

MINUTES

Tuesday, June 9, 2020

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

Regular Closed Session Meeting

President Marguerite Young called to order the Regular Closed Session Meeting of the Board of Directors at 11:02 a.m. She announced that due to COVID-19 and in accordance with Alameda County Health Order 20-11 (issued May 18, 2020), and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting would be conducted via teleconference only. In compliance with said orders, a physical location was not being provided for this meeting.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (all via teleconference).

Staff participants included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Assistant General Counsel Fred S. Etheridge (Item 1b), Attorney Jonathan D. Salmon (Items 1a and 1b), Attorney Anna P. Gunderson (Item 1a), Director of Wastewater Eileen M. White (Item 1a), and Director of Water and Natural Resources Michael T. Tognolini (Item 1b).

PUBLIC COMMENT

The following persons addressed the Board: 1) Eric Larsen, President, AFSCME Local 444 commented on a Diversity and Inclusion Office investigation regarding racial bias that started sixteen months ago and has not been concluded; and 2) Joey D. Smith, President, AFSCME Local 2019 commented on Juneteenth and Pride Month. She asked the Board to consider raising the Pride flag at the Administration Building before the end of June and a proclamation acknowledging Pride Month. She also requested the Board consider closing today's Regular meeting with a moment of silence for Tony McDade, Breonna Taylor, George Floyd and other Black and African Americans who have lost their lives to police violence.

President Young asked Ms. Smith to provide her comments in writing to the Secretary.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Young announced the closed session agenda. The Board convened for discussion (via teleconference).

Regular Business Meeting

President Young called to order the Regular Business Meeting of the Board of Directors at 1:16 p.m. She announced that due to COVID-19 and in accordance with Alameda County Health Order 20-11 (issued May 18, 2020), and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting would be conducted via teleconference only. In compliance with said orders, a physical location was not being provided for this meeting.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (all via teleconference). Staff participants included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Young led the Pledge of Allegiance.

PRESENTATION

General Manager Alexander R. Coate announced that Kevin Phillips, General Manager of the Paradise Irrigation District was participating in today's meeting to present a resolution on behalf of the Paradise Irrigation District (PID) Board of Directors. The resolution acknowledges EBMUD staff's lead role in organizing a coalition of utilities to provide mutual assistance to the Town of Paradise after the November 2018 Camp Fire. Mr. Coate reviewed the District's work to assist PID, noting the effort increased staff's emergency response experience and developed their firsthand knowledge of how to recover infrastructure following a wildfire.

Mr. Phillips expressed appreciation on behalf of the PID Board and Town of Paradise residents, and thanked the following District staff for their work in supporting efforts to develop a recovery plan and implement protocols to restore water service to the Town: Manager of Maintenance and Construction/Water Operations David A. Briggs; Manager of Water Quality Susan M. Teefy; Manager of Distribution Maintenance and Construction Antonio Martinez; Meter Reader/Mechanic Adrian R. Robinson; Water System Inspector II Emery R. Baker; Water System Inspector II Mitchell Allan; Water Distribution Supervisor Debra A. Skeaton; Water Distribution Plumber III Joseph D. Billeci; and Meter Reader/Mechanic Matthew C. Larsen. President Young and Director Patterson commented on District staff's willingness to provide assistance during emergencies and the Board applauded staff for their efforts.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

Addressing the Board was Joey D. Smith, President, AFSCME Local 2019 who recited an excerpt of a quote from Daisaku Ikeda, founding president of the Soka Gakkai International regarding speaking out on injustices.

CONSENT CALENDAR

- Item 11 was pulled from the Consent Calendar for separate discussion.
 - Motion by Director Coleman, seconded by Director McIntosh, to approve the recommended actions for Items 1-10, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 100-20** - Approved the Special and Regular Meeting Minutes of May 26, 2020.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled “Wet Weather Facilities Charge on 2020-2021 Property Tax Rolls,” dated June 9, 2020; **2)** Presentation entitled “Public Hearing FY21 Proposed Non-Prop 218 Rates, Charges & Regulations,” dated June 9, 2020; **3)** Presentation entitled “Item 15 – Consideration and Selection of an Option to Implement FY21 Proposition 218 Water and Wastewater Rates and Charges,” dated June 9, 2020; **4)** Calaveras Enterprise Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Report and Recommendation of the General Manager Revisions to Water and Wastewater System Schedule of Rates and Charges, Wastewater Capacity Fee, and Other Fees Not Subject Proposition 218, and Regulations for Fiscal Year 2021 (published May 21 and 28, 2020); **5)** Contra Costa Times Proof of Publication (Legal No. 0006485919) of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Report and Recommendation of the General Manager Revisions to Water and Wastewater System Schedule of Rates and Charges, Wastewater Capacity Fee, and Other Fees Not Subject Proposition 218, and Regulations for Fiscal Year 2021 (published May 22 and 29, 2020); Lodi News-Sentinel Proof of Publication (Legal No. 192286) of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Report and Recommendation of the General Manager Revisions to Water and Wastewater System Schedule of Rates and Charges, Wastewater Capacity Fee, and Other Fees Not Subject Proposition 218, and Regulations for Fiscal Year 2021 (published May 22 and 29, 2020); **6)** Oakland Tribune Proof of Publication (Legal No. 0006485919) of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Report and Recommendation of the General Manager Revisions to Water and Wastewater System Schedule of Rates and Charges, Wastewater Capacity Fee, and Other Fees Not Subject Proposition 218, and Regulations for Fiscal Year 2021 (published May 22 and 29, 2020); **7)** The Record Proof of Publication (Legal No. 192405) of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Report and Recommendation of the General Manager Revisions to Water and Wastewater System Schedule of Rates and Charges, Wastewater Capacity Fee, and Other Fees Not Subject Proposition 218, and Regulations for Fiscal Year 2021 (published May 22 and 29, 2020); **8)** Amador Ledger Dispatch Proof of Publication (Legal No. V094) of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Report and Recommendation of the General Manager Revisions to Water and Wastewater System Schedule of Rates and Charges, Wastewater

Capacity Fee, and Other Fees Not Subject Proposition 218, and Regulations for Fiscal Year 2021 (published May 22 and 29, 2020); **9)** Oakland Tribune Proof of Publication (Legal No. 0006485889) of the Notice of the Time and Place of a Public Hearing of the East Bay Municipal Utility District to Consider a Resolution Ordering the Wet Weather Facilities Charge to be Collected on the Property Tax Roll (published May 22 and 29, 2020); **10)** West County Times Proof of Publication (Legal No. 0006485889) of the Notice of the Time and Place of a Public Hearing of the East Bay Municipal Utility District to Consider a Resolution Ordering the Wet Weather Facilities Charge to be Collected on the Property Tax Roll (published May 22 and 29, 2020); **11)** Document entitled, “Public Comment on Item 18, EBMUD Board meeting Tuesday 6/9/20 – Anya Kamenskaya”; **12)** Written Comments from Lindsay Edelman regarding Agenda Item 18 dated June 9, 2020; **13)** Copy of email from Eric Larsen to Local 444 members entitled, “Message from AFSCME Local 444 President Eric Larsen Re: George Floyd, Black Lives Matter and civil unrest”; and **14)** Copy of email from Joey D. Smith entitled, “JDS’s Statement from Public Comment for Closed Session of BoD 2020.06.09,” dated June 10, 2020.

3. **Motion No. 101-20** – Awarded a contract to the lowest responsive/responsible bidder Blue In Green, LLC in the amount, after the addition of taxes and fees, not to exceed \$5,375,915 for supplying 11 carbonic acid dissolution, feed and pH control systems for the Pardee Chemical Plant and the Inline Water Treatment Plants at Walnut Creek, Lafayette, and Orinda, beginning on or after June 9, 2020, under Request for Quotation No. 2014.
4. **Motion No. 102-20** – Authorized an agreement beginning on or after June 9, 2020 with CDM Smith Inc. in an amount not to exceed \$343,085 for the development of geospatial tools to support the District in the identification and quantification of inflow and infiltration sources as required by the regional Wet Weather Consent Decree.
5. **Motion No. 103-20** – Authorized an agreement beginning on or after July 1, 2020 with Civicorps in an amount not to exceed \$602,000 to provide vegetation control and related duties at various District properties.
6. **Motion No. 104-20** – Authorized an agreement with ENS Resources, Inc. in an amount not to exceed \$135,000 for continued legislative and regulatory information-gathering, analysis, representation and liaison services in Washington, D.C., for a one-year period from July 1, 2020 to June 30, 2021.
7. **Motion No. 105-20** – Authorized a cost-sharing agreement with the City of Berkeley (City) in an amount not to exceed 1,211,550.20 for asphalt pavement and other roadway improvements on Bancroft Way, Ellsworth Street, and Stuart Street as part of the Wildcat Pipeline Improvement - Berkeley work under Specification 2111. The City is responsible for \$712,720.20 of the total cost, and the District is responsible for \$498,830.
8. **Motion No. 106-20** – Corrected an administrative error under Board Motion No. 106-17 to extend the agreement term from July 1, 2020 to July 1, 2022 with APX, Inc. to provide scheduling and California Independent System Operator settlement services for the District's energy generation.

9. **Resolution No. 35182-20** – Mid-Cycle Resolution for Fiscal Year 2021 Authorizing the Number and Character of Positions and Authorizing the General Manager to Take Action in Connection Therewith.
- 10.1. **Resolution No. 35183-20** – Ordering, Calling, Providing for and Directing That Notice be Given of an Election to be Held in Wards of the East Bay Municipal Utility District, State of California, on Tuesday, November 3, 2020, for the Purpose of Electing Three Directors, and Consolidating Said Election With the General State Election to be Held on the Same Date.
- 10.2. **Resolution No. 35184-20** – Requesting the Boards of Supervisors of Alameda and Contra Costa Counties to Consolidate With the General Election to be Held on November 3, 2020, the East Bay Municipal Utility District Election to be Held in Three Wards on the Same Date for the Election of Directors.
- 10.3. **Resolution No. 35185-20** – Establishing Criteria for Candidates' Statements to be Filed by Candidates for the 2020 Election to the East Bay Municipal Utility District's Board of Directors and Authorizing Secretary to Bill Candidates for Certain Costs.
11. **Resolution No. 35186-20** – A Resolution Commending Alexander R. Coate, General Manager of The East Bay Municipal Utility District, on the Occasion of His Retirement, for His Contributions to EBMUD and the People of the East Bay.

President Young pulled Item 11 to acknowledge Mr. Coate for his leadership, dedication and stewardship during his tenure as General Manager. Each Board member thanked Mr. Coate for his leadership and service, and wished him well on his upcoming retirement. General Counsel Craig S. Spencer presented Mr. Coate with his EBMUD retirement plaque acknowledging 27 years of service and commemorative belt buckle presented to employees with 25 or more years of service.

- Addressing the Board was Jerry Brown, former Contra Costa Water District General Manager and current Executive Director of the Sites Project Authority, who congratulated Mr. Coate on his retirement and expressed appreciation for Mr. Coate's leadership in fostering relationships with Bay Area water agencies and his work on initiatives related to Bay Area Regional Reliability. Mr. Brown also thanked the Board for their support in these areas.

Mr. Coate thanked the Board and the District's Senior Management Team members for their support, leadership and trust during his years as General Manager.

- Motion by President Young, seconded by Director Coleman, to approve the recommended action for Item 11, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

PUBLIC HEARINGS:

President Young announced the public hearings would be taken out of order and conducted before the Board considered the Consent Calendar.

- 12a. **Conduct a public hearing to consider objections and protests to EBMUD's written report describing each parcel of real property subject to the Wet Weather Facilities Charge (WWFC) and amount of the WWFC to be imposed on each parcel for the counties' Fiscal Year 2020-2021 Property Tax Rolls.**

President Young opened the public hearing at 1:40 p.m. She announced the hearing is to consider objections and protests to EBMUD's written report describing each parcel of real property subject to the WWFC to be collected on the 2020-2021 property tax rolls for EBMUD's Fiscal Year 2021 and the amount of the WWFC to be imposed on each parcel. She announced the process for lodging a valid protest during the public hearing in light of the COVID-19 pandemic which included calling a phone number dedicated to receiving protests or completing an online form on the EBMUD website. President Young stated all protests must be lodged before the close of the public hearing.

Director of Wastewater Eileen M. White presented an overview of the District's wastewater collection system and treatment processes and explained how the WWFC funds capital expenses for the District's inflow and infiltration facilities (including wet weather facilities, interceptors, pumping stations and storage basins). For 2020-2021, the WWFC totals approximately \$27.9 million and represents 20 percent of total revenue for the Wastewater System. She reviewed the procedural requirements outlined in the State's Health and Safety Code (H&SC) that authorize the District to collect the WWFC on the counties' property tax rolls. In compliance with H&SC section 5473, staff filed a report with the Secretary of the District on May 21, 2020 that contains the parcel number and amount of the charge for each parcel. In accordance with California Government Code section 6066, the District published notices of the public hearing in the Oakland Tribune and West County Times on May 22 and May 29. Ms. White said staff is recommending the Board consider approving the actions outlined in Agenda Items 12.b-12.e. If approved (by two-thirds of the members of the Board as outlined in the H&SC), the Secretary of the District will file a copy of the report with the auditors of Alameda and Contra Costa counties on or before August 10.

President Young called for Board questions. The Board raised no questions. Next, she called for public comment. There was no public comment.

President Young announced the District received one protest to the written report via an online form and closed the public hearing at 1:50 p.m.

- 12b.- **Adopt the Report by at least two-thirds of the members of the Board (i.e., by five Board members); authorize the District to collect the Fiscal Year 2021 WWFC on the property tax rolls of Alameda and Contra Costa Counties; authorize District staff to adjust the Fiscal Year 2021 WWFC for any affected parcels as new information is provided by the Counties; and direct the Secretary of the District to file a copy of the Report on or before August 10, 2020 with the Alameda County Auditor and the Contra Costa County Auditor.**

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Item 12b carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

- Motion by Director Patterson, seconded by Director Linney, to approve the recommended actions for Item 12c, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended actions for Item 12d, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
- Motion by Director Patterson, seconded by Director Coleman, to approve the recommended actions for Item 12e, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35180-20 – Adopting the Report of the East Bay Municipal Utility District Wet Weather Facilities Charge and Directing the Secretary to File Said Report With the Alameda County Auditor and the Contra Costa County Auditor and to Request the Auditors to Place the Fiscal Year 2020 Wet Weather Facilities Charge on the Property Tax Rolls.

13.1. Conduct a public hearing to consider the proposed revisions to Water and Wastewater System Schedules of rates, charges, fees, Wastewater Capacity Fee and other fees not subject to Proposition 218, and Regulations Governing Water Service for FY21.

President Young opened the public hearing at 1:58 p.m. She announced the process for the public to comment during the public hearing in light of the COVID-19 pandemic. President Young asked for clarification regarding the different requirements for public participation in the two public hearings. Director of Finance Sophia D. Skoda explained the public hearing to consider the proposed revisions to Water and Wastewater System Schedules of rates, charges, fees, Wastewater Capacity Fee and other fees not subject to Proposition 218 under Item 13.1 is required by the Municipal Utility District Act and those requirements do not include provisions for the public to lodge protests. Ms. Skoda reviewed the proposed revisions to the following rates, charges and fees: Account Establishment Charge; Charges for Special Services; Water Service Installation Charges (Schedule D); Private Fire Service Installation Charges (Schedule E); Public Fire Hydrant Installation Charges (Schedule F); Water Main Extension Charges (Schedule G); Wastewater Department Other Fees; Wastewater Department Capacity Fee; Public Records Act Fee Schedule; Real Property Use Application Fees; and the Recreation Use Fee Schedule. She explained that proposed increases for Schedules D-G reflect the third year of a three-year phase-in of the current costs. She also highlighted proposed revisions to the following Water System regulations governing water service: Public Fire Hydrants; Service Through Public Fire Hydrants; Change in Use and/or Size of Service; Nonpotable Water Service; and Water Efficiency Requirements. Ms. Skoda reminded the Board that there are no proposed revisions to the Water System's System Capacity Charge for Fiscal Year 2021. The District conducted a Cost of Service Study on the System Capacity Charge and staff is scheduled to provide an update to the Board in the fall in advance of discussions on the Fiscal Year 2022/2023 budget and rates.

President Young called for Board questions. The Board raised no questions. Next, she called for public comment. There was no public comment. President Young closed the public hearing at 2:08 p.m.

13.2. **Adopt the Water and Wastewater System Schedules of rates, charges, fees, Wastewater Capacity Fee, Real Property Use Application fees, Public Records Act fees, Recreation Use fees, and Regulations recommended in the Report and Recommendation of the General Manager for Revisions to the Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees Not Subject to Proposition 218, and Regulations for Fiscal Year 2021 (FY21) submitted to the Board on May 12, 2020.**

- Motion by Director Patterson, seconded by Director Linney, to approve the recommended actions for Item 13.2, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35181-20 – Adopting Revised Regulations and Revised Water and Wastewater System Schedule of Rates and Charges and Other Fees not Subject to Proposition 218 for Fiscal Year 2021, Approving an Exemption Under the California Environmental Quality Act, and Directing Staff to File a Notice of Exemption.

DETERMINATION AND DISCUSSION:

14. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine stated Legislative Report No. 04-20 contained four bills for Board consideration. Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met and received an update on the report and supported the staff recommendations. The Board raised no questions.

Next, Ms. Dumaine provided an update on State and federal activities related to COVID-19. She reported on the status of State bonds before the legislature and a potential fourth federal COVID relief packet. She responded to Board questions regarding potential water- and jobs-related bonds and said staff will provide an update on the status of bonds in July.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Item 14, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 107-20 – Received Legislative Report No. 04-20 and approved positions on the following bills: SUPPORT AB 2178 (Levine) Emergency Services; SUPPORT AB 2560 (Quirk) Water Quality: Notification and Response Levels: Procedures; SUPPORT SB 862 (Dodd) Planned Power Outage: Public Safety; and SUPPORT SB 1044 (Allen) Firefighting Equipment and Foam: PFAS Chemicals; and received information on State and Federal Government Actions Related to the Coronavirus Disease 2019.

15. Consider and select an option to implement the Fiscal Year 2021 (FY21) Water and Wastewater rates and charges subject to Proposition 218 with the exception of the FY21 Wet Weather Facilities Charge.

Director of Finance Sophia D. Skoda presented information on the following options to implement the FY21 rates, charges and fees subject to Proposition 218 with the exception of the FY21 Wet Weather Facilities Charge:

- A. Affirm the 6.25% rate increase for the Water System and the 4.0% rate increase for the Wastewater System to be effective on July 1, 2020 as previously adopted and approved by the Board on June 11, 2019.
- B. Affirm the 6.25% rate increase for the Water System and the 4.0% rate increase for the Wastewater System, and approve delaying the effective date from July 1, 2020 to October 1, 2020.
- C. Affirm the 6.25% rate increase for the Water System and the 4.0% rate increase for the Wastewater System and implement the increases incrementally in two phases: the first increase to be effective August 1, 2020; and the second increase to be effective January 1, 2021.
- D. Rescind the Fiscal Year 2021 6.25% rate increase for the Water System and the 4.0% rate increase for the Wastewater System adopted by the Board on June 11, 2019, and continue implementing the Fiscal Year 2020 water and wastewater rates and charges for Fiscal Year 2021.

Ms. Skoda said staff prepared the options for Board consideration in response to the ongoing COVID-19 pandemic as it impacts the District and its customers. She discussed the financial uncertainties created by the pandemic; the FY20 and FY21 revenue and expense projections presented to the Board at its May 26, 2020 workshop; and the additional support provided and additional targeted assistance planned for customers struggling to pay their bills. She reported staff recommends the Board select Option A, (Item 15a) as it allows the District to continue its progress on infrastructure maintenance and renewal for FY21 and beyond. The FY20-FY24 financial plan presented to the Board in 2019 includes a 6.25% rate increase for the Water System and a 4.0% rate increase for the Wastewater System to be effective July 1, 2020. While the pandemic will likely cause a shortfall in net revenues from the budgeted net revenues for FY21, projected higher-than-budgeted net revenues in FY20 can be used to help make up the anticipated shortfall of \$8 to \$66 million for the Water System and \$3 to \$8 million for the Wastewater System. While no changes to the FY21 operating and capital budgets are proposed under Option A (Item 15a), staff will closely monitor revenues and expenses and implement effective adaptive management budget strategies as needed.

The Board discussed the options and each Board member provided comment on their option preference. In addition, they discussed potential financial impacts if the increases are deferred to January 2021; additional targeted assistance and more flexible payment options for customers struggling to pay their bills; and customer perception if the Board voted to affirm the increase to be effective July 1, 2020.

Motion by Director McIntosh, seconded by Director Mellon, to select Option B, (Item 15b) to affirm the 6.25% rate increase for the Water System and the 4.0% rate increase for the Wastewater System, and approve delaying the effective date from July 1, 2020 to October 1, 2020.

There was additional Board discussion regarding the known and unforeseen potential financial impacts if the Board voted for an option other than Option A, (Item 15a). Director Patterson offered a substitute motion to select Option A, (Item 15a). President Young supported the substitute motion but requested that Option A, (Item 15a) be amended to include direction for staff to develop a plan to provide assistance for eligible customers experiencing financial hardships, in addition to existing programs already in place. Director McIntosh accepted the substitute motion to select Option A, (Item 15a), as amended.

Substitute motion by Director Patterson, seconded by President Young, to select Option A, (Item 15a), as amended, to affirm the 6.25% rate increase for the Water System and the 4.0% rate increase for the Wastewater System to be effective on July 1, 2020 as previously adopted and approved by the Board on June 11, 2019, and to direct staff to develop a plan to provide assistance for eligible customers experiencing financial hardships, in addition to existing programs already in place.

- Motion by Director Patterson, seconded by Director Young, to approve the recommended actions for Item 15a, as amended, carried (5-2) by the following roll call vote: AYES (Katz, Linney, McIntosh, Patterson, and Young); NOES (Coleman and Mellon); ABSTAIN (None); ABSENT (None).
- 15a. **Motion No. 108-20** – Considered options to implement the Fiscal Year 2021 Water and Wastewater rates and charges subject to Proposition 218 with the exception of the Fiscal Year 2021 Wet Weather Facilities Charge and selected Option A (Item 15a). Option 15a, as amended by the Board, affirmed the 6.25% rate increase for the Water System and the 4.0% rate increase for the Wastewater System to be effective on July 1, 2020 as previously adopted and approved by the Board on June 11, 2019; and directed staff to develop a plan to provide assistance for eligible customers experiencing financial hardships, in addition to existing programs already in place.
16. **Resolution No. 35187-20** – Affirming the Operating and Capital Budgets of the East Bay Municipal Utility District Water and Wastewater Systems for Fiscal Year 2021 and Establishing the Terms and Conditions for the Payment of Demands Against the District.
- Motion by Director McIntosh, seconded by Director Patterson, to approve the recommended actions for Item 16, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
17. **Motion No. 109-20** – Adopted the 2020 update of the District’s Strategic Plan.
- Motion by Director Mellon, seconded by Director Linney, to approve the recommended actions for Item 17, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

18. District Response to Current Events and Racial Tension in America.

General Manager Alexander R. Coate introduced the topic and discussed the comments he received from staff in response to his June 1 message to all employees in response to the killing of George Floyd and the resulting local and national protests and events. As requested by President Young, staff prepared the memo provided in the Board agenda materials which includes example principles to address and combat racial injustice. Staff is seeking Board guidance on preparing a potential resolution and on future actions in response to recent events. If approved, the resolution would be presented to the Board for consideration at its June 23 meeting. President Young commented it is time for the District to take a harder look at structural changes that may need to be made at this organization. She requested comment from each Board member. Each Board member commented on current events, the need for the District to take action, previous race related issues at the District, addressing systemic racism at the local level, checking in with District security forces and law enforcement partners on their practices and policies, support for legislation, and how the District's Diversity and Inclusion Master Plan project will aid with efforts to address racism and injustice. The Board affirmed its support for a resolution. President Young proposed establishing an Ad Hoc Committee comprised of Board members and staff to prepare a resolution for Board consideration on June 23.

- The following persons addressed the Board: 1) Eric Larsen, President, AFSCME Local 444 thanked the Board for calendaring this topic and considering a resolution. He commented the Board should consider including actionable items in the resolution. He read the message he sent to Local 444 members regarding George Floyd, Black Lives Matter and civil unrest; 2) Anya Kamenskaya, EBMUD Water Conservation Representative commented on the guiding principles listed in the staff memo entitled, "District Response to Current Events and Racial Tension in America," and urged the Board to include action items and/or mechanisms as part of each principle; 3) Lindsay Edelman, EBMUD Water Conservation Representative commented on the pace at which the District is responding to support the movement to end police brutality and racism targeting the black community; and 4) Randall Burnett, EBMUD Meter Reader commented on racial discrimination at the District and a Diversity and Inclusion Office investigation regarding racial discrimination that allegedly resulted in a complainant being fired.

President Young requested that Mr. Larsen, Ms. Kamenskaya and Ms. Edelman provide copies of their comments to the Secretary. The Board requested additional information from staff regarding the comments from Mr. Burnett.

President Young requested Board members to participate on the Ad Hoc Committee. Director Mellon recommended including union representatives. The Board asked the Secretary to schedule a meeting of the Ad Hoc Committee once staff and union participants are confirmed.

- Motion by Director Coleman, seconded by Director Patterson, to establish an Ad Hoc Committee consisting of Director Lesa R. McIntosh, Director Frank Mellon, President Marguerite Young, staff and union representatives to prepare a resolution for Board consideration at its June 23, 2020 meeting in response to current events and racial tension in America, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 110-20 – Established an Ad Hoc Committee consisting of Director Lesa R. McIntosh, Director Frank Mellon, President Marguerite Young, staff and union representatives to prepare a resolution for Board consideration at its June 23, 2020 meeting in response to current events and racial tension in America.

19. **Appoint Clifford C. Chan as General Manager, effective June 22, 2020, authorize execution of employment agreement, and appoint Mr. Chan as a Retirement Board member in his capacity as General Manager.**

President Young announced that pursuant to Section 54953(c)(3) of the Government Code, the Board of Directors is providing the following oral report prior to taking action on the salary, salary schedule and compensation paid in the form of fringe benefits paid to the General Manager.

It is recommended that upon appointment of the General Manager, he be paid a salary and fringe benefits detailed in the Employment Agreement with the General Manager, consisting of a base annual salary of \$298,536 in the first year; an annual lump sum payment or a contribution to Deferred Compensation Plans up to the allowable IRS annual contribution limit as elected by the General Manager; and all other employment benefits provided District employees at the department Director level under District resolutions, policies, rules, regulations and practices related to leave, retirement, insurance, and other benefits. It is further recommended that during the terms of the employment agreement, the Board may authorize the same general salary increases and changes in fringe benefits to the General Manager that are granted to District employees at the department Director level. As such, it is recommended that the General Manager's current annual salary and fringe benefits as set forth in his employment agreement be approved effective June 22, 2020.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 19 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35188-20 – Appointing Clifford C. Chan as General Manager of East Bay Municipal Utility District and to Serve on the Retirement Board in That Capacity, and Authorizing Execution of Employment Contract.

- Director Coleman left the meeting at 2:23 p.m.

The Board congratulated Mr. Chan on his appointment as General Manager, expressed their support, and said they look forward to working with him in his new role. Mr. Chan thanked the Board for providing the opportunity and thanked Mr. Coate for his leadership and guidance. He acknowledged his family and commented he is ready for the challenge and will work to continue the legacy of the District.

20. **General Manager's Report.**

General Manager Alexander R. Coate announced he was available to answer Board questions regarding the May 2020 Monthly Report provided in their agenda materials.

REPORTS AND DIRECTOR COMMENTS:

21. **Committee Reports.**

- Planning Committee Chair Doug Linney reported the Committee met earlier in the day (via teleconference) and received updates on the following: Orinda Water Treatment Plant Disinfection Improvements Project Update and Announcement of the Availability of the Draft Supplemental Environmental Impact Report and the Raw Water Treatment Facilities Improvement Project Update.
- In the absence of Legislative/Human Resources Committee Chair John A. Coleman, President Young announced the Committee met earlier in the day (via teleconference) and received updates on Legislative Report No. 04-20 and information on State and Federal Government Actions Related to the Coronavirus Disease 2019.

22. **Other Items for Future Consideration.**

None.

23. **Director Comments.**

- Director Coleman reported participating in a PG&E podcast (remotely) with over 350 participants where he discussed EBMUD related topics.
- Directors Katz, Linney, McIntosh, Mellon, and Patterson had no report.
- President Young requested staff to raise the Pride flag at the Administration Building.

ADJOURNMENT

President Young announced today's meeting would be adjourned in honor of George Floyd, Breonna Taylor, Tony McDade and others who have lost their lives to police violence. The Board observed eight minutes and forty six seconds of silence; the amount of time a police officer held his knee on George Floyd's neck and caused his death.

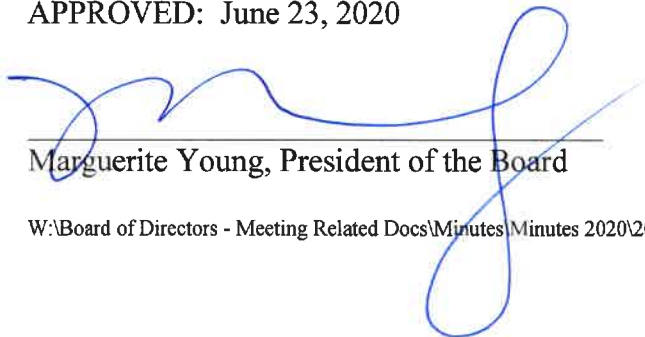
President Young adjourned the meeting at 4:47 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: June 23, 2020



Marguerite Young, President of the Board