

MINUTES

Tuesday, August 10, 2021

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

Regular Closed Session Meeting

President Doug A. Linney called to order the Regular Closed Session Meeting of the Board of Directors at 11:02 a.m. He announced that in accordance with the Governor's Executive Order N-08-21 which suspends portions of the Brown Act, this meeting would be conducted by webinar and teleconference only. A physical location was not provided for this meeting.

ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. All Directors participated remotely.

Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Assistant General Counsel Fred S. Etheridge (Items 1 and 3c – both matters), Director of Engineering and Construction Olujimi O. Yoloye (Items 1, 2a-c, and 3c – first matter), Engineering Manager David J. Rehnstrom (Items 1 and 3c - first matter), Manager of Water Conservation Alice E. Towey (Items 1 and 3c – first matter), Director of Water and Natural Resources Michael T. Tognolini (Items 1 and 3c – both matters), Manager of Risk Management Vladimir Bessarabov (Items 2a-c and 3a-b), Manager of Maintenance and Construction/Water Operations Michael R. Ambrose (Items 2a-c), Engineering Manager Carlton D. Chan (Items 2a-c), Environmental Affairs Officer Jose D. Setka (Item 3c – second matter), Engineering Manager Lena L. Tam (Item 3c – second matter), Assistant General Counsel Lourdes Matthew (Items 4 and 5), Director of Operations and Maintenance David A. Briggs (Item 4), Manager of Employee Services Lisa A. Sorani (Item 4), Manager of Employee Relations Niger M. Edwards (Items 4 and 5), Manager of Recruitment and Classification Richard G. Jung (Item 5), and Industrial Employers Distributors Association representatives Gregory Ramirez and Jeff Bailey (Item 5).

PUBLIC COMMENT

- Addressing the Board were the following: 1) Eric O. Larsen, President, AFSCME Local 444 commented on cost of living in the Bay Area, comparator agencies used in compensation studies for negotiations and said the union objects to the compensation studies. Mr. Larsen asked management to respond to the unions remaining proposals and to provide a meaningful wage package; 2) Ivette Rivera, EBMUD Gardener Foreman, read excerpts from the civil rights lawsuit filed against the District by former EBMUD attorneys Saji Pierce and Ayriel Bland; and 3) Barry Nelson, Golden State Salmon Association urged the Board to reject the State's latest proposal for the Bay-Delta Voluntary Agreements and commented on potential impacts the proposed agreements would have on EBMUD.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

At 1:10 p.m., General Manager Clifford C. Chan informed Secretary of the District Rischa S. Cole that due to an extended Closed Session Meeting, the Regular Business Meeting would start at 1:30 p.m. At 1:25 p.m., General Manager Chan updated the meeting start time to 1:45 p.m. At 1:40 p.m. General Manager Chan updated the meeting start time to 2:00 p.m. At 2:00 p.m. General Manager Chan updated the meeting start time to 2:15 p.m. At 2:15 p.m. General Manager Chan updated the meeting start time to 2:30 p.m. President Doug A. Linney called to order the Regular Business Meeting of the Board of Directors at 2:31 p.m. He announced that in accordance with the Governor's Executive Order N-08-21 which suspends portions of the Brown Act, this meeting would be conducted by webinar and teleconference only. A physical location was not provided for this meeting.

ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. All Directors participated remotely. Staff participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Linney led the Pledge of Allegiance.

PRESENTATION

General Manager Clifford C. Chan announced the District received the National Association of Clean Water Agencies' Platinum Peak Performance Award for 21 consecutive years of permit compliance for the Main Wastewater Treatment Plant's discharges. The Platinum Award recognizes wastewater agencies with 100 percent compliance with their discharge permit over a consecutive five-year period. Platinum Award status continues when 100 percent compliance is maintained beyond the initial award. This award represents the 16th consecutive Platinum Award for the District and celebrates 21 years of perfect permit compliance at the Main Wastewater Treatment Plant. General Manager Chan announced the following Wastewater Department staff representatives: Senior Chemist Sue Berg; Senior Civil Engineer Angela El-Telbany; Administrative Clerk Wilson Fong; Plant Maintenance Mechanic Randy Hernandez; Associate Civil Engineer Diana Lee; Wastewater Operator II Jason Lee; Senior Administrative Clerk Aaron McClain; Senior Environmental Health & Safety Specialist Colin Moy; and Instrument Maintenance Supervisor Andre Williams. The General Manager and the Board congratulated the Wastewater Department and thanked staff for their work.

ANNOUNCEMENTS FROM CLOSED SESSION

President Linney announced that the Board, in closed session this morning, by a unanimous vote of the Directors attending, authorized the General Counsel to initiate litigation in one matter. The action, defendants, and other particulars will be disclosed, upon inquiry, once the action is formally commenced. There were no other announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following: 1) Ivette Rivera, EBMUD Gardener Foreman read excerpts from the civil rights lawsuit filed against the District by former EBMUD attorneys Saji Pierce and Ayriel Bland, and commented on the Board commendation for retired General Counsel Craig Spencer; and 2) Nick Lawrence shared concerns with a fire hydrant and the accompanying hose on Tappan Terrace in Orinda, commented on the canceled July 27 Regular Board meeting, and commented on the late start for today's Board meeting. Mr. Lawrence provided comments after the Board's vote on the Consent Calendar.

President Linney said the Board cannot comment on ongoing litigation; however the District takes any allegations of discrimination seriously. The District has thoroughly reviewed the facts and believes the allegations are unfounded. The District is deeply committed to diversity, equity, and inclusion and ensuring the District fosters a work environment where all employees feel respected, supported and valued.

Secretary of the District Rischa S. Cole responded to Mr. Lawrence's comments about noticing for the canceled July 27 meeting and said the EBMUD website was updated in real time to inform the public on the revised start times for this meeting. President Linney responded to Mr. Lawrence's request to attend a Board meeting in person, noting Board meetings are currently being conducted in accordance with the Governor's Executive Order N-08-21 which suspends portions of the Brown Act and offered apologies for the late start for today's meeting.

CONSENT CALENDAR

- Motion by Director Coleman, seconded by Director Patterson to approve the recommended actions for Items 1-14 on the Consent Calendar carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 130-21** – Approved the Regular Meeting Minutes of July 13, 2021.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled "Coronavirus Update," dated August 10, 2021; **2)** Presentation entitled "Drought Update," dated August 10, 2021; **3)** Presentation entitled, "Racial Equity and Justice Project and Diversity, Equity, and Inclusion Strategic Plan Update," dated August 10, 2021; **4)** Presentation entitled "Excessive Use Penalty Ordinance," dated August 10, 2021; and **5)** Email dated July 26, 2021 from Nick Lawrence, Orinda resident to Board of Directors regarding Dangerous Condition of Public Property Still Exists on Tappan Terrace with a July 27, 2021 response from the Office of the Secretary.

3. **Motion No. 131-21** – Awarded a contract to the lowest responsive/responsible bidder, Lucero Manufacturing, for supplying flanged nipples for three years, beginning on or after August 11, 2021 with two options to renew for additional one-year periods for a total cost, after the addition of taxes, including option years, not to exceed \$3,676,345 under Request for Quotation No. 2108A.
4. **Motion No. 132-21** – Awarded a contract to the lowest responsive/responsible bidder, Cummins, Inc., for supplying one diesel generator for the Main Wastewater Treatment Plant Power Generation Station for a total cost, after the addition of taxes, not to exceed \$99,950 under Request for Quotation No. 2116.
5. **Motion No. 133-21** – Awarded a contract to the lowest responsive/responsible bidder, Chart Inc., for supplying three liquid carbon dioxide storage tank and vaporizer systems for the Orinda, Lafayette, and Walnut Creek Water Treatment Plants, beginning on or after August 13, 2021 for a total cost, after the addition of taxes and fees, not to exceed \$1,658,410 under Request for Quotation No. 2117.
6. **Motion No. 134-21** – Awarded a contract to the lowest responsive/responsible bidder, Cratus, Inc., in an amount not to exceed \$8,262,025 for construction of Summit Pressure Zone South Pipeline Replacement, Phase 1 under Specification 2173.
7. **Motion No. 135-21** – Awarded a contract to the lowest responsive/responsible bidder, NTK Construction, Inc., in an amount not to exceed \$2,378,000 for construction of the Digester Gas Flare Rehabilitation project under Specification SD-416.
8. **Motion No. 136-21** – Awarded a direct award contract to NuSpective, Inc. for supplying security log collection and analysis cloud software and implementation services for three years, beginning on or after August 10, 2021 for a total cost, after the addition of taxes, not to exceed \$375,505.
9. **Motion No. 137-21** – Authorized an agreement beginning on or after August 10, 2021 with Inspection Services, Inc. in an amount not to exceed \$4,000,000 for shop inspection support services for five years.
10. **Motion No. 138-21** – Authorized an agreement beginning on or after August 10, 2021 with Utilis, Inc. in an amount not to exceed \$665,000 for satellite remote leak detection services for five years.
11. **Motion No. 139-21** – Authorized an amendment to the agreement previously authorized under the General Manager’s authority with Alpha Analytical Laboratories, Inc. to increase the agreement amount by \$247,425 in an aggregate amount, including option years, not to exceed \$300,000 and extend the agreement term to December 31, 2023 with two options to renew for additional one-year periods for supplemental analytical services.

12. **Motion No. 140-21** – Authorized an amendment to the agreement previously authorized under the General Manager’s authority with McCampbell Analytical, Inc. to increase the agreement amount by \$227,842 to a total amount not to exceed \$307,264 and extend the agreement term to September 30, 2022 for the laboratory analysis of samples for the Split-Plant Nutrient Reduction Pilot Study at the Main Wastewater Treatment Plant.
13. **Motion No. 141-21** – Authorized the Office of General Counsel to continue the employment of the law firm of Somach, Simmons & Dunn, P.C., for services of special counsel related to providing representation in litigation arising under the California Environmental Quality Act and/or the National Environmental Policy Act in an amount not to exceed \$50,000.
14. **Resolution No. 35240-21** – Authorizing the Execution of an Amendment to an Existing Interest Rate Swap Agreement and Other Matters in Connection Thereof.

DETERMINATION AND DISCUSSION

15. **Appointment of Special Assistant III in the Office of Diversity, Equity and Culture.**

General Manager Chan announced Derry L. Moten as the candidate for the Special Assistant III position and highlighted Mr. Moten’s work at the District over the past six years as well as his educational and professional background.

- Motion by Director McIntosh, seconded by Director Patterson to approve the recommended action for Item 15 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35241-21 – Appointing Derry L. Moten as Special Assistant III, Office of Diversity, Equity and Culture. (*effective August 16, 2021*)

The Board congratulated Mr. Moten on his appointment and thanked him for his service to the District. Mr. Moten thanked the General Manager, the Senior Management Team and the Board and briefly spoke on the immediate and long-term goals for the Office of Diversity, Equity and Culture.

16. **Appointment of Assistant Attorney.**

General Counsel Derek T. McDonald announced Felicity Grisham as the candidate for the Assistant Attorney of the District with the title of Attorney III and highlighted her educational and professional background.

- Motion by Director Mellon, seconded by Director Coleman to approve the recommended action for Item 16 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).
Resolution No. 35242-21 – Appointing Felicity Grisham to the Position of Assistant Attorney of the District, with the Title of Attorney III. (*effective September 13, 2021*)

The Board welcomed Ms. Grisham. Ms. Grisham thanked the Board and spoke about growing up in the EBMUD service area and a letter she wrote to the District as a child extolling the quality of the District's tap water.

17. **Coronavirus Update.**

Director of Operations and Maintenance David A. Briggs presented an overview of the county-level daily COVID-19 positive cases noting the uptick in cases in July. He reported the vaccination rate for District employees that have self-reported is currently 72 percent which is on par with Alameda County and slightly below Contra Costa County's 75 percent. The number of employees who have tested positive for COVID-19 to date is 110 with 21 reported in the past week; 11 were breakthrough infection in fully vaccinated employees. Mr. Briggs discussed the most recent State, Federal and local guidelines for vaccination and testing and highlighted changes to the District's COVID-19 guidelines. As of July 29, the District began requiring masks indoors for all individuals, vaccinated or not, including vendors, contractors, and visitors and masks outdoors for unvaccinated workers and those within 6 feet of others. The Safe Return to Workplace Plan for employees was paused on July 29 and occupancy in the Main Administration Building has not exceeded 25 percent. He reviewed vaccination policies at other public utilities, private companies, cities, and universities, noting many are actively considering or implementing changes to their policies. The District does not currently mandate vaccines but could change its policy in a few weeks and after the proper notifications have been made to begin mandating vaccinations or requiring proof of vaccination with the option to regularly test (similar to the State guidelines). The Federal paid COVID-19 leave program expired in June 2021 and the State program expires on September 30, 2021. No extensions or new State or Federal programs are expected at this time. The District will review its special COVID-19 leave program after September 30. General Manager Chan requested comments and direction from the Board regarding the District's vaccination policy and the option to 1) maintain the current policy and encourage employees to get vaccinated; 2) require mandatory vaccinations; or 3) implement a policy similar to State guidelines (require proof of vaccination or regular COVID-19 testing).

There was considerable Board discussion regarding the information presented and the District's vaccination policy. Board members discussed and commented on following the State guidelines with exceptions for employees with medical or religious exemptions; whether the District should be required to pay employees that remain unvaccinated; adopting a mandatory vaccination policy similar to State universities; incentives to encourage employee vaccinations; encouraging employee vaccinations until the Federal Drug Administration (FDA) approves a vaccine and then, at a time to be determined, require employee vaccinations; whether the District should provide paid leave and pay for weekly COVID-19 tests for employees that remain unvaccinated or require employees to use their own time and pay for their tests; how the District's special COVID-19 leave will be used for vaccinated and unvaccinated employees that either contract the virus at work or are required to quarantine because of exposure at work; policies for contractors and vendors; and meeting and conferring with the unions about the vaccination policy.

- Addressing the Board were the following: 1) Eric O. Larsen, President, AFSCME Local 444 expressed grave concerns regarding the COVID-19 pandemic and said the union objects to mandatory vaccinations for employees. He encouraged the Board to follow the State guidelines and continue educating employees; 2) Joey D. Smith, President, AFSCME Local 2019 concurred with Mr. Larsen and commented on the proposal to require regular testing; the

reasonableness of denying employees the use of earned sick leave; and the District's masking policy; 3) Michael Hartlaub, EBMUD Senior Civil Engineer expressed support and urged the Board to mandate vaccinations for employees; 4) Mark Foley, EBMUD Information Systems Administrator II and Bay Area Rapid Transit (BART) Board President commented on BART's program regarding employee vaccinations and said he is willing to provide an update on the program's success at a later meeting; 5) Sharla Sullivan, EBMUD Community Affairs Representative II commented the Board should consider incentivizing employees to get vaccinated similar to BART; 6) George Cleveland, Chief Steward, AFSCME Local 2019 commented on denying employees use of earned leave and encouraged the Board to review data from BART, incentivize employees to get vaccinated, and to meet and confer with the unions on this matter; and 7) Deborah Russell, EBMUD Associate Civil Engineer expressed support for a vaccine mandate once a vaccine is approved by the FDA.

There was additional Board discussion regarding incentives, the State guidelines, the District's obligation to employees and the public as a public employer and requiring vaccinations once a vaccine is approved by the FDA.

Director Coleman made a motion to implement a vaccination policy that continues encouraging employees to get vaccinated. Once the FDA approves a COVID-19 vaccine, employees without a medical or religious exemption would be required to be vaccinated. If an unvaccinated employee contracts COVID-19 at work or is required to quarantine due to exposure at work between now and the time the FDA approves a vaccine, the employee would be required to use their own leave (time). After the FDA approves a vaccine, if an employee is still not vaccinated and does not have a medical or religious exemption, that employee could potentially face termination. Unvaccinated employees will be required to pay for their own regular COVID-19 testing.

Director Coleman clarified that the recommendation on terminating an employee for not being vaccinated after the FDA has approved a vaccine would have to be discussed with the unions and legal ramifications would have to be considered.

There was additional Board discussion regarding the motion made by Director Coleman, following the State policy, and requiring mandatory vaccinations.

Director Young offered an amendment to the motion made by Director Coleman to implement a vaccination policy that adopts the State's guidelines, with the condition that employees who choose not to be vaccinated get tested weekly, at their own expense and on their own time. After September 30, when the State's COVID-19 leave program and the District's special COVID-19 leave ends, if unvaccinated employees contract COVID-19 at work or are required to quarantine because of exposure at work, they may use their existing sick leave; vaccinated employees who contract COVID-19 at work or are required to quarantine because of exposure at work will be offered an extension of the District's special COVID-19 leave; once a COVID-19 vaccine is approved for normal use, the District will require mandatory vaccinations for those employees without a religious or medical exemption.

President Linney asked for clarification on the motions put forth by Director Coleman and Director Young. Both Directors provided clarification on the motions. General Manager Chan offered to restate the motions put forth by the Directors for the record as follows:

Implement a vaccination policy that: 1) Require employees to provide proof of COVID-19 vaccination to the District; 2) If an employee does not provide proof of COVID-19 vaccination, require employee to take weekly COVID-19 tests on their own time and at their own cost and report results to the District (except for employees with a sincerely held religious belief or a qualified medical exemption); 3) After September 30, 2021, when the State COVID-19 leave program expires, fully vaccinated employees who contract or are required to quarantine due to a COVID-19 exposure at work, will have their leave covered by the District; unvaccinated employees who contract or are required to quarantine due to a COVID-19 exposure at work, will use their own leave (time); and 4) Once the FDA approves a COVID-19 vaccine (and not the emergency authorized use approval), the District will mandate employee COVID-19 vaccinations except for employees with a religious or medical exemption.

The Board discussed whether the District should continue providing paid leave for employees that remain unvaccinated and contract COVID-19 or are exposed to it at work after September 30 based on concerns that symptomatic employees may still report to work. They also discussed if the District should require employees to test more than once a week. General Manager Chan clarified the motion put forth by Director Young provides that employees that remain unvaccinated would be required to take weekly tests so if an employee tested positive, they would not report to work. In response to a question, Director of Operations and Maintenance David A. Briggs provided clarification on the City and County of San Francisco's vaccination policy. General Manager Chan asked the Board to consider making the District's vaccination policy effective September 6, 2021, to allow employees time to make decisions on vaccinations or weekly testing and for management to meet with the unions.

- Addressing the Board were the following: 1) Michael Morgan, EBMUD Water Distribution Plumber III and ratepayer commented opposition to mandatory vaccinations; and 2) Jeff Bandy, EBMUD Associate Civil Engineer and ratepayer expressed support for a vaccine mandate.

The Board agreed with the motion as restated by General Manager Chan including the General Manager's request to make the vaccination policy effective September 6, 2021.

- Motion by Director Young, seconded by Director Coleman to approve the recommended actions for Item 15 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 142-21 – Authorized the General Manager to implement the following COVID-19 vaccination policy for the District effective September 6, 2021: 1) Require employees to provide proof of COVID-19 vaccination to the District; 2) If an employee does not provide proof of COVID-19 vaccination, require employee to take weekly COVID-19 tests on their own time and at their own cost and report results to the District (except for employees with a sincerely held religious belief or a qualified medical exemption); 3) After September 30, 2021, fully vaccinated employees who contract or are required to quarantine due to a COVID-19 exposure at work, will have their leave covered by the District; unvaccinated employees who contract or are required to quarantine due to a COVID-19 exposure at work, will use their own leave (time); and 4) Once the Federal Drug Administration approves a COVID-19 vaccine, the District will mandate employee COVID-19 vaccinations except for employees with a sincerely held religious belief or qualified medical exemption.

18. **General Manager's Report.**

2021 Drought Update

Director of Water and Natural Resources Michael T. Tognolini reported the District's Central Valley Project (CVP) water allocation remains at 33,250 acre-feet (AF) which is 25 percent of the District's CVP contract. Freeport diversions for the CVP water will begin on September 15, 2021. The District is working with Contra Costa Water District (CCWD) to transfer 2,000 acre-feet of CCWD's CVP allocation to EBMUD via Freeport in October and to divert and wheel 3,200 acre-feet of CCWD's CVP allocation to CCWD by November. Staff is working on the District's water transfer supply strategy and has initiated discussions with sellers to procure up to 50,000 acre-feet of supplemental supplies if conditions remain dry in 2022. Staff is anticipating a request from Marin Municipal Water District to wheel water as soon as 2022, based on their county's drought situation. He discussed recent State Water Resources Control Board actions to initiate curtailments by the end of August and reiterated that based on staff analysis, a water rights curtailment order would have minimal impact on the District's water supply.

Manager of Fisheries and Wildlife Michelle L. Workman discussed the District's cold water pool management strategy to support Chinook salmon and explained requirements in the District's joint settlement agreement under FERC. She reviewed actions to manage the District's cold water pool in Camanche Reservoir, strategies to move fish above Pardee during the drought, and how the District partnered with local stakeholders between 2014-2020 to develop a plan.

Manager of Water Conservation Alice E. Towey and Senior Public Information Representative Andrea A. Pook provided an update on the District's drought outreach activities and the "Make Every Drop Count" advertising campaign. Outreach has been expanded through digital radio applications and social media with ads produced by in-house staff that can be repurposed for many applications. The advertising campaign has been translated into Chinese, Spanish and Vietnamese and placed in local media targeting those communities. Ms. Pook noted ads will run on digital billboards at the MacArthur Maze and on Highway 880 in late August, the billboard at Oakport, and on transit shelters. Ms. Pook highlighted ads that began running late July on Pandora, the number of impressions from the District's social media posts, and staff interviews with the local media on drought. The next Water Wednesday Series speaker series webinar will be held August 18 with a presentation on fire, "The Other F-Word." Ms. Pook responded to Board questions regarding additional detail on who is participating in the Water Wednesday Series webinars and who is viewing the social media ads. Director Mellon commended the ads in the Castro Valley Forum.

Excessive Water Use Penalty Ordinance Amendment

Manager of Water Conservation Alice E. Towey presented an overview of the current ordinance and proposed amendments. The ordinance was enacted in 2015 during the last drought to discourage excessive discretionary use of water by single family residential (SFR) customers during a Stage 3 and 4 drought. She reviewed the requirements in SB 814 which was signed into law in 2016 and prohibits excessive water use by SFR customers whenever mandatory rationing is in effect, or when the Governor has declared a drought emergency based on local conditions. While the ordinance complies with SB 814 requirements in most respects, to comply with state law, the ordinance must be amended to define excessive water use in either gallons or CCF;

establish a method of identifying and discouraging such excessive water use; and provide for an associated penalty during Stage 2 droughts when mandatory rationing is in effect. She reviewed the recommended amendments to add a warning for the first billing cycle exceeding the threshold, without financial penalty; clarify customers are not in violation until a second exceedance, when a financial penalty is levied; and remove a specific dollar amount (currently \$2 per CCF) and establish a maximum penalty only at the level authorized by statute and authorize the Board to set the penalty during a given drought. The Board would have discretion to set the penalty at a different amount at each drought stage. The District evaluated the penalty thresholds for the various stages of droughts. Under the existing ordinance, the existing excessive water use thresholds are 60 CCF/month for Stage 3 and 40 CCF/month for Stage 4. Based on a review of 2020 billing data, setting the Stage 3 threshold at 59 CCF/month would affect approximately 2 percent of customers, while keeping the Stage 4 threshold at 40 CCF/month would affect approximately 5 percent of customers. For Stage 2 droughts, staff recommends a penalty threshold of 77 CCF/month, or approximately 1,920 gallons per day of water use. This recommendation is based on the review of billing data for SFR customers from 2020 and taking into consideration the average water use for a SFR household that was inefficient but not excessive. Based on a review of 2020 billing data, approximately 1 percent of customers would be affected by this threshold. Based on Board input, staff will amend the ordinance and conduct the first reading at the September 14, 2021 Board meeting. The second reading and Board consideration of adoption is scheduled for September 28, 2021. If the Board adopts the amended Ordinance, it will become effective 30 days later. Staff plans to reach out to high water users in advance of enacting the ordinance. Director Katz voiced concerns about the warning to customers being too late and asked staff to consider preemptively notifying customers if they are at risk of excessive use. Director Katz also asked to consider applying the Stage 3 drought thresholds during Stage 2 droughts.

Racial Equity and Justice (REJ) Project and Diversity, Equity, and Inclusion (DEI) Strategic Plan Update

Manager of Employee and Organizational Development Derry L. Moten presented an overview of completed actions for the REJ Project and DEI Strategic Plan. Under REJ Project Strategy 1, in conjunction with the District's Employee Assistance Program provider, staff conducted wellness sessions in acknowledgement of the toll the past year has had on employees. An additional session is planned for August 19. Staff is also researching vendors to assist with developing a bi-annual employee engagement/organizational health surveys, with an emphasis on the District's inclusion culture. Under REJ Project Strategy 2 external facilitators conducted additional focus groups with groups that were either under engaged or not engaged during The Winters Group Cultural Audit, including staff identifying as LGBTQIA+, Asian and Pacific Islander males, white males, and two or more races. The focus group data will be used to supplement the Cultural Audit. Under REJ Project Strategy 3, Core and Senior Management Team members have been analyzing data and working on the next steps for the community engagement process for the five pilot projects that will be used to inform the DEI Strategic Plan. These groups have been training with O&G Racial Equity, a contractor with The Winters Group to use community engagement as a tool for racial equity. Under REJ Project Strategy 4, in addition to analyzing and providing feedback on seven District policies, The Winters Group is reviewing the District's Civil Service Rules to identify potential barriers to the work of the Hiring and Recruitment and the Promotion and Retention pilot project teams. Staff has begun editing the policies and began developing a model for strategic review of District policies and

procedures which will be integrated into the DEI Strategic Plan, using the Government Alliance on Racial Equity (GARE) Racial Equity Toolkit. Next, Mr. Moten provided an update on development of the District's DEI Strategic Plan. He reported at its July 6, 2021 meeting, the State Water Resources Control Board (SWRCB) presented a draft resolution on racial equity. He reviewed key points in the resolution and said it is consistent with the District's activities regarding DEI. The framework for the SWRCB's Racial Equity Action Plan will be based on approaches recommended by GARE which also aligns with staff's approach to developing the DEI Strategic Plan. Staff will continue implementing recommendations for REJ Project Strategies 1, 6, 7 and 8; developing workplans for Strategies 2, 3, 4 and 5; and developing the DEI Strategic Plan.

Monthly Report – July 2021

General Manager Clifford C. Chan said information on District activities relating to PG&E Public Safety Power Shutoffs is included in the report and that the Board also received an information memo on this topic.

- At 4:49 p.m., President Linney advised Director Young informed him she had to leave the meeting.

REPORTS AND DIRECTOR COMMENTS

19. Committee Reports.

- Filed with the Board were the Minutes for the July 13, 2021 Planning and Legislative/Human Resources Committees.
- Planning Committee member Frank Mellon reported the Committee met earlier in the day (remotely) and received updates on Research and Innovation at EBMUD; Groundwater Sustainability Plan; Dam Safety Program Annual Report; and Dump Truck Services.
- The August 10, 2021 Legislative/Human Resources Committee meeting was cancelled.

20. Other Items for Future Consideration.

None.

21. Director Comments.

- Director Coleman reported attending the United States Army Corps of Engineers Change of Command Ceremony in Sausalito on July 15; presenting a drought update to the San Ramon City Council on July 30 (remotely); attending an East Bay Economic Development Alliance Committee Meeting on August 4 (remotely); attending the East Bay Regional Park District Lafayette-Moraga Trail Anniversary in Lafayette on August 5; and attending a meeting on legal preparation at EBMUD in Oakland on August 10. Director Coleman also reported meeting EBMUD employee Chris Farajian who is a Scout Master for Boy Scout Troop 205 out of Pleasant Hill and on a discussion with Central Contra Costa Sanitary District Board member Barbara Hockett regarding recycled water. He requested a meeting between the


District and Central Contra Costa Sanitary District to discuss options for the agencies to work together on recycled water.

- Director Patterson reported attending the Upper Mokelumne River Watershed Authority Board meeting at Pardee on July 23 and shared a full page ad in the Oakland Post that featured him and highlighted his civil rights work.
- Directors Katz, McIntosh, Mellon and Young, and President Linney had no reports.

ADJOURNMENT

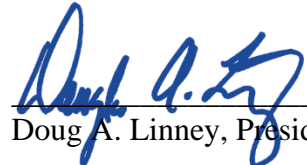
President Linney adjourned the meeting at 4:57 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: August 24, 2021



Doug A. Linney, President of the Board