

MINUTES

Tuesday, January 12, 2021

**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 11:06 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 A. 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, Attorney Derek T. McDonald (Items 1a and 3), Manager of Risk Management Vladimir Bessaborov (Item 1a), Attorney Jonathon D. Salmon (Item 2a), Attorney Anna P. Gunderson (Item 2a), Director of Wastewater Eileen M. White (Item 2a), Director of Finance Sophia D. Skoda (Item 3), Manager of Information Systems Andrew J. Levine (Item 3), Information Systems Division Manager William L. Johnson (Item 3), Internal Auditor Supervisor Barry N. Gardin (Item 3), Attorney Lourdes Matthew (Item 4), Director of Operations and Maintenance David A. Briggs (Item 4), Manager of Human Resources Laura A. Acosta (Item 4), and Manager of Employee Relations Niger M. Edwards (Item 4).

BROWN ACT BRIEFING

General Counsel Craig S. Spencer and Attorney Lourdes Matthew presented the annual Brown Act briefing and ethics update. Mr. Spencer reviewed recent legal developments in the Brown Act, the Public Records Act, the Political Reform Act and Section 1090, conflicts of interest laws, ethics training requirements for Board members, and the Board's ethics policy. He reviewed findings from the 2017 court case *City of San Jose v. Superior Court (2017) 2 Cal.5th 608* which determined the Public Records Act applies to writings regarding an agency's business prepared by an employee or director even if prepared or found on a personal device or account. Ms. Matthew discussed AB 992 – Open meetings: local agencies: social media, which amends the Brown Act to clarify permissible and prohibited use of social media by members of a legislative body. Ms. Matthew responded to Board questions regarding how AB 992 could potentially impact Board members' social media interactions. Mr. Spencer advised the Office of General Counsel would provide additional guidance on AB 992. President Young asked Board members to submit specific questions and examples to the Office of General Counsel for review and analysis.

- Addressing the Board was Eric Larsen, President, AFSCME Local 444 who commented on clarification regarding serial meetings and serial conversations with Board members.

PUBLIC COMMENT

- Addressing the Board was Eric Larsen, President, AFSCME Local 444 who thanked the Board for extending the Families First Coronavirus Response Act leave and its leadership on climate change; and commented on Local 444's work with management regarding the District's upcoming temporary COVID-19 testing program.

President Young acknowledged written public comment received from George Cleveland, EBMUD employee and customer regarding the District's leak adjustment practices, and asked staff for an information memorandum responding to the comments.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

At 1:05 p.m. General Manager Clifford C. Chan informed Secretary Cole that due to an extended Closed Session Meeting, the Regular Business Meeting would start at 1:30 p.m. At 1:25 p.m., General Manager Chan informed Secretary Cole the Regular Meeting would start at 1:45 p.m. At 1:40 p.m., General Manager Chan informed Secretary Cole the Regular Meeting would start at 2:00 p.m. President Young called to order the Regular Business Meeting of the Board of Directors at 2:04 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 A. 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.

Election of President of the Board

President Young thanked the Board for the opportunity to serve as Board President during the past two years and for being able to preside over important policy developments and decisions including those in response to the COVID-19 pandemic and racial justice and equity. President Young opened the floor for nominations for President of the Board for 2021.

- Motion by President Young, seconded by Director Coleman, to nominate Director Doug A. Linney for President of the Board of Directors for 2021.

President Young called for additional nominations and none came forward. Motion by Director Mellon, seconded by Director Patterson to close the nomination period. The motions to close the nomination period and to elect Director Doug A. Linney as President of the Board, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, Mellon, McIntosh, Patterson, and Young); NOES (None); ABSTAINED (None); ABSENT (None).

Motion No. 001-21 – Elected Director Doug A. Linney as President of the Board of Directors for 2021.

Election of Vice-President of the Board

President Linney opened the floor for nominations for Vice-President of the Board for 2021.

- Motion by President Linney, seconded by Director Katz, to nominate Director John A. Coleman for Vice-President of the Board of Directors for 2021.

President Linney called for additional nominations and none came forward. Motion by Director Mellon, seconded by Director McIntosh to close the nomination period. The motions to close the nomination period and to elect Director John A. Coleman as Vice-President of the Board, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAINED (None); ABSENT (None).

Motion No. 002-21 – Elected Director John A. Coleman as Vice-President of the Board of Directors for 2021.

President Linney and Vice-President Coleman thanked the Board and President Linney said he was looking forward to working more closely with General Manager Chan and staff.

Committee Assignments

President Linney announced the Board received a memorandum via email requesting 2021 Committee assignment preferences and requested that Board members submit their preferences to Secretary Cole by January 19. Committee assignments will be presented for Board consideration at the January 26 meeting.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Item 16 was pulled from the Consent Calendar for separate discussion.
 - Motion by Director McIntosh, seconded by Director Coleman, to approve the recommended actions for Items 1-15 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. 003-21** – Approved the Special Meeting Minutes of November 24, 2020, the Regular Meeting Minutes of December 8, 2020, and the Special Meeting Minutes of December 15, 2020.
 2. The following correspondence was filed with the Board: **1)** Email from George Cleveland to the Board of Directors, dated January 11, 2021 regarding EBMUD’s leak adjustment practices; **2)** Memorandum from Marguerite Young, President of the Board to the Board of Directors dated January 12, 2021 regarding 2021 Board Committee Assignment Preferences; **3)** Presentation entitled, “Annual Brown Act and Ethics Update,” dated January 12, 2021; **4)** Presentation entitled, “Coronavirus Update,” dated January 12, 2021; **5)** Presentation entitled, “Water Supply Update,” dated January 12, 2021; **6)** Presentation entitled, “Racial Equity and Justice and Diversity, Equity and Inclusion Strategic Plan Projects Update,” dated January 12, 2021; and **7)** Speakers’ Bureau and Outreach Record CY21 dated January 11, 2021.
 3. **Motion No. 004-21** – Awarded a contract to the lowest responsive/responsible bidder, Lhoist North America of Arizona Inc. for supplying bulk liquid lime for the Pardee Chemical Plant for two years, beginning on or after January 25, 2021 with three options to renew for an additional one-year period for a total cost, after the addition of taxes, including option years, not to exceed \$2,642,500 under Request for Quotation No. 2007A.
 4. **Motion No. 005-21** – Awarded contracts to A.Y. McDonald Mfg. Co., Cambridge Brass Inc., and Mueller Co. LLC for supplying non-lead brass water service fittings, beginning on or after February 1, 2021 for three years with two options to renew for additional one-year periods, in an aggregate amount, including option years, not to exceed \$6,761,060 under Request for Quotation No. 2015.
 5. **Motion No. 006-21** – Awarded a contract to the lowest responsive/responsible bidder, Alisto Engineering Group, in the amount of \$912,775, for the Cathodic Protection Anode Wells Demolition under Specification 2160.
 6. **Motion No. 007-21** – Awarded a contract to the lowest responsive/responsible bidder, Silverado Contractors, Inc., in the amount of \$2,990,506 for Seneca Property Sale – Seneca Reservoir Demolition under Specification 2163.
 7. **Motion No. 008-21** – Awarded a contract to the lowest responsive/responsible bidder, Blocka Construction, Inc., in an amount not to exceed \$262,000 for construction of the Point Isabel Wet Weather Facility Distributed Control System Remote Input/Output Addition under Specification SD-421.

8. **Motion No. 009-21** – Authorized an agreement beginning January 13, 2021 through December 31, 2025 with Shell Energy North America (US), L.P. for the sale of energy, Renewable Energy Credits, and authorization for sale of Resource Adequacy capacity from the District’s Camanche and Pardee hydropower facilities.
9. **Motion No. 010-21** – Authorized an agreement beginning on or after January 12, 2021 with Solutionwerks, Inc. in an amount not to exceed \$178,650 for specialized consulting and inspection services for Main Wastewater Treatment Plant liquid oxygen production facility improvements.
10. **Motion No. 011-21** – Authorized an agreement beginning on or after January 12, 2021 with Syrinix, Inc. in an amount not to exceed \$513,870 for pressure monitoring equipment and data services for three years.
11. **Motion No. 012-21** – Authorized an agreement beginning on or after January 12, 2021 with Waterproofing Associates, Inc. in an amount not to exceed \$83,585 to replace the roof on Briones Pumping Plant No. 1.
- 12a-b. **Motion No. 013-21** – Authorized agreements with the service providers listed below for bare equipment rentals beginning on or after January 12, 2021 for three years with two options to renew for additional one-year periods, in an aggregate amount, including option years, not to exceed \$12,000,000: Ahern Rentals Inc.; Coast Counties Peterbilt PacLease; Doc Bailey Construction Equipment Inc.; Gloria Washington Trucking Inc.; Herc Rentals Inc.; Ibarra Team Construction Services; Inder Trucking; JS Cole Company; Monticello Trucking LLC; Nor Cal Rental Group dba Cresco Equipment Rentals; Pape Machinery Inc.; S&L Transport, LLC; Sky Rock Inc.; Sunbelt Rentals, Inc.; Sunstate Equipment Co., LLC; Tri-West Tractor Inc.; and United Rentals (North America), Inc.; and authorized additional agreements for bare equipment rentals, on an as-needed basis, with service providers that meet District standards and offer pricing at or below the range in the proposed agreements with service providers above to increase flexibility and ensure service provider availability.
13. **Motion No. 014-21** – Awarded a sole source contract to Evoqua Water Technologies LLC for the purchase of two clarifier sludge collectors and to rebuild two drives for the Main Wastewater Treatment Plant Secondary Clarifier Mechanical Repairs, Phase 2 Project for a total cost, after the addition of taxes, not to exceed \$1,010,563.
14. **Motion No. 015-21** – Approved the assignment of the concession contracts previously authorized under Board Motion Nos. 151-17 (Pardee Recreation Area) and 046-11 (San Pablo Recreation Area) with Pyramid Recreation Enterprises dba Rocky Mountain Recreation Company to Ortega National Parks, LLC for the Pardee Reservoir Recreation Contract and the San Pablo Reservoir Recreation Area Contract.
15. **Motion No. 016-21** – Authorized a second amendment to the contract previously awarded under Board Motion No. 019-20 with CDW Government LLC to increase the contract amount by \$76,511 to a total amount not to exceed \$1,440,775 for supplying Microsoft Software Assurance and Microsoft Extended Security Updates for Windows Server 2008.

16. **Resolution No. 35212-21** – Authorize a Two-Year Option Agreement With Champion Outdoor Ventures, LLC for Champion to Complete California Environmental Quality Act and Permitting Requirements as a Prerequisite for a Potential 25-Year Lease With Champion to Develop, Install, and Operate Up to Three Outdoor Electronic Billboards on Portions of Two East Bay Municipal Utility District Properties in Oakland, California.
 - Addressing the Board was Bill Benham with Champion Outdoor Ventures, LLC who thanked the Board and said his agency is looking forward to working with the District.
 - Motion by Director Mellon, seconded by Director McIntosh, to approve the recommended actions for the Item 16 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

DETERMINATION AND DISCUSSION

17. Legislative Update.

Manager of Legislative Affairs Marlaigne K. Dumaine reviewed ACA 1 (Aguiar-Curry) in Legislative Report No. 01-21. She discussed the bill's potential impacts and benefits for the District if it is passed. Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier in the day and voted to support the staff recommendation for ACA 1. Ms. Dumaine responded to questions on whether the bill's parcel tax provisions were limited to infrastructure only for special districts and when the bill would be presented to the voters. Director Katz asked staff to explore the viability of using ACA 1 as a vehicle to obtain funding for the District's Customer Assistance Program. Next, Ms. Dumaine provided an update on Governor Newsom's 2021 budget proposal and state and federal actions related to COVID-19. She introduced EBMUD Washington, D.C. lobbyist Eric Sapirstein who provided an update on the following: EBMUD's current federal delegates; impeachment proceedings for President Trump; upcoming special elections; Senate assignments; potential earmarks in the federal budget; federal actions related to COVID-19 and climate change; hearings on infrastructure, including water and wastewater infrastructure; Congress's priorities and potential activities relating to environmental justice and resiliency; the Buy America Act and its potential impact on the District's capital budget and steel purchases; and proposed actions President-elect Biden will take during his first 24 hours as President. Mr. Sapirstein responded to Board questions regarding the impeachment process; climate change spending; and Congresswoman Barbara Lee's current committee assignments. Staff was asked to identify additional opportunities for Mr. Sapirstein to provide updates to the Board.

Legislative/Human Resources Committee Chair Coleman announced the Committee met earlier in the day and voted to support the staff recommendation on the following proposed federal initiatives: 1) Climate Change – Actively assess and seek opportunities to engage in climate change policies that promote EBMUD priorities to ensure safe and reliable water services; 2) Contaminants of Emerging Concern – Advance EBMUD's interests in discussions on contaminants of emerging concern in the context of water supply and wastewater treatment. This is an ongoing initiative from 2020; 3) COVID-19 Impacts and Relief Efforts – Monitor federal actions on COVID-19 for impacts to EBMUD operations and workforce and continue to advance EBMUD's interests related to COVID-19 relief efforts; 4) Infrastructure Funding –

Pursue direct federal funding opportunities for EBMUD projects and operating infrastructure through new and existing federal programs, including national infrastructure initiatives. This is an ongoing initiative from 2020; and 5) Water Supply Reliability and Natural Resources Protection – Advance EBMUD’s interests in the context of water supply reliability and the Mokelumne River fishery. This is an ongoing initiative from 2020. The Board raised no questions.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Legislative Report No. 01-21 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. 017-21 – Received Legislative Report No. 01-21 and approved a position on the following bill: SUPPORT ACA 1 (Aguiar-Curry) Local Government Financing: Affordable Housing and Public Infrastructure; Voter Approval; and received information on State and Federal Government Actions Related to the Coronavirus Disease (COVID-19).

- Motion by Director Coleman, seconded by Director Young, to approve the recommended actions for the federal initiatives for 2021 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. 018-21 – Approved the following federal initiatives for 2021: 1) Climate Change – Actively assess and seek opportunities to engage in climate change policies that promote EBMUD priorities to ensure safe and reliable water services; 2) Contaminants of Emerging Concern – Advance EBMUD’s interests in discussions on contaminants of emerging concern in the context of water supply and wastewater treatment. This is an ongoing initiative from 2020; 3) COVID-19 Impacts and Relief Efforts – Monitor federal actions on COVID-19 for impacts to EBMUD operations and workforce and continue to advance EBMUD’s interests related to COVID-19 relief efforts; 4) Infrastructure Funding – Pursue direct federal funding opportunities for EBMUD projects and operating infrastructure through new and existing federal programs, including national infrastructure initiatives; and 5) Water Supply Reliability and Natural Resources Protection – Advance EBMUD’s interests in the context of water supply reliability and the Mokelumne River fishery.

18. **Consider adjusting the Board of Directors’ monthly compensation.**

General Manager Clifford C. Chan announced this item was for the Board to consider adjusting its monthly compensation using staff salary adjustment information from the prior year as the basis for discussion. After a brief discussion, there was Board consensus to take no action on this item at this time.

19. **General Manager’s Report.**

Water Supply Update

Director of Operations and Maintenance David A. Briggs presented the Water Supply Update which included a review of Water Year 2020 and an overview of the following for Water Year

2021: gross water production; East Bay and Mokelumne precipitation; snow depth at Caples Lake which was 75% of average as of January 6; and current storage at Pardee, Camanche and East Bay reservoirs. He said current total system storage is 565,720 acre-feet or 101% of average and 73% of capacity. He reported on regional forecasts for Water Year 2021 and projected District total system storage. The Board raised no questions.

Execution of Contracts under Declaration of Emergency to the Coronavirus Disease 2019 (COVID-19)

General Manager Clifford C. Chan advised the District executed two contracts to support the District's ongoing emergency response to the COVID-19 pandemic. The first contract with WorkCare, Inc. establishes a temporary COVID-19 testing program to reduce risks associated with potential employee-to-employee transmission of the coronavirus during an intensifying period of the pandemic. The cost of the pilot four-week program will not exceed \$300,000. The second contract with Axiom Medical Consulting, Inc. will provide support for the District's contact tracing, employee interviews, and recordkeeping for COVID-19 positive employees. The cost of the support will not exceed \$50,000. The Board raised no questions.

Coronavirus Update

Director of Operations and Maintenance David A. Briggs presented an update on the regional stay-at-home order issued on December 3 which is expected to have no significant impacts on District operations. He reviewed the District's temporary COVID-19 testing program which began on January 11; the status of the state's vaccination plan; and the District's proposed vaccination plan which will be dependent on state and local plans. District operations remain stable and staff is prepared to address higher infection rates and additional administrative tasks imposed by new law and regulations. He reported on current employee and contractor COVID-19 cases and COVID-related leave. The District is prioritizing staff to be ready when the state confirms vaccinations are available. Mr. Briggs responded to Board questions regarding COVID-related leave hours and whether staff is tracking how the District is doing compared to other agencies.

Racial Equity and Justice (REJ) and Diversity, Equity, and Inclusion (DEI) Strategic Plan Projects Update

Manager of Employee and Organizational Development Derry L. Moten presented an update for both projects and reviewed the project schedule. For REJ Strategy 1, training is in progress for Affinity Group Leaders and District Advocates. The task force for REJ Strategy 6 is developing implementation plans, benchmarks and metrics. The task force for REJ Strategies 7 and 8 is developing formal actions and will present recommendations to the Project Steering Committee this month. Training continues for the Core Team and senior management and course three training will be held this month. As part of the instructional process, Mr. Moten said the consultant identified six potential areas for pilot projects to address equity issues – capital investment infrastructure; community engagement; contracts and procurement; customer fines and fees; hiring and recruitment; and promotion and retention. The pilot projects will become the foundation of the key elements of the DEI Strategic Plan. Preliminary findings from the internal assessment conducted by The Winters Group should be available in the next few weeks and staff will work between now and March to have the DEI Strategic Plan

in place by April. Staff will continue to update and seek directions from the Board and will present information on an updated structure for a new Office of Diversity, Equity and Development during the first Board meeting in February. The Board raised no questions.

General Manager Chan announced he was available for questions regarding the following items provided in the agenda materials: Six-Month Forecast of Board Committee and Workshop Agenda Topics for 2021 and Six-Month Summary of the 2020 Committee and Workshop Topics; 2020 Interdepartmental Committees Annual Reports; and the December 2020 Monthly Report.

REPORTS AND DIRECTOR COMMENTS

20. Committee Reports.

- Filed with the Board were the Minutes for the August 18, 2020 EBMUD/EBRPD Liaison Committee meeting, and the December 8, 2020 Planning Committee and Legislative/Human Resources Committee meetings.
- Planning Committee Chair Doug A. Linney reported the Committee met earlier in the day (remotely) and received an update on the Wet Weather Consent Decree Implementation, the Richmond Salmon Net Pen Proposal, and the California Water Futures Market.
- 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. 01-21 and Federal Initiatives for 2021.

21. Other Items for Future Consideration.

None.

22. Director Comments.


- Director Coleman reported participating in a Special Closed Session meeting of the Board (remotely) on December 15 and plans to participate in the FRWA Board meeting (remotely) on January 14.
- Director Patterson thanked staff and the Black Employee Network for their outreach and support on the passing of his wife Euradell “Dell” Logan Patterson.
- Directors Katz, McIntosh, Mellon, and Young, and President Linney had no report.

ADJOURNMENT

Director Lesa R. McIntosh read the obituary for Director Patterson’s wife Euradell “Dell” Logan Patterson, who passed away on December 26, 2020. Dell, as she was affectionately known, was a teacher for the Oakland Unified School District for over 30 years; active in many Black community and civil rights organizations, and in her church; and was a staunch, loving supporter of Director Patterson in his many endeavors. She and Director Patterson were married for over 59 years.

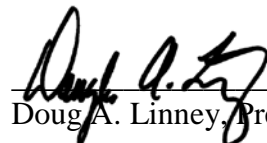
President Linney adjourned the meeting in honor of Euradell “Dell” Logan Patterson at 3:50 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: January 26, 2021



Doug A. Linney, President of the Board