

MINUTES

**Tuesday, November 12, 2024
East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California**

Regular Closed Session Meeting

Vice-President William B. Patterson called to order the Regular Closed Session Meeting of the Board of Directors at 11:06 a.m. in the Administration Building Boardroom.

ROLL CALL

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

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

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

Vice-President William B. Patterson called to order the Regular Meeting of the Board of Directors at 1:17 p.m. in the Administration Building Boardroom.

ROLL CALL

Directors April Chan, Andy Katz (remote), Doug A. Linney, Marguerite Young and Vice-President William B. Patterson were present at roll call. President Lesa R. McIntosh 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

Vice-President Patterson led the Pledge of Allegiance.

Annual Presentation Honoring EBMUD Veterans

General Manager Clifford C. Chan announced that in recognition of Veteran's Day, today's meeting is

opening with a presentation to honor active employees and Board members who have demonstrated their commitment to this country and the District. Senior Human Resource Analyst Sylvia M. Johnson provided the presentation displaying the names of active employees and Board members. Vice-President Patterson commented he is a veteran, and observed that his name was not included in this year's presentation.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board was EBMUD retiree Gregory Chan who thanked the Board and staff for their service and leadership and acknowledged the outgoing Board members for their contributions to the District. Director April Chan thanked Mr. Chan for previously serving as a Board Standby Officer for Ward 7.

CONSENT CALENDAR

- Motion by Director Linney, seconded by Director Young, to approve the recommended actions for Items 1-16 on the Consent Calendar carried (5-0) by the following roll call vote: AYES (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).
1. **Motion No. 201-24** – Approved the Regular Meeting Minutes of October 22, 2024.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Camanche Mobilehome Park Rental Rates,” dated November 12, 2024; **2)** Presentation entitled, “Board Governance Documents,” dated November 12, 2024; **3)** Presentation entitled, “Employee Experience Survey Update,” dated November 12, 2024; **4)** Speakers’ Bureau and Outreach Record CY24, dated November 6, 2024; **5)** Los Vaqueros Reservoir Joint Powers Authority Agenda, dated November 13, 2024; and **6)** Email dated November 12, 2024 from Eric Larsen to Rischa Cole et. al regarding Agenda Item #13.
 3. **Motion No. 202-24** – Awarded a contract to the lowest responsive/responsible bidder, Mountain Cascade, Inc., in an amount not to exceed \$15,981,900 for the construction of the Fay Hill Pumping Plant Replacement; Rheem and Scenic East Pumping Plants Improvements; Fay Hill Road and Right of Way 3363 Pipeline Improvements; and Ridgewood Regulator Installation, Pumping Plant and Pressure Tank Demolition Project under Specification 2183.
 4. **Motion No. 203-24** – Awarded a contract to the lowest responsive/responsible bidder, Mountain Cascade, Inc., in an amount not to exceed \$1,480,683 for the construction of the Mokelumne Aqueduct No. 1 Bent Replacements at Station 2480 Project under Specification 2184.
 5. **Motion No. 204-24** – Authorized an agreement beginning on or after November 12, 2024 with Alameda County Public Works Agency in an amount not to exceed \$200,000 for the Meekland Bridge Pipeline – Contract Services for Pipeline Replacement.

6. **Motion No. 205-24** – Authorized an agreement beginning on or after November 12, 2024 with Blocka Construction, Inc. in an amount not to exceed \$229,000 for the construction of the Adeline Maintenance Center Carpentry Shop Dust Collection System Upgrade.
7. **Motion No. 206-24** – Authorized an agreement beginning on or after November 12, 2024, with Carollo Engineers, Inc. in an amount not to exceed \$1,965,088 for engineering design services for rehabilitation of the South Interceptor at South Coliseum Way between maintenance holes S08 and S10 by the Oakland Coliseum and for rehabilitation and lining of maintenance holes S08, S09, and S10.
8. **Motion No. 207-24** – Authorized an agreement beginning on or after March 1, 2025 with Central Contra Costa Solid Waste Authority for five years and four months, with two options to renew for additional one-year periods by mutual agreement for the acceptance and digestion of preprocessed food waste at the District’s Main Wastewater Treatment Plant.
9. **Motion No. 208-24** – Authorized an agreement beginning on or after November 12, 2024 with COSCO Fire Protection for three years, with two options to renew for additional one-year periods for a total amount, including option years, not to exceed \$405,000 for fire sprinkler and fire pump testing, inspecting, and maintenance.
10. **Motion No. 209-24** – Authorized agreements beginning on or after November 12, 2024, with MCK Americas, Inc., Consor PMCM, Inc., and Kennedy/Jenks Consultants, Inc., in an aggregate amount not to exceed \$9,000,000 for three years with one option to renew for an additional two-year period for as-needed construction management and inspection support.
11. **Motion No. 210-24** – Authorized an agreement beginning on or after November 12, 2024 with Well Industries, Inc. in an amount not to exceed \$411,263 for the construction of two required monitoring wells and one optional monitoring well in the East Bay Plain Subbasin.
12. **Motion No. 211-24** – Authorized an amendment to the agreement previously authorized under Board Motion No. 073-20 with Sherwood Design Engineers to increase the agreement amount by \$950,000 to a total amount not to exceed \$3,970,129 for additional engineering services during construction for the Recreation Area Water and Wastewater Collection System Improvements Projects to support Specification 2165 – Pardee Recreation and Pardee Center Water Treatment Plant Improvements.
13. **Motion No. 212-24** – Authorized an amendment to the agreement previously authorized under Board Motion No. 128-22 with Synagro-WWT, Inc. to increase the agreement amount by \$14,060,000 to a total amount not to exceed \$29,150,000 and extend the agreement term to June 30, 2028, for biosolids handling services at the Main Wastewater Treatment Plant.

Secretary of the District Rischa S. Cole announced the Board received emailed comments from Eric Larsen, President, AFSCME Local 444 regarding this item that will be filed with the meeting minutes. Local 444 does not object to the proposed extension but has concerns about the exposure to monopoly pricing that may result from Synagro’s acquisition of Denali. Local 444 asks that the District continue to evaluate transporting and disposing of biosolids with District forces. Director Katz requested a written response or for the Planning Committee or Legislative/Human Resources Committee to review the information in Mr. Larsen’s comments.

General Manager Clifford C. Chan reported staff has been in communications with Local 444 and will investigate options before the agreement end date.

14. **Motion No. 213-24** – Authorized an amendment to the agreement previously authorized under Board Motion No. 033-21 with Woodard & Curran, Inc. to increase the agreement amount by \$2,540,720 to a total amount not to exceed \$5,118,453 and extend the agreement term to December 31, 2027, for additional engineering services during construction for the Main Wastewater Treatment Plant Oxygen Plant Rehabilitation Project under SD-428.
- 15a. – **Motion No. 214-24** – Authorized amendments to the agreements previously authorized under Board Motion No. 218-22 with City Rise, LLC; Cal-Safety, Inc.; CMC Traffic Control Specialists Inc.; TPR Traffic Solutions; Traffic Control Pros; and Traffic Management Inc. to increase the aggregate amount of those agreements by \$1,800,000 to a total aggregate amount not to exceed \$8,250,000 and extend the term of the agreements to November 11, 2025 for flagging services; and authorized additional agreements for flagging services, on an as-needed basis and subject to the total aggregate amount authorized by the Board for such services on November 12, 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.
- 15b.
16. **Motion No. 215-24** – Canceled the December 24, 2024 meetings of the Board of Directors.

DETERMINATION AND DISCUSSION

17. **Authorize an amendment to the Agreement for Employment of General Counsel Derek T. McDonald to extend the agreement for an additional two-year term through July 4, 2027.**
 - Motion by Director Linney, seconded by Director Young, to approve the recommended actions for Item 17 carried (4-1) by the following roll call vote: AYES (Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (Chan); ABSENT (McIntosh).
- Resolution No. 35425-24** – Authorizing Second Amendment To General Counsel Employment Agreement.
- 18.1. **File the Report and Recommendation of the General Manager for Revisions to the existing Recreation Fee Schedule for Calendar Year 2024 to CY 2025 based on the U.S. Department of Housing and Urban Development Fair Market Rents index for 2-bedroom homes averages for Amador and Calaveras counties Not Subject to Proposition 218, and Regulations.**

Manager of Watershed and Recreation Charles C. Beckman presented the report and recommendation to cap annual rental rate increases for the three Camanche Recreation Area Mobilehome Parks (MHP). This proposal would not alter the existing formula that uses the U.S. Department of Housing and Urban Development (HUD) Fair Market Rents (FMR) adjustments to determine annual changes to MHP rental rates in place since 2010 but would develop a “carryforward balance” that would distribute larger annual increases over multiple years. In January 2024, the Camanche Regional Park Advisory Board (CRPAB) recommended

the District continue utilizing the HUD FMR to determine annual changes in mobilehome site rent but to include a cap of 5 percent and a floor of 2 percent. The District did not accept the CRPAB proposal as it would limit revenue from MHP rental rates but developed the cap proposal that includes a “carryforward balance”. Annual increases would be capped initially at 5 percent with the ability to increase the cap up to 10 percent. The balance of a fee increase in excess of the effective rent cap would be placed into a fee carryforward balance and applied to the following year’s fee adjustment up to the cap. Any balance remaining that was not applied due to the cap would carry forward to the following year. If the HUD FMR increases more than 5 percent over multiple consecutive years, resulting in a carryforward balance in excess of 8 percent, the cap would increase to 8 percent. If the carryforward balance exceeds 12 percent, the cap would increase to 10 percent. Mr. Beckman reviewed a chart depicting eight years of hypothetical increases to demonstrate how the proposal would work. Staff recommends amending the District’s Recreation Use Fees for 2025 (as adopted June 11, 2024) to incorporate the proposed cap on MHP fees. At its October 22, 2024 meeting, the Finance/Administration Committee unanimously supported the staff recommendation. A public hearing on the recommendations in the report will be scheduled for December 10, 2024, where the Board will consider adopting the recommendations. The Recreation Fee Schedule for CY 2025 will go into effect on January 1, 2025. Changes to the mobilehome space fees paid by the MHP space lessees will occur at the start of the next month following the legally required 90-day notice to the lessees. Mr. Beckman addressed questions from the Board on the mobilehome park space lessees’ responses and overall reactions to the proposal.

- Motion by Director Young, seconded by Director Linney, to approve the recommended actions for Item 18.1. carried (5-0) by the following roll call vote: AYES (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

Motion No. 216-24 – Filed the Report and Recommendation of the General Manager for Revisions to the existing Recreation Fee Schedule for Calendar Year 2024 to CY 2025 based on the U.S. Department of Housing and Urban Development Fair Market Rents index for 2-bedroom homes averages for Amador and Calaveras counties Not Subject to Proposition 218, and Regulations.

- 18.2. **Set a Public Hearing for Tuesday, December 10, 2024 during the Board’s regular meeting, to consider the Report and Recommendation of the General Manager for Revisions to the existing Recreation Fee Schedule for Calendar Year 2024 to CY 2025 based on the U.S. Department of Housing and Urban Development Fair Market Rents index for 2-bedroom homes averages for Amador and Calaveras counties Not Subject to Proposition 218, and Regulations.**

- Motion by Director Young, seconded by Director Linney, to approve the recommended actions for Item 18.2. carried (5-0) by the following roll call vote: AYES (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

Motion No. 217-24 – Set a Public Hearing for Tuesday, December 10, 2024 during the Board’s regular meeting, to consider the Report and Recommendation of the General Manager for Revisions to the existing Recreation Fee Schedule for Calendar Year 2024 to CY 2025 based on the U.S. Department of Housing and Urban Development Fair Market Rents index for 2-bedroom homes averages for Amador and Calaveras counties Not Subject to Proposition 218,

and Regulations.

19. **Adopt a resolution to update the District Regulations Governing Water Service Section 15A: Nonpayment of Bills by Single-Family Residential Customers.**

- Motion by Director Young, seconded by Director Linney, to approve the recommended actions for Item 19 carried (5-0) by the following roll call vote: AYES (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

Resolution No. 35426-24 – Adopting The Amendment To Section 15a Of The East Bay Municipal Utility District’s Regulations Governing Water Service To Customers.

20. **Review Board of Directors comments on a draft Board Governance Manual and policies and provide direction to staff on finalizing the documents for adoption by the Board at future Board meetings.**

General Counsel Derek T. McDonald reviewed actions taken between June 2024 to date to develop the manual and three policies (revised Policy 6.04 -Ethics of the EBMUD Board of Directors, revised Policy 4.14 -Reimbursement of Director Expenses, and a new policy on the Protection of Whistleblowers). Director Chan provided additional comments after staff presented revisions and comments on the draft manual at the October 22, 2024, Finance/Administration Committee and Regular Board meetings. Staff addressed the comments and transmitted an updated draft manual to the Board via an Information Memo on October 24, 2024. Today, staff is seeking direction on proposed revisions to the manual in sub-section 4.04(d) regarding Board member access to staff and events, under section 12.01 regarding the Board President and Vice President roles in determining Board member assignments to committees, Joint Powers Authorities, and associations, and proposed additions to sub-sections 3.04(a) and 3.05(b). There was considerable Board discussion regarding the proposed revisions to sub-section 4.04(d); past practices regarding Board member access to staff and events; ensuring the proposed language to make an appointment through the General Manager or the Secretary of the District does not restrict communication or the flow of information between Board members and staff; providing an orderly way to conduct business; imposing rules on Board members that are not applicable to others; and including language to 4.04(d) to clarify that Board members should contact the General Counsel as appropriate for legal matters. After additional discussion, there was consensus to include the proposed revisions to 4.04(d) with an additional update to contact the General Counsel as appropriate for legal matters. The Board discussed the proposed revisions to section 12.01 regarding the Board President and Vice President roles in determining Board member assignments to committees, Joint Powers Authorities, and associations. Secretary of the District Rischa S. Cole outlined the assignment process and Mr. McDonald clarified scenarios in which discussing and coordinating Board member assignments might violate the Brown Act. There was additional discussion on including the Vice President in the process and the Board members agreed to strike the proposed revision from 12.01. Next, the Board discussed adding “Promote and exemplify EBMUD’s Values of Stewardship, Integrity, Respect and Teamwork” as a role of the Board President to sub-section 3.04(a) and “Exercising fiscal responsibility in the management of special counsel contracts while making such expenditures as necessary to meet EBMUD’s legal needs” as a responsibility of the General Counsel to sub-section 3.05(b). There was consensus to include the additional language to 3.04(a) and 3.05(b). Mr. McDonald outlined next steps

which include finalizing the manual based on the direction received and presenting the final document for Board adoption at its November 26, 2024 meeting. The three governance policies will be finalized through the District's review process and presented to the Finance/Administration Committee and Board for approval in early 2025.

21. Appoint the Manager of Maintenance and Construction/Water Operations

General Manager Clifford C. Chan announced Roberto C. Cortez as the candidate for appointment to the position of Manager of Maintenance and Construction/Water Operations and highlighted Mr. Cortez's education and experience.

- Motion by Director Young, seconded by Director Linney, to approve the recommended actions for Item 21 carried (5-0) by the following roll call vote: AYES (Chan, Katz, Linney, Young, and Patterson); NOES (None); ABSTAIN (None); ABSENT (McIntosh).

Resolution No. 35427-24 – Appointing Roberto C. Cortez As Manager Of Maintenance And Construction/Water Operations (*Effective December 2, 2024*).

Mr. Cortez thanked the General Manager, Director of Operations and Maintenance, and the Board for the opportunity and thanked his wife who was in attendance.

22. General Manager's Report.

Fiscal Year 2025 Employee Experience Survey

Special Assistant to the General Manager Derry L. Moten presented an update on findings from the District's recent Employee Experience Survey. The survey is a key component of Pillar 3 – Inclusive Culture within the Diversity, Equity, and Inclusion Strategic Plan. The survey contained 62 questions focused on 25 drivers of employee experience grouped into five key performance indicators (KPIs) - engagement; experience versus expectations; intent to stay; inclusion; and well-being. He discussed the survey's purpose and methodology and reported that to date, staff has provided a total of 13 in-person and virtual presentations on the District-wide survey results to approximately 950 employees from various workgroups. Mr. Moten highlighted key findings in the survey's five KPIs; how the District's scores for each KPI compared to other organizations with 1,000 to 5,000 employees; District-wide actions to address process changes around enhanced communication, career development, and supervisor and manager responsiveness; recommendations to assist departments with addressing their team's unique needs; and the structured, three-step action planning process to address feedback gathered from the survey. Managers will finalize departmental action plans, departments will implement mechanisms to track the impact of their actions over time, and results will be assessed annually and will provide insights to refine the approach for the next survey. Mr. Moten answered Board questions regarding previous surveys at the District, measuring improvement, and identifying trends in the survey responses.

Monthly Report – October 2024

General Manager Clifford C. Chan announced the Monthly Report was included in the agenda materials. Information on page 14 reports the District settled a lawsuit with Flatiron West Inc., the contractor on Specification 2130; however, the lawsuit was settled with Bay City

Mechanical. The Speakers' Bureau and Outreach Record CY24 and the agenda materials for the November 13, 2024, Los Vaqueros Reservoir Joint Powers Authority Board meeting had been provided at Board places.

- Director Patterson left the meeting at 3:03 p.m. and returned at 3:07 p.m.
- Director Katz left the meeting at 3:12 p.m.

REPORTS AND DIRECTOR COMMENTS

23. Committee Reports.

- Filed with the Board were the Minutes for the October 22, 2024 Finance/Administration and Sustainability Committees.
- Planning Committee Chair Marguerite Young reported the Committee met earlier and received updates on the Fiscal Year 2024 Annual Readiness Report; GreenGen Pumped Storage Project; and Proposed Revisions to Watershed and Recreation Rules and Regulations and Camanche Recreation Area Seasonal Alcohol Prohibition.

24. Other Items for Future Consideration.

None.

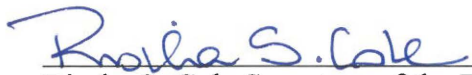
25. Director Comments.

- Director Chan thanked General Manager Clifford C. Chan, Director of Operations and Maintenance David A. Briggs, and staff for their participation in the Ward 7 briefing in San Ramon on October 31. Director Chan also commented on the presentation staff provided to the Castro Valley Municipal Advisory Council on October 21 and asked staff to let her know when her presence is requested at future meetings or presentations.
- Director Linney thanked staff for their support during the Ward 5 briefing in Oakland on November 7.
- Director Patterson thanked staff for their support during the Ward 5 briefing in Oakland on November 7.
- Director Young left the meeting at 3:19 p.m.
- Directors Katz and Young and President McIntosh had no reports.

ADJOURNMENT

Vice President Patterson adjourned the meeting at 3:21 p.m.

SUBMITTED BY:



Rischa S. Cole Secretary of the District

APPROVED: November 26, 2024



William B. Patterson, Vice-President of the Board

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