

## MINUTES

**Tuesday, August 11, 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 11:03 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 via teleconference only. 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, William B. Patterson, and President Marguerite Young were present at roll call (all via teleconference).

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Assistant General Counsel Fred S. Etheridge (Items 1a and 1b), Attorney Jonathan D. Salmon (Items 1a and 1b), Director of Water and Natural Resources Michael T. Tognolini (Items 1a and 1b), Director of Finance Sophia D. Skoda (Item 2), Manager of Information Systems Andrew J. Levine (Item 2), Internal Auditor Supervisor Barry N. Gardin (Item 2), and Sure Solutions, LLC representatives Benjamin Brooks and Narjis Ali (Item 2).

### PUBLIC COMMENT

- Addressing the Board was the following person: 1) Eric Larsen, President, AFSCME Local 444 commented on the status of funded, vacant Local 444 positions and asked the Board to direct staff to begin recruitments for these positions.

The Board requested a written update on recruitments for funded, vacant Local 444 positions.

### 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 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 via teleconference only. 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, William B. Patterson, and President Marguerite Young were present at roll call (all via teleconference). 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.

### **ANNOUNCEMENTS FROM CLOSED SESSION**

There were no announcements required from closed session.

### **PUBLIC COMMENT**

- Addressing the Board was Lindsay Edelman, Executive Board Member, AFSCME Local 2019, who commented on challenges listening to and participating in Board meetings telephonically and online.

President Young requested an update on alternative software solutions for conducting virtual Board meetings. Secretary of the District Rischa S. Cole stated the Board would receive a written update on staff plans to pilot Zoom Webinar for the second Board meeting in September.

### **CONSENT CALENDAR**

- Items 6 and 12 were pulled from the Consent Calendar for separate discussion.
  - Motion by Director McIntosh, seconded by Director Coleman, to approve the recommended actions for Items 1-5 and 7-11 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. 154-20** – Approved the Regular Meeting Minutes of July 28, 2020.
  2. The following correspondence was filed with the Board: **1)** Presentation entitled, "Coronavirus Update," dated August 11, 2020; **2)** Presentation entitled, "EBMUD's Racial Equity and Justice and Diversity and Inclusion Master Plan Projects Update," dated August 11, 2020; **3)** Speakers'

Bureau and Outreach Record CY20, dated August 11, 2020; **4)** Affidavit of Posting dated July 30, 2020 for the Notice of Public Hearing on “The Collection By East Bay Municipal Utility District of Unpaid Delinquent Charges Through Property Tax Bills for Multi-Family Accounts and Filing of Report”; **5)** Proof of Publication – Oakland Tribune Legal No. 0006499604, Notice of Public Hearing on the Collection by East Bay Municipal Utility District of Unpaid Delinquent Charges Through Property Tax Bills for Multi-Family Accounts and Filing of Report, dated July 3 and July 10, 2020; **6)** Proof of Publication – Contra Costa Times Legal No. 0006499604, Notice of Public Hearing on the Collection by East Bay Municipal Utility District of Unpaid Delinquent Charges Through Property Tax Bills for Multi-Family Accounts and Filing of Report, dated July 3 and July 10, 2020; **7)** Affidavit of Posting dated August 18, 2020 for the Notice of “Election for the Office of Director of the East Bay Municipal Utility District”; **8)** Proof of Publication – Alameda Journal Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **9)** Proof of Publication – Alameda Times-Star Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **10)** Proof of Publication – Contra Costa Times Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **11)** Proof of Publication – Berkeley Voice Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **12)** Proof of Publication – Daily Review Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **13)** Proof of Publication – El Cerrito Journal Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **14)** Proof of Publication – Montclairion Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **15)** Proof of Publication – Oakland Tribune Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **16)** Proof of Publication – Piedmonter Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **17)** Proof of Publication – San Ramon Valley Times Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **18)** Proof of Publication – West County Times Legal No. 0006499627, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 3 and July 10, 2020; **19)** Proof of Publication – El Mundo CNS# 3376704, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 9 and July 16, 2020; and **20)** Proof of Publication – Oakland Post CNS# 3376705, Notice of Election for the Office of Director of the East Bay Municipal Utility District, dated July 8 and July 15, 2020.

3. **Motion No. 155-20** – Authorized two Special Facilities Agreements with Pacific Gas and Electric Company for a cumulative total amount not to exceed \$400,000 for the interconnection facilities and electrical upgrades needed to connect the Duffel Photovoltaic Project to the electric grid.
4. **Motion No. 156-20** – Authorized an agreement beginning on or after August 11, 2020 with RPR Architects in an amount not to exceed \$1,421,831 for the permitting, architectural, and design services for the Willow Service Center Site Development project.

5. **Motion No. 157-20** – Authorized an agreement beginning on or after August 11, 2020 with Stradling, Yocca, Carlson and Rauth, a Professional Corporation and Curls Bartling, P. C. for an estimated annual amount of \$300,000 for bond counsel and co-bond counsel services for water and wastewater debt financings and other debt-related activities for five years with two-options to renew for additional one-year periods for a total cost of \$2,100,000.
6. **Motion No. 162-20** – Authorized an agreement beginning on or after August 11, 2020 with Trussell Technologies, Inc. for two years with three options to renew for additional one-year periods for a total amount not to exceed \$299,941 for process support at the Richmond Advanced Recycled Expansion facility at the Chevron Richmond Refinery.
  - Item 6 was pulled from the Consent Calendar for public comment.
  - Addressing the Board was Eric Larsen, President, AFSCME Local 444, who commented the union supports the agreement.
  - Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 6 carried (7-0), by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
7. **Motion No. 158-20** – Authorized an agreement beginning on or after August 11, 2020 with Utility Cost Management LLC in an amount not to exceed \$200,000 for consulting and account management services to optimize Pacific Gas and Electric Time-of-Use energy tariffs.
8. **Motion No. 159-20** – Authorized an amendment to the contract awarded under Board Motion No. 021-19 with Equifax Workforce Solutions to increase the amount by \$40,000 to a total amount not to exceed \$210,000 and extend the contract terms to July 2023 for Patient Protection and Affordable Care Act (ACA) compliance tracking, ACA tax form preparation and fulfillment, unemployment administration, and Work Number services (employment verifications).
9. **Motion No. 160-20** – Authorized the Office of General Counsel to continue the employment of the law firm of Somach, Simmons & Dunn, P.C., for 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.
10. **Resolution No. 35195-20** – Authorizing a 20-Year Lease With California State Lands Commission for Land on the Mokelumne River in Woodbridge, San Joaquin County.
11. **Resolution No. 35196-20** – Authorize Compensation of East Bay Municipal Utility District Employee-Reservists on Military Leave of Absence.
12. **Resolution No. 35197-20** – Celebrating the 100<sup>th</sup> Anniversary of the 19<sup>th</sup> Amendment to the United States Constitution.

President Young pulled Item 12 to recognize the 100<sup>th</sup> anniversary of the 19<sup>th</sup> Amendment which guaranteed all American women the right to vote. The 19<sup>th</sup> Amendment was ratified on

August 18, 1920. She highlighted the following female activists and reformers whose work changed the State of California and this country, yet were denied the right to vote: Elizabeth Cady Stanton, Susan B. Anthony, Clara Shortridge Flotz, Phoebe Hearst, Julia Morgan, Lydia Flood Jackson, and Clara Elizabeth Chan Lee.

- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 12 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**

### **13. Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine provided an overview of the following bills in Legislative Report No. 07-20: SB 1103, a workforce development bill intended to fund supportive services for low-income workforce participants to participate in training programs; and S. 4188, the Water for Tomorrow Act of 2020, which if approved, would provide \$3 billion in funding for water infrastructure and supplies, provide grant funding for water for disadvantaged communities, and establish grant programs for the protection of ecosystems and fisheries. Legislative/Human Resources Committee Chair John A. Coleman reported the Committee supported the staff recommendations. He also said the Committee requested information on S. 4188's potential impact on the District's Mokelumne River Voluntary Agreements. Next, Ms. Dumaine provided an update on state and federal activities including actions related to COVID-19.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Item 13 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. 163-20** – Received Legislative Report No. 07-20 and approved positions on the following bills: 1) Support SB 1103 (Hurtado) Workforce training programs: supportive services; and 2) Support S. 4188 (Harris) Water for Tomorrow Act of 2020; and received information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

### **14. General Manager's Report.**

#### EBMUD's Racial Equity and Justice Project Update.

Manager of Employee and Organizational Development Derry L. Moten presented an update on the District's Racial Equity and Justice (REJ) and Diversity and Inclusion Master Plan (DIMP) projects. He explained the REJ Project will be completed in three phases over the next 24 months and reviewed the updated project management structure which now includes a steering committee comprised of the General Manager, Manager of Human Resources, and union representatives. Staff recently met with The Winters Group, the DIMP consultant, to identify areas in both projects where efforts could be coordinated. He highlighted actions taken to date for both projects, the proposed REJ Project schedule, and feedback received from employees. Over the next month, staff will continue work on REJ Project Strategy 1 and begin work on Strategies 6, 7 and 8; complete the recruitment process for the staff position to assist

with the REJ Project; and coordinate activities with The Winters Group. Based on the information provided, Mr. Moten asked the Board to provide feedback on the project schedule, coordinating efforts between both projects, and a sustainable process for listening to employees as outlined in REJ Project Strategy 1. Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier and accepted the staff report.

There was Board discussion regarding both projects and Mr. Moten responded to Board questions on ways for the Board to obtain an understanding of employee focus group discussions; whether all employees will have the opportunity to provide feedback on both projects; and the members of the REJ Project steering committee. Mr. Moten confirmed employees will be invited to provide input through the focus groups administered by The Winters Group and General Counsel Craig S. Spencer confirmed staff from the Office of General Counsel will be included on the REJ Project steering committee. There was Board consensus to continue the projects as separate but coordinated efforts, to proceed with the proposed REJ Project schedule, and for staff to continue implementing employee listening sessions as outlined in REJ Project Strategy 1. The Board asked staff to identify opportunities to inform customers, stakeholders, and the public about District efforts on both projects; provide guidance on whether Board members can participate in activities in both projects including employee listening sessions; explore the relationship between the District's efforts and the civil justice system; and to present employee ideas/feedback regarding the projects during future updates. Mr. Moten advised that at the Regular meeting on September 8, staff would be seeking input on the outcomes the Board envisions if the REJ and DIMP projects are combined.

#### Coronavirus Update.

Acting Director of Operations and Maintenance David A. Briggs presented an update on the District's response to COVID-19, the latest health orders from Alameda, Contra Costa and Amador counties, and the governor's most recent Executive Orders. He reported on impacts to operations, including how the District is prepared to respond to PG&E's public safety power shutoffs in the midst of COVID-19; infection management strategies; and the current work environment for employees. Mr. Briggs responded to Board questions regarding the work the District is doing to assist employees whose school-age children are required to distance-learn, COVID-19 testing turnaround times, and social distancing and face coverings at Lafayette Reservoir. General Manager Chan and Manager of Human Resources Laura A. Acosta responded to Board questions regarding COVID-19's impact on recruitments.

#### Appoint Ad Hoc Committee to negotiate amendment to employment agreement with General Counsel.

President Young announced that consistent with past practice, the Board is being asked to consider appointing three members of the Board to serve on the Ad Hoc Committee to negotiate amendments to the employment agreement with the General Counsel. She also asked Secretary Cole to schedule a Special Closed Session meeting on August 18 for the Ad Hoc Committee to provide an update to the full Board.

- Motion by President Young, seconded by Director Coleman, to appoint Director Doug Linney, Director Lesa R. McIntosh, and President Marguerite Young to the Ad Hoc Committee of the Board, 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. 164-20** – Established an Ad Hoc Committee consisting of Director Doug Linney, Director Lesa R. McIntosh and President Marguerite Young to negotiate amendments to the employment agreement with the General Counsel.

General Manager Clifford C. Chan announced he was available to answer questions regarding the July 2020 Monthly Report. The Board raised no questions.

## **REPORTS AND DIRECTOR COMMENTS**

### **15. Committee Reports.**

- Filed with the Board were the July 28, 2020 Sustainability/Energy Committee and Finance/Administration Committee Minutes.
- Planning Committee Chair Doug Linney reported the Committee met earlier in the day (via teleconference) and received updates on the following: Los Vaqueros Reservoir Expansion Project; East Bayshore Recycled Water Project; Lead Service Lateral Inventory and Replacement Plan; Main Wastewater Treatment Plant Odor Control Program; and Information Technology Security.
- Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier in the day (via teleconference) and received updates on the following: Legislative Report No. 07-20; the District's Values and Organizational Improvements Program; and the EBMUD Racial Equity and Justice and Diversity and Inclusion Master Plan Projects.

### **16. Other Items for Future Consideration.**

None.

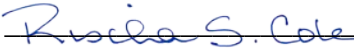
### **17. Director Comments.**

- Director Mellon congratulated Directors Linney, McIntosh and Patterson on being unopposed for the Board seats in Wards 1, 5 and 6.
- Director Patterson reported he spoke at an Oakland NAACP commemorative program honoring former U.S. Representative John Lewis on August 9 (remotely).
- Directors Coleman, Katz, Linney, McIntosh and President Young had no report.

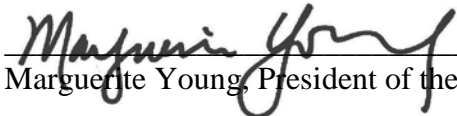
**ADJOURNMENT**

President Young adjourned the meeting at 2:48 p.m.

SUBMITTED BY:

  
\_\_\_\_\_  
Rischa S. Cole, Secretary of the District

APPROVED: September 8, 2020

  
\_\_\_\_\_  
Marguerite Young, President of the Board