

MINUTES

Tuesday, March 9, 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 11:03 a.m. He 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, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. Director Andy Katz joined the meeting at 11:06 a.m. All Directors participated remotely.

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Assistant General Counsel Fred S. Etheridge (Item 1), Director of Water and Natural Resources Michael T. Tognolini (Item 1), Environmental Affairs Officer Jose D. Setka (Item 1), Engineering Manager Lena L. Tam (Item 1), Assistant General Counsel Lourdes Matthew (Item 2), Manager of Human Resources Laura A. Acosta (Item 2), Director of Finance Sophia D. Skoda (Item 2), Manager of Employee Relations Niger M. Edwards (Item 2), and Industrial Employers Distributors Association representatives Gregory Ramirez and Jeff Bailey (Item 2).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

President Linney called to order the Regular Business Meeting of the Board of Directors at 1:16 p.m. He 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, Lesa R. McIntosh, Frank Mellon, Marguerite Young, William B. Patterson, and President Doug A. Linney were present at roll call. All Directors participated 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 Linney led the Pledge of Allegiance.

PRESENTATION

General Manager Clifford C. Chan announced the District received the California Association of Sanitation Agencies' 2020 Outstanding Capital Project of the Year Award for the District's Main Wastewater Treatment Plant Primary Sedimentation Tanks and Channel Rehabilitation, Phase 5 Project. The \$10.1 million construction project was a successful collaboration between staff from various District departments and was completed 11 months ahead of schedule. The Board viewed a video of Associate Civil Engineer and Project Construction Manager Angela El-Tebany as she highlighted some of the innovative solutions used to overcome challenges during the project. The following team members, including staff from Wastewater Engineering, Wastewater Operations, and Regulatory Compliance were recognized for their work: Joseph Barge, Assistant Wastewater Shift Supervisor; William Chaffer, Supervising Construction Inspector; Angela El-Tebany, Associate Civil Engineer; Eric Fieberling, Associate Civil Engineer; Joseph Hopkins, Senior Construction Inspector; John Kyser, Senior Civil Engineer; Edna Lehnert, Environmental Health and Safety Specialist II; Miles Mok, Assistant Engineer; and Jenny Tran, Associate Civil Engineer. On behalf of the Board, President Linney thanked staff for their contributions towards winning this award.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Motion by Director McIntosh, seconded by Director Coleman, 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. 037-21** – Approved the Special Meeting Minutes and the Regular Meeting Minutes of February 23, 2021.

2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Coronavirus Update,” dated March 9, 2021; **2)** Presentation entitled, “Water Supply Update,” dated March 9, 2021; **3)** Presentation entitled, “Racial Equity and Justice Project and Diversity, Equity, and Inclusion Strategic Plan Update,” dated March 9, 2021; and **4)** Speakers’ Bureau and Outreach Record CY21, dated March 5, 2021.
3. **Motion No. 038-21** – Awarded a contract to the lowest responsive/responsible bidder, Agilent Technologies, Inc., for supplying an Inductively Coupled Plasma Optical Emission Spectroscopy instrument for a total cost, after the addition of taxes, not to exceed \$128,515 under Request for Quotation No. 2102.
4. **Motion No. 039-21** – Authorized a direct award contract to Trace3, LLC, for supplying computer data storage equipment and maintenance for the Administration Building Data Center for three years, beginning on or after March 9, 2021, for a total cost, after the addition of taxes, not to exceed \$565,000 under the State of California cooperative purchasing agreement.
5. **Motion No. 040-21** – Authorized an agreement beginning on or after March 9, 2021 with All County Flooring in an amount not to exceed \$3,544,500 for replacement of carpet and other flooring in the District’s Administration Building.
6. **Motion No. 041-21** – Authorized an agreement beginning on or after March 9, 2021 with The Brattle Group, Inc. in an amount not to exceed \$200,000 for confidential consulting services.
7. **Motion No. 042-21** – Authorized an agreement beginning on or after March 9, 2021 with Keller Canyon Landfill Company for \$300,000 annually for three years with two options to renew for additional one-year periods for a total amount, including option years, not to exceed \$1,500,000 for non-hazardous trench soils disposal.
8. **Motion No. 043-21** – Authorized an agreement beginning on or after March 9, 2021 with Mott MacDonald Group, Inc. in an amount not to exceed \$1,943,678 for engineering design services for the Water Treatment Plant Effluent Meter, Large Customer Meter, Rate Control Station, and Regulator Improvements Design Project.
9. **Motion No. 044-21** – Authorized an agreement beginning on or after March 9, 2021 with Woodard & Curran, Inc. in an amount not to exceed \$2,278,146 for site studies and preparation of an Environmental Impact Report for the Quarry Site Trench Soils Restoration Project pursuant to the California Environmental Quality Act.
- 10a-c. **Motion No. 045-21** – Approved an amendment to the lease agreement between the District and Bizon Group, Inc. dba Conexwest (Lessee) for leased premises located within the District’s West End property located at Engineer Road and Wake Avenue in Oakland to: a. Increase the leased premises by 10,520 square feet to a total of approximately 4.25 acres; b. Authorize Lessee to conduct paving and drainage design work to determine construction costs for necessary improvements at the leased premises in exchange for commensurate rent abatement in an amount not-to-exceed \$75,000; and c. Add two (2) five-year renewal options to the original lease agreement.

11. **Motion No. 046-21** – Authorized a Memorandum of Understanding with Contra Costa Water District (CCWD) to undertake a study to analyze whether and under which conditions the District could provide temporary water conveyance services to CCWD during construction and subsequent refill of the expanded Los Vaqueros Reservoir without resulting in unacceptable adverse impacts to the District or its customers, prior commitments, or capital project or operational needs.
12. **Motion No. 047-21** – Approved the Water Supply Assessment requested by the City of Berkeley for the Ashby and North Berkeley BART Station Transit-Oriented Development Zoning Standards Project pursuant to California Water Code, Sections 10910-10915.
- 13.1. **Motion No. 048-21** – Authorized the Office of General Counsel to continue the employment of the law firm of Ellison, Schneider, Harris & Donlan, LLP, for specialized legal services related to water and energy law and litigation matters in an additional amount not to exceed \$75,000.
- 13.2. **Motion No. 049-21** – Authorized the Office of General Counsel to continue the employment of the law firm of Hanson Bridgett, LLP, for specialized legal services related to construction, public contracts and procurement, claims, intellectual property and technology matters, tax, public pension law, labor and employment, and litigation matters in an additional amount not to exceed \$175,000.
14. **Resolution No. 35216-21** – Approving the Application for Grant Funds for the Protecting California’s Rivers, Streams and Watersheds Program.

DETERMINATION AND DISCUSSION

15. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine reviewed the bills in Legislative Report No. 03-21. AB 818 (Bloom) would help reduce the amount of non-flushable wet wipes being disposed into sewer systems, including EBMUD’s wastewater treatment system, by ensuring that non-flushable wet wipes are properly labeled. SB 810, SB 811 and SB 812 (Committee on Governance and Finance) Validations would enact the Validating Acts of 2021. The legislature usually enacts three bills known as the Validating Acts each year to retroactively correct procedural errors or omissions that public officials of state agencies, cities, counties, and special districts may make inadvertently. AB 361 (R. Rivas), which is still being developed, seeks to provide local agencies with flexibility to meet via teleconference during a governor declared state of emergency or a city or county declared local emergency. Ms. Dumaine said the bill includes language that would partially address the District’s initiative to update the statutory requirements for reaching a board quorum to declare an emergency by eliminating the requirement that a quorum be present in the service area when meeting via teleconference to declare or ratify an emergency; however, the bill’s provisions would only apply during an emergency that has been declared by the governor or the applicable city or county and not to emergencies that are intended to or have only been declared by other local agencies, such as special districts. Staff is monitoring this bill and will provide updates to the Board as warranted. Legislative/Human Resources Chair John A. Coleman reported the Committee met earlier (remotely) and supported the staff recommendations for the bills being presented for Board consideration. Director Coleman also reported he asked staff to consider proposing an

amendment to the authors of AB 818 to include the education and outreach component only in a new bill if AB 818 does not pass. Next, Ms. Dumaine provided an overview of state and federal actions related to COVID-19 and reported final language was now available for H.R. 1319, the American Rescue Plan Act of 2021. If approved, H.R. 1319 would provide \$1.9 trillion in additional federal relief funding to address the continued impact of COVID-19. She reviewed specific areas that could receive funding including COVID-19 vaccinations, testing, treatment, and prevention; emergency rental assistance, homeowner assistance, and other housing programs including assistance with paying utility arrearages; and small business assistance. Ms. Dumaine responded to Board questions on whether the bill contained funding specifically for Texas in light of impacts from the recent winter storms and the amount of funding that may be available for California and for local assistance.

- Motion by Director Coleman, seconded by Director Patterson, 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. 050-21 – Received Legislative Report No. 03-21 and approved positions on the following bills: 1) SUPPORT AB 818 (Bloom) Solid Waste: Premoistened Nonwoven Disposable Wipes; 2) SUPPORT SB 810 (Committee on Governance and Finance) Validations; 3) SUPPORT SB 811 (Committee on Governance and Finance) Validations; and 4) SUPPORT SB 812 (Committee on Governance and Finance) Validations; and received information on: 1) AB 361 (R. Rivas) Open Meetings: Local Agencies: Teleconferences; and 2) State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

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

Water Supply Update

Director of Operations and Maintenance David A. Briggs presented an update on the District's and the state's water supplies. He reviewed gross water production; East Bay and Mokelumne precipitation through March 2; snow depth and snow water content at Caples Lake which were both 76% of average as of March 2; and current U.S. Bureau of Reclamation Central Valley Project contract allocations which indicate the District could receive approximately 73,000 acre-feet if staff triggers the contract and schedules the water. The District's total system storage as of March 2 was 551,570 acre-feet or 93% of average and 72% of capacity. He concluded with a comparison of this year's precipitation in the Mokelumne watershed to previous dry years and an overview of projected District total system storage for 2021. Mr. Briggs and Director of Water and Natural Resources Michael T. Tognolini responded to Board questions regarding State Water Resources Control Board discussions on drought and current and expected storage for state and federal systems.

Coronavirus Update

Next, Mr. Briggs reported that as of noon, Alameda and Calaveras counties are in the Red Tier on the state's positivity matrix while all other District counties remain in the Purple Tier (most restrictive). No significant impacts on District operations and no significant changes to safety protocols are expected because of this. He provided the latest data on vaccinations and said staff

is still working with the counties to qualify some District employees as emergency services workers under Phase 1B. The District is also developing educational information on vaccines and continuing to encourage staff to get vaccinated. The Safe Return to Workplace Plan is being updated and he reviewed specific areas of focus in the plan as well as the state's blueprint for a safer economy which includes guidance on staffing office workspaces. The District's Safe Return to Workplace Plan will be discussed with staff and the unions and a separate plan is being developed for the Board of Directors. Mr. Briggs provided clarification on the requirement for staff to confidentially report their vaccination status to the District. Director Coleman recounted his recent experience at Lafayette Reservoir regarding visitors not consistently wearing face coverings. General Manager Clifford C. Chan and Director of Water and Natural Resources Michael T. Tognolini responded to Board questions regarding enforcement and signage for face coverings at the reservoir and other District recreation areas. Staff was asked to provide an update on face covering compliance at Lafayette Reservoir and other publicly accessible District facilities.

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 update on each initiative. Under Strategy 1 for the REJ Project, representatives from the District's Advocates and Affinity Groups received the second session of staff-led inclusive listening training to equip them to co-facilitate listening sessions with their respective groups. Discussions are also in progress regarding a joint listening session for Asian Pacific Employees Association and Black Employee Network members to discuss local tension between the Asian and Black communities. For Strategy 6, a Response Team has been created and will investigate reports of racism by customers toward District employees. Next steps for Strategy 6 include the formal rollout of the program and staff training. The task force for Strategies 7 and 8 continue to have discussions and present information about REJ Project efforts to partnering law enforcement agencies. Mr. Moten reported The Winters Group has provided the District with preliminary findings from their Cultural Audit and will present a report and recommendations at the April 13 Board meeting. He reviewed the status of work being completed by the Core and senior management teams to develop the District's DEI Strategic Plan. The teams are applying the Government Alliance for Racial Equity Tool to five pilot projects focused on addressing both internal and external equity issues: capital infrastructure investments; community engagement; contracts and procurement; hiring and recruitment; and promotion and retention. The final DEI Strategic Plan is expected to be completed by August. As reported during the February 9 update to the Board, staff recommended restructuring the Diversity and Inclusion Office to include it as part of a new Office of Diversity, Equity, and Development. The proposed office will bring together the Diversity and Inclusion Office, Contract Equity Office, and the Employee and Organizational Development Division. Staff from these offices participated in a team building session to begin the process of identifying opportunities for collaboration and developing a team culture. Mr. Moten highlighted the overall project schedule and next steps which include the April 13 presentation from The Winters Group and recruitment for the Special Assistant to the General Manager to manage the new Office of Diversity, Equity, and Development. Director Mellon commented on a CalPERS session on unconscious bias held earlier in the day and asked staff to check into obtaining a copy of the presentation and worksheet. The Board commented on the information presented by Mr. Moten

and inquired about unconscious bias training and other areas for Board members to participate in the District's REJ Project and DEI Strategic Plan efforts.

Monthly Report – February 2021

General Manager Clifford C. Chan pointed out an update in the February 2021 Monthly Report regarding the complex work required on the District's Pardee Chemical Plant Chemical Feed Shafts project and acknowledged staff from various departments for successfully completing the work. He advised he was available to respond to any questions regarding the Monthly Report. The Board had no questions.

REPORTS AND DIRECTOR COMMENTS

17. Committee Reports.

- Filed with the Board were the Minutes for the February 23, 2021 Finance/Administration Committee meeting.
- Planning Committee Chair Marguerite Young reported the Committee met earlier in the day (remotely) and received updates on: Satellite Recycled Water Projects; Private Sewer Lateral Program; Wastewater Pump Station M; Water Quality Program Annual Update – 2020; and Regulatory Compliance Semi-Annual Report – September 2020 through February 2021.
- Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier in the day (remotely) and received an update on Legislative Report No. 03-21 and information on state and federal government actions related to the Coronavirus Disease 2019 (COVID-19).

18. Other Items for Future Consideration.

None.

19. Director Comments.

Director Coleman reported attending the ACWA Washington D.C. program (remotely) on February 24 and presenting at the Contra Costa Mayors Conference (remotely) on March 4. He reported on plans to attend the ACWA Washington D.C. federal program (remotely) on March 17 and the East Bay Leadership Council Board meeting (remotely) on March 19. He acknowledged staff, including Community Affairs Representative II Kathryn A. Horn for their assistance with the presentation for the Contra Costa Mayors Conference.

- Director Katz acknowledged staff for their assistance with the presentation and information provided during the Ward 4 virtual event held on February 24.
- Directors McIntosh, Mellon, Patterson, and Young and President Linney had no report.

ADJOURNMENT

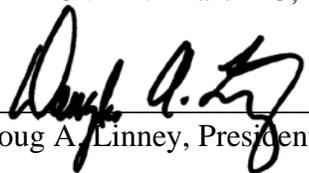
President Linney adjourned the meeting at 2:38 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: March 23, 2021



Doug A. Linney, President of the Board