

MINUTES

Tuesday, October 13, 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 11:02 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 11:05 a.m. (remotely).

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Attorney Jonathan D. Salmon (Item 1a), Attorney Anna P. Gunderson (Items 1a and 1b), Director of Wastewater Eileen M. White (Item 1a), Attorney Rachel R. Jones (Item 1b), Director of Engineering and Construction Olujimi O. Yoloye (Item 1b), and Engineering Manager David J. Rehnstrom (Item 1b).

PUBLIC COMMENT

- Addressing the Board were the following persons: 1) Gistand Williams, Jr., Assistant Construction and Maintenance Superintendent asked the Board to consider recognizing Juneteenth as an official District holiday; and 2) Eric Larsen, President, AFSCME Local 444 commented on remarks made by U.S. Environmental Protection Agency Administrator Andrew Wheeler regarding the state's electric grid and the sanitary sewer overflow caused by a power outage at the District's Main Wastewater Treatment Plant. Mr. Larsen thanked staff and the Board for their work to address climate change.

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 1:20 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, Andy Katz, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (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.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Items 1-9 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. 186-20** – Approved the Regular Meeting Minutes of September 22, 2020.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Self-Guided Virtual Tours and Speaker Series,” dated October 13, 2020; **2)** Presentation entitled, “EBMUD’s Racial Equity and Justice and Diversity and Inclusion Master Plan Projects Update,” dated October 13, 2020; and **3)** Presentation entitled, “Coronavirus Update,” dated October 13, 2020.
 3. **Motion No. 187-20** – Authorized an agreement beginning on or after October 13, 2020 with Aetypic, Inc. in an amount not to exceed \$428, 157 for planning, design, and engineering services during construction for the Main Wastewater Treatment Plant Operations Center Building Improvements Project.
 4. **Motion No. 188-20** – Authorized an agreement beginning on or after October 13, 2020 with irth Solutions, LLC in an amount not to exceed \$94,000 for three years for implementing and providing irth Utilisphere software licenses and maintenance, and \$9,000 in optional services for a total of \$103,000.
 5. **Motion No. 189-20** – Authorized an agreement beginning on or after October 13, 2020 with Microsoft Corporation in an estimated annual amount not to exceed \$77,580 for expedient

support of Office 365's cloud-based systems through January 15, 2023 for a total cost of \$176,860.

6. **Motion No. 190-20** – Authorized a direct award agreement beginning on or after October 13, 2020 with Terradex, Inc. in an estimated annual amount not to exceed \$25,000 through June 30, 2021 with four options to renew for additional one-year periods, and \$25,000 in optional services, for a total cost not to exceed \$150,000 for providing WhatsDown environmental hazard data aggregating software licenses and maintenance.
7. **Motion No. 191-20** – Authorized an amendment to the agreement awarded under Board Motion No. 134-19 with CDM Smith, Inc. to increase the amount by \$393,002 to a total amount not to exceed \$994,205 for engineering consulting services during repairs of the wastewater interceptor system.
8. **Motion No. 192-20** – Approved the assignment of the agreement originally awarded under Board Motion No. 123-19 from Garcia and Associates to Kleinfelder, Inc. for on-call cultural and paleontological resource management services.
9. **Motion No. 193-20** – Authorized an agreement with Apex Employment Law, LLP, for specialized legal services related to public sector labor and employment law and litigation matters in an amount not to exceed \$125,000.

DETERMINATION AND DISCUSSION

10. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine reviewed Legislative Report No. 09-20 which contained one bill – H.R. 6745 (DeFazio) Clean Water for All Act. If approved, H.R. 6745 would provide for the reversal of the Trump Administration's Waters of the U.S. rulemaking and require the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to develop new regulations to protect rivers, streams, and wetlands. Ms. Dumaine highlighted key bills in the list of bills on which the District adopted a formal position during the 2019-2020 legislative session and additional bills of interest to the District. Next, she discussed the most recent state and federal activities related to COVID-19 and responded to Board questions regarding the location of state adult conservation (fire) camps scheduled to close as part of the Governor's 2020-2021 budget. Legislative/Human Resource Chair John A. Coleman reported the Committee met earlier and voted (2-0) to support the staff recommendation for the legislative report.

- Motion by Director Coleman, seconded by Director Young, to approve the recommended action for Item 10 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. 194-20 – Received Legislative Report No. 09-20 and approved a SUPPORT position on H.R. 6745 (Defazio) Clean Water for All Act; and received information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

11. **General Manager's Report.**

Live and Self-Guided Virtual Tours and Speaker Series

Special Assistant to the General Manager Kelly A. Zito presented an overview of the online, interactive version of the District's East Bay trails map and a virtual, self-guided tour of the Orinda Water Treatment Plant. She discussed the District's current online educational resources and virtual tours for schools and the public and plans to add virtual tours for other District sites and key facilities. In spring 2021, staff is planning to launch a regular public speaker series on a range of topics including water supply, watershed and recreation, wastewater operations, EBMUD history, water conservation, and infrastructure investment. Initially, these events will be online to comply with public health orders with plans to shift them to in-person events at the Administration Building and other relevant District locations. She reported staff may also continue holding virtual events to maximize public participation. The Board thanked staff for their efforts to expand the District's virtual offerings. Ms. Zito responded to Board questions regarding displaying sensitive District sites and/or infrastructure in virtual tours and plans to make the online educational resources available for use in classrooms and other educational settings. The Board asked staff to consider facility security when preparing future virtual tours and to include the Upper Mokelumne Watershed Authority's efforts on watershed protection as a topic for the public speaker series.

Racial Equity and Justice (REJ) and Diversity and Inclusion Master Plan (DIMP) Projects Update

Manager of Employee and Organizational Development Derry L. Moten presented an update on both projects and the project schedule, and reviewed the background of the person selected for the Long-Term Senior Human Resources Analyst position. The task forces for REJ Project Strategies 1 and 6 are meeting weekly to identify opportunities and challenges in providing a safe space for employees to dialogue about individual and systemic racism and establishing protocols for employees who may experience racism or abuse while interacting with customers and/or law enforcement. A joint task force for REJ Project Strategies 7 and 8 will be launched in October once the Long-Term Senior Human Resources Analyst comes onboard. In advance of the task force launch, staff has been communicating with law enforcement agencies that partner with the District about their efforts on police reform and procedural justice policy. Staff is also researching existing penalties and legislation pertaining to mistreatment of public employees. The Winters Group, Inc., the DIMP consultant has expanded the number of individuals participating in one-on-one stakeholder interviews to include additional staff level participants from the District's Affinity Groups and has completed six of 16 scheduled employee focus groups. Mr. Moten reviewed the DIMP development process, including the internal assessment, training for the Core Team and senior management, and the benchmarking process. The consultant will use the Global Diversity and Inclusion Benchmarking Tool which contains a series of best practices grouped into four areas of practice and 14 different categories of concrete actions. The District will use the resulting benchmarking data to prioritize its diversity, equity and inclusion efforts. Staff is also working with the California Urban Water Agencies' Diversity and Inclusion working group on the District's overall diversity and inclusion efforts. He summarized the next steps and highlighted the objectives for both programs. Staff will seek feedback from the Board at its November 10 meeting to confirm both programs' objectives and on the 14 categories of the Global Diversity and Inclusion Benchmarking Tool. Mr. Moten responded to Board questions on how the District's summer intern program fits with benchmarking efforts outlined on presentation slide 12; whether the new Long-Term Senior

Human Resources Analyst has previously used the Government Alliance for Racial Equity Racial Equity Toolkit; and leveraging partnerships with current workforce development partners in this process. The Board asked staff to review programs and resources from Los Angeles County's Workforce Education and Research Center; consider using Deming's Quality Circles as a tool for the DIMP project; information on how training will be provided to middle managers and supervisors; and an update on staff's review of existing District processes and programs that could be affected by the passage of Proposition 16. For future updates, the Board requested that staff present information at the Regular Board meeting only and schedule updates to the Legislative/Human Resources Committee as needed.

Coronavirus Update

Acting Director of Operations and Maintenance Michael R. Ambrose presented an update on the current risk levels, new cases and positive tests in Alameda, Contra Costa, San Joaquin, Amador and Calaveras counties; newly permitted activities in Alameda and Contra Costa counties including reopening schools; and employee leave use related to COVID-19. Manager of Customer and Community Services Andrew L. Lee discussed efforts to assist customers through various programs and plans and targeted outreach to Customer Assistance Program participants. He discussed how the District will address water use on inactive accounts – accounts where water service is active but the District has no customer of record listed. The District has identified over 1,700 inactive accounts where water is being used. Of the 1,700 accounts, 735 accounts have used 3,000 or more gallons per month. This unaccounted water use since January 2020 equals approximately \$416,000. He reviewed common reasons for these accounts to show use, the current process to manage water use on these accounts and recommendations to address this matter one of which would include disconnecting service at premises that are unoccupied or where occupants are unresponsive to District outreach. Mr. Lee responded to Board questions regarding how customers establish water service and if the District is able to detect how much of this water use is transient. President Young requested additional information on the 735 accounts that have used 3,000 or more gallons of water per month.

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

REPORTS AND DIRECTOR COMMENTS

12. Committee Reports.

- Filed with the Board were the September 22, 2020 Finance/Administration Committee Meeting Minutes.
- Planning Committee Chair Doug Linney reported the Committee met earlier in the day (remotely) and received updates on the following: Wet Weather Program Management and Los Vaqueros Reservoir Expansion Project – Multi-party Agreement Amendment and Memorandum of Understanding.

- Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier in the day (remotely) and received updates on the following: Legislative Report No. 09-20; Final Status of EBMUD Position Bills for the 2019-20 State Legislative Session; and Racial Equity and Justice and Diversity and Inclusion Master Plan Projects Update.

13. **Other Items for Future Consideration.**

- None.

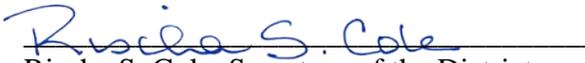
14. **Director Comments.**

- Director Coleman reported participating in the virtual Ward briefing for EBMUD Ward 2 in Oakland on September 23; the ACWA Federal Affairs meeting (remotely) on September 28; meeting with Los Lamos student G. Hamlin (remotely) on October 12; and the Los Vaqueros Reservoir Joint Powers Authority Ad Hoc Committee meeting (remotely) on October 12. He reported on plans to attend the East Bay Leadership Board meeting (remotely) on October 16 and the EBMUD Virtual Wastewater Tour and Workshop (remotely) on October 20.
- Director Mellon acknowledged the passing of former EBMUD Human Resources Manager Gwen McDonald and spoke of their work history.
- Director Patterson acknowledged the passing of former EBMUD Human Resources Manager Gwen McDonald and recounted her contributions to the District. He also acknowledged his dear friend, former Major League Baseball player and Baseball Hall of Famer Joe Morgan who passed away on October 12. Mr. Patterson requested that the Board consider honoring Mr. Morgan when adjourning today's meeting. He also requested staff to prepare letters to send to both families.
- Directors Katz, Linney, and McIntosh and President Young had no report.

ADJOURNMENT

President Young adjourned the meeting at 3:20 p.m. in honor of former EBMUD Human Resources Manager Gwen McDonald who passed away in late August and former Major League Baseball player and Baseball Hall of Famer Joe Morgan who passed away on October 12.

SUBMITTED BY:


Rischa S. Cole, Secretary of the District

APPROVED: October 27, 2020


Marguerite Young, President of the Board