by \$45,000 to a total amount not to exceed \$100,000 for the completion of a chlorine contact basin tracer study at the North Richmond Water Recycling Plant.
6. **Motion No. 165-24** – Approved the June and July 2024 Monthly Investment Transactions Reports.
7. **Resolution No. 35414-24** – A Resolution Of The Board Of Directors Of The East Bay Municipal Utility District Congratulating The Town of Moraga On Its 50<sup>th</sup> Anniversary Celebration.
8. **Resolution No. 35415-24** – Authorizing Acquisition Of Hertzog Real Property In Calaveras County, California.

#### **DETERMINATION AND DISCUSSION**

- 9a. – **Direct the District to remain as a Los Vaqueros Reservoir Joint Powers Authority member**
- 9b. **but reduce the District’s allocated storage in the proposed Los Vaqueros Reservoir Expansion Project from 30 thousand acre feet to zero.**

**Support the LVE Project by negotiating mutually acceptable agreements to convey water for the JPA member agencies when capacity is available, including supporting Contra Costa Water District during dam construction backstop operations, with full reimbursement to the District and subject to the 2017 Revised Principles for Use of Unassigned Capacity in the Freeport Regional Water Project.**

Senior Civil Engineer Grace W. Su and Director of Water and Natural Resources Michael T. Tognolini provided the presentation. The District, along with seven other agencies, has been

evaluating potential participation in the proposed LVE Project that would provide the District up to 30 thousand acre-feet (TAF) of new supplemental water storage for droughts and emergencies. Ms. Su discussed the status of Joint Powers Authority (JPA) member agencies and their storage requests, noting requests are currently oversubscribed by 10 TAF. Mr. Tognolini highlighted the District's supplemental water needs based on the 2020 Urban Water Management Plan (UWMP) have been reduced as noted in the Draft 2024 UWMP update. Next, he discussed potential supplemental water supply sources, the associated costs, and the qualitative assessment for each. Ms. Su reviewed the status of LVE agreements and current agreement issues. She then discussed staff's recommendation to not accept the current terms of the agreement and presented three participation options for the Board to consider: 1) District does not participate as a JPA member; 2) District participates as its original storage request of 30 TAF or less; and 3) District remains as a JPA member without any allocated storage. Staff responded to Board questions regarding cost of LVE participation after the dam is built; rationale for only considering dry year alternative costs when we may use it every year; when will Bayside Phase 2 be completed and the cost; status of wells on Oro Loma property; the cost of JPA administrative fees; advantage of being a JPA member with no storage allocation; and source of reallocated grant funds. The Board asked staff to negotiate fair share cost of JPA administrative fees for zero-storage allocation.

- President McIntosh left the meeting at 1:37 p.m. and returned at 1:39 p.m.
- Motion by Director Young, seconded by Director Gómez, to accept the report and to support the staff recommendation for the District to retain membership in the JPA as a member without any allocated storage for Items 9a-9b carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 166-24** – Directed the District to remain as a Los Vaqueros Reservoir Joint Powers Authority member but reduce the District's allocated storage in the proposed Los Vaqueros Reservoir Expansion Project from 30 thousand acre feet to zero; and supported the Los Vaqueros Expansion Project by negotiating mutually acceptable agreements to convey water for the Joint Powers Authority member agencies when capacity is available, including supporting Contra Costa Water District during dam construction backstop operations, with full reimbursement to the District and subject to the 2017 Revised Principles for Use of Unassigned Capacity in the Freeport Regional Water Project.

10. **Declare the intention to authorize the issuance of \$970 million of additional Water System Revenue Bonds payable solely from Water System revenues and directing the publication of the attendant resolution.**

Treasury Manager Robert L. Hannay provided the presentation and outlined the process for declaring the intention to authorize the issuance of bonds. He shared the District's current outstanding debt of \$2.7 billion for the Water System and \$348 million for the Wastewater System. The Board authorized a resolution in 2015 for bonds issuance that has a remaining balance of \$223 million. Based on the forecasted Capital Improvement Program needs for Fiscal Years 2025-2028 of \$875 million, redeeming Water Commercial Paper of \$261 million, five percent contingency for unforeseen changes of \$57 million there is a current need of \$970 million for authority to issue bonds. He noted the Board is required to authorize the issue and sell of each bond series. Staff responded to Board question regarding declaring intention to authorize issuance of new bonds on the District's credit rating. The Board asked for additional information

on the decision to reinstate utilizing Wells Fargo.

- Motion by Director Patterson, seconded by Director Young to approve the recommended actions for Item 10 carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

**Resolution No. 35416-24 - Declaring The Intention Of The Board Of Directors Of East Bay Municipal Utility District To Authorize The Issuance Of Water Bonds Payable Solely From Revenues And Directing The Publication Of This Resolution.**

**11. Approve the proposed Fiscal Year 2025 Financing Plan.**

Treasury Manager Robert L. Hannay provided the presentation and reviewed the Fiscal Year (FY) 2024 financing activities. Next, he reviewed the proposed FY 2025 financing activities for the Water System including \$275 million in new money; refund up to \$528.4 million of 2015ABC bonds; de-risk up to \$400 million of 2010B Build America Bonds; and paydown at least \$10 million in commercial paper. For the Wastewater System including \$30 million in new money; refund up to \$54.8 million of 2015-A-1 bonds; and de-risk up to \$150 million of 2010B Build America Bonds.

- Motion by Director Young, seconded by Director Chan to approve the recommended actions for Items 11 carried (7-0) by the following voice vote: (Chan, Gómez, Katz, Linney, Young, Patterson and McIntosh); NOES (None); ABSTAIN (None); ABSENT (None).

**Motion No. 167-24 – Approved the proposed Fiscal Year 2025 Financing Plan**

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

General Manager Clifford C. Chan announced the Speakers' Bureau and Outreach Record CY24 had been provided at Board places.

**REPORTS AND DIRECTOR COMMENTS**

**13. Committee Reports.**

- Filed with the Board were the Minutes for the August 13, 2024 Planning and Legislative/Human Resources Committees and the August 20, 2024 Special Finance/Administration Committee.

Chair Andy Katz reported the Finance/Administration Committee met earlier and received six items including the Monthly Transactions Report, Quarterly Financial Reports, Proposed Fiscal Year 2025 Financing Plan, Intention to Authorize Issuance of Additional Water System Revenue Bonds, Private Water Service Line Repair Plans Update, Draft Board of Directors Governance Policies and Proposed Governance Documents. Chair Katz stated there will be revisions to some of the policies, and the review at the next Finance/Administration Committee.

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

- Director Young requested an update on Upper Mokelumne River Watershed Authority

activities at an upcoming Planning Committee meeting.

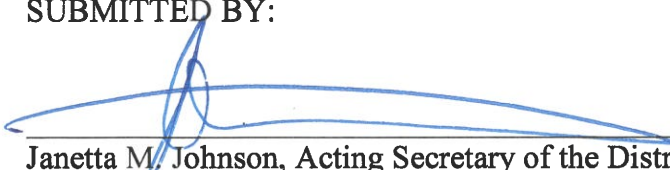
15. **Director Comments.**

- Directors Chan, Gómez, Katz, Linney, Patterson, Young and President McIntosh had no reports.

**ADJOURNMENT**

President McIntosh adjourned the meeting at 2:41 p.m.

SUBMITTED BY:



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Janetta M. Johnson, Acting Secretary of the District

APPROVED: September 24, 2024



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Lesa R. McIntosh, President of the Board

