

MINUTES

Tuesday, October 27, 2020

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

Regular Closed Session Meeting

President Marguerite Young called to order the Regular Closed Session Meeting of the Board of Directors at 11:08 a.m. She announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders, a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney, Lesa R. McIntosh, Frank Mellon, and President Marguerite Young were present at roll call (remotely). Director William B. Patterson joined the meeting at 11:15 a.m. (remotely).

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Attorney Derek T. McDonald (Items 1a and 1b), Manager of Risk Management Vladimir Bessarabov (Item 1a), Director of Wastewater Eileen M. White (Item 1a), Attorney Lourdes Matthew (Item 1b), Manager of Human Resources Laura A. Acosta (Item 1b), and Manager of Maintenance and Construction/Water Operations David A. Briggs (Item 1b).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Young announced the closed session agenda and the Board convened for discussion (remotely).

Regular Business Meeting

President Young called to order the Regular Business Meeting of the Board of Directors at 1:19 p.m. She announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders, a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

ROLL CALL

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (remotely). Director Andy Katz joined the meeting at 1:33 p.m. (remotely). Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Young led the Pledge of Allegiance.

PRESENTATIONS:

General Manager Clifford C. Chan announced the District received Toastmasters International's Corporate Club award for 2019/2020. This award recognizes the District's Toastmasters Club, which was chartered in 1977, for its leadership and communication activities and its implementation of various employee development and training programs. Naomi Takeuchi, International Director for Toastmasters International Region 1 presented the award (virtually) and congratulated the District and its club leaders on this achievement. The following club Executive Committee members were recognized: Executive Assistant II Dawn Benson, Senior Graphic Designer Michael J. Bergstrom, Associate Electrical Engineer Angela M. Curtis, Chief of Party Ron D. Holman, Construction/Maintenance Scheduler Elliott S. Johnson, Senior Software Engineer Vivian L. Ling, Senior Human Resources Analyst Laura V. Salangsang, Associate Civil Engineer Stella H. Tan, and Management Analyst II Amy S. Yen. The Board thanked Ms. Takeuchi and congratulated the Toastmasters Club for their work.

Next, General Manager Chan announced that for the 15th consecutive year, the District has received the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting award for its Comprehensive Annual Financial Report. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. Mr. Chan acknowledged that this award was achieved by the entire accounting team and various key staff throughout the District. The following core team members were recognized for producing the final report: Accountant III Yenny S. Coburn, Accounting Systems Supervisor Lawrence Fan, Accountant I Matthew J. Houck, Accounting and Financial Systems Analyst David P. Siu, Accountant III Stephanie Tsoi, and Accountant III Melody Wang. In addition, retired Controller D. Scott Klein was recognized for his leadership and contributions. Director of Finance Sophia D. Skoda acknowledged staff for achieving this award and the Board thanked staff for their continued dedication and work.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board was the following person: Joey D. Smith, President, AFSCME Local 2019 commented on the significance of the award and recognition received by the District's Toastmasters Club and thanked the Board, management and staff for their continued support for the club. Ms. Smith Also acknowledged that October is Breast Cancer Awareness Month and Domestic Violence Awareness Month.

CONSENT CALENDAR

- Item 15 was pulled from the Consent Calendar for separate discussion.
 - 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, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 195-20** – Approved the Regular Meeting Minutes of October 13, 2020.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Fiscal Impacts of COVID-19 Update,” dated October 127 2020; and **2)** Presentation entitled, “Collection Strategy for Delinquent Single-Family Residential Accounts,” dated October 27, 2020.
 3. **Motion No. 196-20** – Authorized an agreement beginning on or after October 27, 2020 with Divert Inc. for five years for delivery and acceptance of clean liquid food waste at the Main Wastewater Treatment Plant at a reduced rate in exchange for meeting various delivery targets.
 4. **Motion No. 197-20** – Authorized an agreement beginning on or after October 27, 2020 with Environmental Systems Research Institute in an estimated annual amount of \$522,000 for three years for a total amount not to exceed \$1,566,000 for Geographical Information System software licensing, maintenance, and support.
 5. **Motion No. 198-20** – Authorized an agreement beginning on or after October 27, 2020 with Horizon Water and Environmental, LLC in an amount not to exceed \$140,171 for environmental assessments of the Recoat Mokelumne Aqueduct No. 1 Phase 13 Project.
 6. **Motion No. 199-20** – Authorized an agreement beginning on or after December 1, 2020 with Lone Tree Trucking, Inc. in an estimated annual amount of \$540,000 for three years with two options to renew for additional one-year periods for a total amount not to exceed \$2,700,000 for hauling and disposal of wastewater treatment residuals from the Main Wastewater Treatment Plant.
 7. **Motion No. 200-20** – Authorized agreements beginning January 1, 2021 through December 31, 2025 with East Bay Community Energy for the sale of Resource Adequacy capacity and unscheduled Renewable Energy Credits from Camanche and Pardee hydropower facilities.

- 8a-b. **Motion No. 201-20** – Authorized agreements with the following service providers: Heathorn & Associates dba American Air Conditioning, Plumbing and Heating; Bel Air Mechanical, Inc.; and Prime Mechanical Service, Inc., for heating, ventilation, air conditioning, refrigeration (HVAC/R), and related services beginning on or after October 27, 2020 for three years with two options to renew for additional one-year periods in the aggregate annual amount of \$453,276 for a total amount not to exceed \$2,266,380 under Request for Proposal No. FMC736-21-01; and authorized additional agreements with other HVAC/R service providers that meet District standards and offer pricing at or below the range described in the proposed agreements above. These additional agreements may be issued on an as-needed basis to increase flexibility. The Board of Directors will be notified of additional qualified service providers by means of the General Manager's monthly report.
9. **Motion No. 202-20** – Authorized an amendment to the cooperating agreement previously authorized under Board Motion No. 077-18 with the City of Hayward to increase the District's cost-share agreement amount by \$235,580 for a total amount not to exceed \$620,017 for the District's total cost-share for development of a Groundwater Sustainability Plan for the East Bay Plain Subbasin.
10. **Motion No. 203-20** – Authorized an amendment to the cost-sharing agreement previously authorized under Board Motion No. 039-19 with eight other water agencies for the Los Vaqueros Expansion Project that will increase EBMUD's authorized cost-share agreement amount by \$1,013,661 to a total amount not to exceed \$1,367,790 to fund activities necessary to further evaluate the Project and maintain grant eligibility without committing EBMUD to final project participation.
11. **Motion No. 204-20** – Authorized an amendment to the agreement previously authorized under Board Motion No. 062-18 with West Yost & Associates to increase the authorized amount by \$343,977 to a total amount not to exceed \$1,497,977 for engineering services for the Pump Station M Rehabilitation and Interceptor Force Main Improvements Design Project.
12. **Motion No. 205-20** – Approved five-year grazing leases with the following tenants: Stanford Dell'Orto, J.W. Dell'Orto, and Mattley Dell'Orto; Eloise Fischer and Matthew Fischer; John and Patricia Garamendi; Robert Garamendi; Doug and Loree Joses; Daniel and Teresa Kuiken; Norbert Olivera; and Marden Wilber and Tim Wilber, for livestock grazing on District watershed lands in the Mokelumne watershed from November 1, 2020 to October 31, 2025, with an option to renew for an additional five-year lease term.
13. **Motion No. 206-20** – Approved the September 2020 Monthly Investment Transactions Report.
14. **Resolution No. 35205-20** – Authorizing and Approving East Bay Municipal Utility District's Application to Modify the Contractor's Service Area Described in its Central Valley Project Contract with the United States Bureau of Reclamation to Include and Exclude Certain Lands Consistent with the Water Service Boundary Reorganization Agreed to by the District and City of Hayward and Approved by the Alameda County Local Agency Formation Commission.

15. **Resolution No. 35206-20** – Appointing David A. Briggs as Director of Operations and Maintenance (*effective November 9, 2020*).

General Manager Clifford C. Chan introduced Item 15 and said after a comprehensive recruitment process David A. Briggs was selected to fill the role of Director of Operations and Maintenance. President Marguerite Young recounted her experience working with Mr. Briggs on various projects in his previous roles at other agencies and expressed her delight that he was being considered for this position. Mr. Briggs thanked the Board for the opportunity and staff for their continued support. He said he enjoys working at the District and is looking forward to continuing serving the Board and District customers in his new role.

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

DETERMINATION AND DISCUSSION

16. **General Manager's Report.**

Fiscal Impacts of COVID-19 Update

Director of Finance Sophia D. Skoda reported that although it is too early to accurately measure fiscal impacts from the COVID-19 pandemic, as reported previously, projected impacts will likely be greater in Fiscal Year 2021 (FY21) than in FY20. Ms. Skoda said that from April 2020 to date, water demand and development in the District's service area has remained steady while unemployment in the service area has seen a slow recovery. Since January 2020, the District has seen a 17 percent increase in Customer Assistance Program participation and since September 2020, an approximate \$5 million increase in delinquent customer accounts. She reviewed information on fiscal impacts to the economy, the financial markets, as well as projected or actual impacts to the state and other local and U.S. agencies and cities. She discussed FY22/23 budget priorities and key budget dates in 2021; the projected rate forecast previously provided to the Board during the FY20/21 budget and rates discussion; and highlighted how impacts from the pandemic may affect the projected FY22/23 rate target. Staff is carefully monitoring FY21 revenue and is providing targeted and expanded assistance to customers. Staff will continue developing the FY22/23 budget taking into consideration guidance from the Board, economic indicators, actions by peer agencies, and studies and recommendations from industry organizations such as the American Water Works Association and Association of Metropolitan Water Agencies. Ms. Skoda responded to Board questions on staffing levels needed to continue adequately maintaining the District's infrastructure as compared to staffing levels during the 2008-2009 economic downturn and how significant increases in staffing would impact projected rate increases. The Board asked for information on studies or data showing the rate of economic rebound as COVID-19 restrictions are reduced.

Collection Strategy for Delinquent Accounts – Flow Restrictors

Manager of Customer and Community Services Andrew L. Lee presented information on a proposal to change the District's payment collection process for single-family residential (SFR) customers to address delinquent accounts to include the installation of a flow restrictor and use

of the lien process. Mr. Lee said if approved, incorporating flow restrictors into the overall collection strategy would commence following the end of the governor's Executive Order N-42-20 restricting shutoffs. In anticipation of the Executive Order being rescinded and/or the end of the emergency declaration, staff is evaluating other options to collect on delinquent accounts to minimize service discontinuation on SFR customers. One alternative is to install flow restrictors instead of discontinuing service when a customer is delinquent in paying their bill. Customers continue to receive water for basic needs but at a significantly reduced flow rate and pressure. This approach would enable the District to continue providing basic water service and a means to compel customers to pay their delinquent bill, thus adhering to the requirement of Proposition 218. He reviewed the competing objectives in Assembly Bill 685 and Proposition 218 and customer account delinquency trends from 2017 to date. He noted that overall, during COVID-19 the trend has not increased and that while the trend for SFR has remained consistent, delinquent accounts reaching shutoff status has more than doubled. He reviewed the existing process for managing delinquencies; actions staff has taken in response to the governor's Executive Order restricting shutoffs; data showing the status of customer accounts (delinquent or in arrears); and maps showing locations of delinquent accounts pre-COVID and in October 2020. Since October 16, Mr. Lee reported over 7,000 SFR accounts were in shutoff status and that the majority of the affected residential customers are in disadvantaged communities. He discussed how other agencies have used flow restrictors and provided a video demonstration of how flow restrictors function on showers and on bathroom and kitchen faucets. He reviewed potential financial exposure; steps to minimize that exposure; and some key considerations if the Board approves this approach. Staff will prepare a resolution for Board consideration to authorize staff to develop a plan and evaluate the policies, procedures, resource needs, legal, financial, and operational considerations, and other issues related to incorporating flow restrictors into the District's collection strategy for delinquent accounts.

There was considerable Board discussion regarding the information presented. Mr. Lee responded to Board questions on the data regarding the shutoff status of SFR accounts on presentation slide 7; the District's current collections process by staff and third party collections agencies; the ability to fabricate flow restrictors to increase or decrease the flow rate; how a flow restrictor would impact toilet functionality; impacts to residents in lower pressure or elevation zones; and clarification on flow restrictor installation costs. The Board asked staff to explore alternatives to charging customers for flow restrictor installations; consider additional outreach options prior to installing flow restrictors; compare charges for existing and proposed processes; alternatives on how the District may address customer arrears; and to reach out to SWPAUW, the Pacific Institute, and Clean Water Action on the District's proposal.

Mr. Lee said staff was planning to present the resolution for consideration at the November 10 Board meeting. Following Board discussion on whether the resolution should be presented to a Board Committee prior to being presented at the Board meeting, General Manager Chan said staff would take the comments and feedback received and provide an update to the Finance/Administration Committee in November.

- Director Coleman left the meeting at 2:48 p.m. and did not return.

REPORTS AND DIRECTOR COMMENTS

17. Committee Reports.

- Filed with the Board were the October 13, 2020 Planning Committee and Legislative/Human Resources Committee Minutes.
- Sustainability/Energy Committee Chair Doug Linney reported the Committee met earlier in the day (remotely) and received an update on: Biosolids Management Program; Resource Recovery Program; 2019 Greenhouse Gas Inventory; and Renewable Energy.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day (remotely) and received an update on: Financial Review of Fiscal Year 2020; Fiscal Year 2020 Key Performance Indicators Report; Quarterly Investment Report-September 30, 2020; Quarterly Payroll Disbursement and Real Estate Summary Reports-September 30, 2020; September 2020 Monthly Investment Transactions Report; Water Infrastructure Finance and Innovation Act Loan Interest Letter; and Fiscal Year 2020 Annual Power Sales Report.

Director Linney asked for clarification on the purpose of reporting information from the Committee meetings and the level of detail Committee Chairs are expected to provide. President Young said the request to provide reports was in an effort to make information available to the public on topics discussed at Committee meetings since these meetings were not videotaped or recorded. The Board agreed to continue reporting information from the Committee meetings.

18. Other Items for Future Consideration.

- None.

19. Director Comments.

- Director Coleman reported participating in the EBMUD Virtual Wastewater Tour and Workshop (remotely) on October 20; the UMRWA Board meeting (remotely) on October 23; and the EBMUD Los Vaqueros JPA Ad Hoc Committee meeting (remotely) on October 26. He reported on plans to attend the Special UMRWA Board meeting (remotely) on October 29 (due to October 23 meeting being cancelled due to lack of a quorum).
- Directors Katz, Linney, McIntosh, Mellon, Patterson and President Young had no report.

ADJOURNMENT

President Young adjourned the meeting at 3:07 p.m.

SUBMITTED BY:


Rischa S. Cole, Secretary of the District

APPROVED: November 10, 2020


Marguerite Young, *President of the Board*