

MINUTES

Tuesday, July 13, 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 11:04 a.m. He announced that in accordance with the Governor's Executive Order N-08-21 which suspends portions of the Brown Act, the public participation portion of 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.

Participants included General Manager Clifford C. Chan, General Counsel Derek T. McDonald, Director of Finance Sophia D. Skoda (Items 1a, 2 and 3), Manager of Human Resources Laura A. Acosta (Item 3), Manager of Employee Relations Niger M. Edwards (Item 3), Meyers Nave Attorney Camille Hamilton Pating and staff Janice Brown and Suzanne Ruten (Items 1a and 2), and Industrial Employers Distributors Association representatives Gregory Ramirez and Jeff Bailey (Item 3).

**General Counsel Derek T. McDonald was not present for Items 1a, 2, and 4.*

PUBLIC COMMENT

- Addressing the Board were the following: 1) Eric O. Larsen, President, AFSCME Local 444 commented on the District's dependent verification audit being conducted by BMI Audit Services; 2) Joseph Q. Pangelinan, Chief Steward, Local 444, commented on the District's dependent verification audit being conducted by BMI Audit Services and the security of employee data; and 3) 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.

The Board requested additional information on the dependent verification audit process.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

President Doug A. Linney called to order the Regular Business Meeting of the Board of Directors at 1:22 p.m. He announced that in accordance with the Governor's Executive Order N-08-21 which suspends portions of the Brown Act, the public participation portion of 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. 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

Director Marguerite Young announced the Board would be recognizing students from schools in the District's service area who won prizes at the annual Contra Costa County Science Fair. Cathy Kenderski and Sarah Wu from Campolindo High School in Moraga won second place in the Senior Division and \$500 each for their project "A Novel Solution to Plastic Pollution." Ethan Li from Monte Vista High School in Danville won third place and \$200 for his project "Turning Graywater into Useable Water for Gardening." The Board viewed a short video clip of Cathy's and Sarah's project and both students responded to questions from Director Young regarding their winning entry. Educator Roxanna Jackman, who provided support for both projects, was also present online. Ethan and educator Rachel Eaton did not participate in the meeting. The Board congratulated the students on their work and winning entries.

General Manager Clifford C. Chan announced the District received The Partnership for Safe Water's Director's Award for the Orinda Water Treatment Plant. The plant achieved the Director's level status in 2000 and has continued to meet the requirement for 20 years. The Partnership for Safe Water is a voluntary program whose mission is to improve the quality of water delivered to customers and improve public health by optimizing water system operations. The following staff accepted the award on behalf of all the Orinda Water Treatment Plant operators: Water Treatment Supervisor Chris Burquez, Senior Water Treatment Operator Anna Williams, and Senior Civil Engineer Lori Work Kazimi. The Board congratulated staff on winning the award.

Manager of Wastewater Environmental Services Alicia R. Chakrabarti provided a presentation acknowledging the 20-year Anniversary of the District's Resource Recovery (R2) Program located at the Main Wastewater Treatment Plant (MWWTP). Ms. Chakrabarti reviewed the history of the MWWTP and highlighted the early years of the R2 Program. Over the past 20 years the Program has beneficially treated 3.4 billion gallons of wastes for \$161 million in total tip fee revenue; served 400 customers with 1,800 different permitted organic waste streams; recycled 270,000 tons of organic

waste solids to the land as compost or soil amendment; generated 400,000 MWh of renewable electricity; and reduced greenhouse gas emissions by 100,000 metric tons of carbon dioxide equivalent. She highlighted Program awards, collaborations and grant funding received to date. The Board thanked staff for their work over the years on the Program.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following: 1) George D. Cleveland, Chief Steward, AFSCME Local 2019 commented on the District's dependent verification audit being conducted by BMI Audit Services and asked that a discussion be calendared for a future meeting on how the District can celebrate the federal Juneteenth holiday; 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 said a copy of the lawsuit she provided to the District could be requested under the Public Records Act or from her. Ms. Rivera also commented on the Board commendation for retired General Counsel Craig Spencer; and 3) Nick Lawrence commented on an email he sent to the Board regarding concerns with the fire hydrant on Tappan Terrace in Orinda.

General Manager Clifford C. Chan said staff will provide an update to the Board regarding Mr. Lawrence's concerns.

President Linney reiterated the Board will receive an update on the dependent verification audit process.

CONSENT CALENDAR

- Items 8 and 9 were pulled from the Consent Calendar for discussion.
 - Motion by Director Young, seconded by Director Coleman to approve the recommended actions for Items 1-7 on the Consent Calendar carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 122-21** – Approved the Regular Meeting Minutes of June 22, 2021.
 2. The following correspondence was filed with the Board: **1)** Email dated July 12, 2021 from Nick Lawrence regarding hydrant repair on Tappan Terrace in Orinda; **2)** Email dated July 12, 2021 from EBMUD employee Geoffrey Snyder to the EBMUD Board of Directors regarding the District's dependent verification audit being conducted by BMI Audit Services; **3)** Attachment 1 – Delinquent EBMUD Charges for Transfer to the Alameda County 2021-2022 Property Tax Roll (for Agenda Items 11.1-11.2); **4)** Attachment 2 – Delinquent EBMUD Charges for Transfer to the Contra Costa County 2021-2022 Property Tax Roll (for Agenda Items 11.1-11.2); **5)** Presentation entitled, "20-Year Anniversary of the Resource Recovery (R2) Program," dated July 13, 2021; **6)** Presentation entitled "Drought Update," dated July 13, 2021;

7) Presentation entitled “Coronavirus Update,” dated July 13, 2021; 8) Presentation entitled, “Wet Weather Facilities Charge on 2021-2022 Property Tax Rolls,” dated July 13, 2021; 9) Affidavit of Posting dated August 2, 2021 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”; and 10) Affidavit of Posting dated August 2, 2021 for the Notice of Public Hearing to “Consider a Resolution Ordering the Wet Weather Facilities Charges to be Collected on the Property Tax Roll.”

3. **Motion No. 123-21** – Awarded a contract to the lowest responsive/responsible bidder, Advanced Integrated Solutions, Inc. for the renewal of IBM Maximo Asset Management software licenses with software subscription and support for one year, beginning on or after August 1, 2021, with two options to renew for additional one-year periods for a total cost, including option years, not to exceed \$336,213 under Request for Quotation No. 2110.
4. **Motion No. 124-21** – Awarded a contract to the lowest responsive/responsible bidder, STAT Delivery Service, Inc., for providing courier services for two years, beginning on or after July 14, 2021, with three options to renew for additional one-year periods for a total cost, after the addition of taxes, including options years, not to exceed \$334,362 under Request for Quotation No. 2111.
5. **Motion No. 125-21** – Authorized an agreement beginning on or after July 13, 2021 with Examintetics, Inc. for \$135,000 for five years for mobile onsite and online health services.
6. **Motion No. 126-21** – Authorized an amendment to the agreement executed on September 13, 2018, with the University of California at Davis to increase the agreement amount to a total amount not to exceed \$172,530 for completion of a study on the water and energy savings associated with Advanced Metering Infrastructure, and analysis of reductions in distribution system leaks during the COVID-19 shelter-in-place.
7. **Motion No. 127-21** – Authorized the General Manager to cast a ballot on behalf of the District in support of the formation of the Oakland Chinatown Community Benefit District.
8. **Resolution No. 35236-21** – Appointing Jennella Sambour-Wallace as Diversity and Inclusion Officer.

General Manager Chan introduced Ms. Sambour-Wallace and highlighted her educational and professional background. Ms. Sambour-Wallace thanked the Board for the opportunity and said she is excited to bring her expertise to the District. Director Mellon asked to consider placing future appointments under the Determination and Discussion section of meeting agendas.

- Motion by Director Young, seconded by Director Coleman to approve the recommended action for Item 8 carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

9. **Resolution No. 35237-21** – Commending Craig S. Spencer as General Counsel of the East Bay Municipal Utility District, on the Occasion of His Retirement, for His Twenty-Six Years of Exceptional Service.

President Linney announced that after 26 years of service, General Counsel Craig S. Spencer would be retiring from the District. He said that while Mr. Spencer would officially retire effective September 1, 2021, his last day in the office was June 9. President Linney introduced the resolution commending Mr. Spencer for his service and legal guidance over the years in various areas including strategic planning, water rights, water quality, finance, rates and charges, and environmental stewardship. Additionally, his strong negotiation and litigation skills have been beneficial to the District and its ratepayers. Each Board member thanked Mr. Spencer for his years of service and guidance on various complex legal issues and wished him well in retirement. Mr. Spencer thanked the Board for their support, leadership, and respect for staff; acknowledged General Manager Chan and former General Managers for their support; and thanked his past and present colleagues in the Office of General Counsel.

- Motion by Director Coleman, seconded by Director Patterson to approve the recommended action for Item 9 carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

PUBLIC HEARING

- 10.1 **Conduct a public hearing and take actions related to the collection of the Fiscal Year 2022 (FY22) Wet Weather Facilities Charge (WWFC) on the property tax rolls of Alameda and Contra Costa counties.**

President Linney opened the public hearing at 2:14 p.m. He announced the hearing is to consider objections and protests to EBMUD's written report describing each parcel of real property subject to the WWFC to be collected on the 2021-2022 property tax rolls for EBMUD's FY22 and the amount of the WWFC to be imposed on each parcel. He highlighted the process for lodging a valid protest during the public hearing in light of the COVID-19 pandemic. President Linney stated all written protests must be received before the close of the public hearing.

Director of Wastewater Eileen M. White presented an overview of the District's wastewater collection system and treatment processes and explained how the WWFC funds capital expenses for the District's inflow and infiltration facilities (including wet weather facilities, interceptors, pumping stations and storage basins). For 2021-2022, the WWFC totals approximately \$29.3 million and represents 20 percent of total revenue for the Wastewater System. She reviewed the procedural requirements outlined in the State's Health and Safety Code (H&SC) that authorize the District to collect the WWFC on the counties' property tax rolls. In compliance with H&SC section 5473, staff filed a report with the Secretary of the District on June 10, 2021 that contains the parcel number and amount of the charge for each parcel. In accordance with California Government Code section 6066, the District published notices of the public hearing in the Oakland Tribune and West County Times on June 18 and June 25. Ms. White said staff is recommending the Board consider approving the actions outlined in agenda Items 10.2a-10.2d. If approved (by two-thirds of the members of the Board as outlined in the H&SC), the Secretary of the District will file a copy of the report with the auditors of Alameda and Contra Costa counties on or before August 10.

President Linney called for Board questions. The Board raised no questions. Next, he called for public comment. There was no public comment.

President Linney announced the District did not received any protests to the written report and closed the public hearing at 2:21 p.m.

- Director Mellon left the meeting at 2:14 p.m. and returned at 2:16 p.m.

10.2a- **Adopt EBMUD’s written Report describing each parcel of real property subject to the**
10.2d **Wet Weather Facilities Charge by at least two-thirds of the members of the Board (i.e., by five Board members); authorize the District to collect the Wet Weather Facilities Charge on the Fiscal Year 2021-2022 property tax rolls of Alameda and Contra Costa counties; authorize District staff to adjust the FY22 Wet Weather Facilities Charge for any affected parcels as new information is provided by the counties; and direct the Secretary of the District to file a copy of the Report on or before August 10, 2021 with the Alameda County Auditor and the Contra Costa County Auditor.**

- Motion by Director McIntosh, seconded by Director Patterson to approve the recommended actions for Item 10.2a-10.2d carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35238-21 – Adopting the Report of the East Bay Municipal Utility District Wet Weather Facilities Charge and Directing the Secretary to File Said Report with the Alameda County Auditor and the Contra Costa County Auditor and to Request the Auditors to Place the Fiscal Year 2022 Wet Weather Facilities Charge on the Property Tax Rolls.

PUBLIC HEARING

11.1 **Conduct a public hearing to consider objections and protests to the General Manager’s report to Transfer Delinquent EBMUD Charges to the 2021-2022 Property Tax Rolls.**

President Linney opened the public hearing at 2:24 p.m. He announced the hearing is to consider objections and protests to the General Manager’s report to Transfer Delinquent EBMUD Charges to the 2021-2022 Property Tax Rolls. He stated staff is available to assist customers calling on the teleconference line with their accounts. He asked if there was anyone on the teleconference line to lodge an objection or protest to the actions being considered by the Board. There was no one on the teleconference line to lodge an objection or protest. President Linney closed the public hearing at 2:25 p.m.

11.2 **Adopt the General Manager’s report dated June 8, 2021 and authorize the General Manager to exclude from the report any affected parcels or amounts as appropriate, including those that the District receives payment for on or before August 10, 2021, the date in which reports will be sent to Alameda and Contra Costa counties. A summary of the final Report will be included in the August 2021 General Manager’s monthly report.**

- Motion by Director Mellon, seconded by Director Young to approve the recommended actions for Item 11.2 carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35239-21 – Approving Transfer of Unpaid Delinquent Charges to Alameda and Contra Costa Counties' 2021-2022 Property Tax Rolls.

DETERMINATION AND DISCUSSION

12. Legislative Update.

Manager of Legislative Affairs Marlaigne K. Dumaine provided an overview of three bills in Legislative Report No. 07-21. *AB 1066 (Bloom)* as amended on June 24, 2021, is consistent with EBMUD's mission and is intended to protect public health by providing a path to establish an inland water recreation site water quality monitoring program. *SB 222 (Dodd)* would establish the Water Rate Assistance Program to provide water affordability assistance for both drinking water and wastewater services to low-income ratepayers and is generally intended to implement recommendations in the State Water Resources Control Board's Low-Income Water Rate Assistance Final Report. Regarding *Budget Trailer Bill (TBD)*, Ms. Dumaine reported that since 2018, SupplyBank.Org has been working to meet California Environmental Quality Act (CEQA) requirements and obtain the necessary construction permits from the City of Oakland for the Oakport Street Project. The project, located on the District's Oakport property in Oakland, is led by SupplyBank.Org and would develop a distribution center for emergency supplies, a non-profit office space hub, and land improvements and shared warehouse space for EBMUD. SupplyBank.Org is seeking statutory clarification that the transportation analysis required under CEQA is complete. If the Board approves the Legislative Report, the District will send a letter from the Board to Senator Skinner and Assemblymember Ting in support of SupplyBank.Org and the Oakport Street Project. Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier in the day and supported the staff recommendations for the Legislative Report and encouraged the Board to sign the letter in support of SupplyBank.Org. Ms. Dumaine responded to Board questions regarding the proposed amendments staff is seeking for SB 222. Next, she provided an update on state and federal activities including actions related to and funding sources for COVID-19 relief. She also reported Representative Eric Swalwell submitted a request to the House Appropriations subcommittees for the District to receive \$3.5 million in federal funding for the Upper San Leandro (USL) Water Treatment Plant Maintenance and Reliability and USL and Sobrante Chemical System Safety Improvements Project. The project was one of nine community projects submitted for funding by Representative Swalwell. Senator Padilla's office has indicated to staff that he is also pursuing a funding request for the project. Staff hosted a tour of the USL Water Treatment Plant for Representative Swalwell on July 12. Manager of Customer and Community Services Andrew L. Lee responded to Board questions on District outreach to customers about the state funding for utility bill arrearages.

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

Motion No. 128-21 – Received Legislative Report No. 07-21 and approved positions on the following bills: 1) SUPPORT AB 1066 (Bloom) Priority Inland Water-Contact Recreation Sites: Water Quality Monitoring; 2) SUPPORT IF AMENDED SB 222 (Dodd) Water Rate Assistance Program; and 3) SUPPORT Budget Trailer Bill (TBD) SupplyBank: Oakport Street Project: Clarifying Language: Transportation; and received information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

- Director Mellon left the meeting at 2:54 p.m. and returned at 2:55 p.m.
- Director McIntosh left the meeting at 2:57 p.m. and returned at 2:58 p.m.

13. **Appoint an Ad Hoc Committee to negotiate amendments to the employment agreement with the General Manager.**

President Linney announced that consistent with past practice, the Board is being asked to appoint three members to serve on the Ad Hoc Committee to negotiate amendments to the employment agreement with the General Manager.

- Motion by Director Coleman, seconded by Director Young to approve the recommended action for Item 13 carried (7-0) by the following voice vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 129-21 – Appointed President Doug A. Linney, and Directors John A. Coleman and Lesa R. McIntosh to the Ad Hoc Committee to negotiate amendments to the employment agreement with the General Manager based on his 2021 performance evaluation.

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

2021 Drought Update

Engineering Manager Lena L. Tam reported the District's end of September storage projection remains at 425,000 acre-feet (AF) under median conditions and said the Department of Water Resource's Bulletin 120 forecast for total runoff is still 219,000 AF under median conditions. On Thursday, July 8, Governor Newsom asked California residents to voluntarily reduce their water use by 15 percent. The District will begin diverting its Central Valley Project (CVP) allocation (33,250 AF or 25 percent of the annual allocation) on September 15, 2021. She highlighted the District's Drought Plan which is designed to address multi-year droughts and Senior Public Information Representative Andrea A. Pook provided an overview of how the District is responding to taste and odor impacts that may result from changes in the water supply. Staff is proactively communicating with customers; providing updates on supply changes and potential taste and odor events on the District's social media platforms and website; and will continue assessing and developing thresholds to use various communication tools to notify customers. Manager of Water Conservation Alice E. Towey reviewed drought messaging activities and said the District is launching its digital and print advertising campaign, "Make Every Drop Count." Ads will be placed on the web, social media platforms, in newspapers, and on two Clear Channel billboards and in transit shelters. The District is also launching a new "Lawn to Garden Super Rebate" pilot program which offers \$1.50 per square foot of lawn replaced if customers incorporate at least three of the best practices outlined in the program requirements. Ms. Towey said the pilot is being promoted on social media and staff has conducted 63 interviews with local media concerning drought in 2021. The next presentation in the Water Wednesday Speaker

Series will be held on July 21 and will cover the District's goal of a 10 percent reduction in water usage. Staff responded to questions from the Board regarding potential barriers or issues to the District's schedule to divert its CVP allocation in September; algae blooms and taste and odor events; and how the District uses ozone to mitigate taste and odor issues. The Board asked staff to highlight how the District is investing in various strategies to address taste and odor issues during outreach; schedule a drought presentation with the City of Orinda; provide the Board with a copy of the drought presentation staff uses at community and council meetings; advise if moving fish to District reservoirs will assist with salmon returns; and to provide the access information for the July 21 Water Wednesday Speaker Series webinar.

Coronavirus Update

Director of Operations and Maintenance David A. Briggs presented an overview of the most recent State regulations and guidance noting that many safety protocols related to occupancy limits, social distancing, carpooling, mask wearing, and travel restrictions have been rescinded. While many safety protocols have been rescinded, he reported the State's emergency declaration and many Executive Orders remain in effect. He reviewed the number of positive COVID-19 cases at the District to date; the latest data on employee and service area counties' vaccination rates; and the status of the Safe Return to Workplace Plans for staff and the Board. The Board asked for information on the District's financial and legal obligations for employees who choose not to get vaccinated and contract COVID-19.

The Six-Month Forecast and Summary of Board Committee and Workshop Agenda Topics for 2021 and General Manager's June 2021 Monthly Report were provided to the Board in their agenda packets.

REPORTS AND DIRECTOR COMMENTS

15. Committee Reports.

- Filed with the Board were the Minutes for the June 22, 2021 Redistricting Ad Hoc and Finance/Administration Committees.
- Planning Committee Chair Marguerite Young reported the Committee met earlier in the day and received updates on the Pipeline Rebuild Program, Trail User Permit Review, and Excessive Water Use Penalty Ordinance Amendment. Due to time constraints, the Research and Innovation at EBMUD update was deferred to August.
- Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier in the day and received an update on Legislative Report No. 07-21 as well as information on State and Federal Government actions related to COVID-19.

16. Other Items for Future Consideration.

None.

17. **Director Comments.**

- Director Coleman reported on plans to attend the United States Army Corps of Engineers Change of Command Ceremony in Sausalito on July 15 and present a drought update to the San Ramon City Council on July 30 (remotely). Director Coleman also noted the passing of former California state Senator and Assemblyman Dick Rainey.
- Director Mellon noted the passing of Fred Zehnder, publisher of the San Leandro Times and the Castro Valley Forum, and longtime KTVU news director.
- Director Patterson noted the passing of retired area Superior Court Judge John Sutter who also served as Oakland's vice mayor and as a Director on the East Bay Regional Park District Board.
- Directors Katz, McIntosh, and Young, and President Linney had no reports.

ADJOURNMENT

President Linney announced today's meeting would be adjourned in memory of Honorable Judge John Sutter who was a lifelong conservation champion and dedicated most of his life to advocating for environmental stewardship and public access to open space. He served on the East Bay Regional Park District's Board of Directors for 20 years (1996-2016) and was one of the co-founders of Citizens for Parks, now known as the Greenbelt Alliance. Judge Sutter passed away in May 2021, just seven months after a 22-acre regional shoreline park was dedicated in his honor.

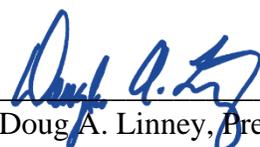
President Linney adjourned the meeting in memory of Honorable Judge John Sutter at 3:40 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: August 10, 2021



Doug A. Linney, President of the Board