

MINUTES

Tuesday, May 25, 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 11:02 a.m. He announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders, a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. All Directors participated remotely.

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer*, Attorney Derek T. McDonald (Item 1a), Director of Finance Sophia D. Skoda (Items 1a, 2 and 4), Manager of Employee Relations Niger M. Edwards (Item 2), Industrial Employers Distributors Association representatives Gregory Ramirez and Jeff Bailey (Item 2), Manager of Recruitment and Classification Richard G. Jung (Item 3), and Meyers Nave Attorney Camille Hamilton Pating (Item 4).
**General Counsel Craig S. Spencer was not present for Items 3 and 4.*

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

At 1:10 p.m. General Manager Clifford C. Chan informed Secretary of the District Rischa S. 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 that the Regular Business Meeting would start at 1:45 p.m. At 1:40 p.m. General Manager Chan informed Secretary Cole that the Regular Business Meeting would start at 2:00 p.m. President Linney called to order the Regular Business Meeting of the Board of Directors at 2:03 p.m. He announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders,

a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. All Directors participated remotely. Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Linney led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

President Linney announced that in closed session, the Board of Directors voted unanimously to appoint him and Director Lesa R. McIntosh to act as the Board representatives in negotiating an employment contract with the General Counsel candidate under Government Code section 54957.6. There were no other announcements required from closed session.

PUBLIC COMMENT

The following comments from the public were read into the record by Secretary of the District Rischa S. Cole: 1) Email from EBMUD Graphic Designer II Eric Fiebig regarding the District's Safe Return to Workplace Plan; 2) Email from EBMUD Graphic Designer II Emily Songster regarding the District's Safe Return to Workplace Plan; 3) Email from Robbie Powelson regarding an intertie between Marin Municipal Water District (MMWD) and EBMUD; and 4) Email from Garen Corbett, Kensington resident regarding EBMUD's proposed rate increases. The following persons addressed the Board regarding the District's Safe Return to Workplace Plan: 1) EBMUD Associate Civil Engineer Chien Wang; 2) EBMUD Associate Civil Engineer Gus Cicala; 3) EBMUD Associate Civil Engineer Paul Gilbert-Snyder; and 4) EBMUD Accounting Technician Diane Eggering.

In response to the written comments regarding an intertie between MMWD and EBMUD, President Linney clarified that to date, there is no agreement for an intertie between the two agencies.

CONSENT CALENDAR

- Item 5 was pulled from the Consent Calendar for discussion; Item 6 was pulled from the Consent Calendar and deferred to a future meeting.
- Motion by Director McIntosh, seconded by Director Young, to approve the recommended actions for Items 1-4 and 7-14 on the Consent Calendar carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

1. **Motion No. 088-21** – Approved the Regular Meeting Minutes of April 27, 2021 and May 11, 2021, and the Special Closed Session Meeting Minutes of May 14, 2021.

2. The following correspondence was filed with the Board: **1)** Presentation entitled “Amendment to EBMUD Retirement System Ordinance (No. 40) - Sections 21 & 41 Second Reading,” dated May 25, 2021; **2)** Presentation entitled “Coronavirus Update,” dated May 25, 2021; **3)** Email dated May 24, 2021 from EBMUD Graphic Designer II Eric Fiebig regarding the District’s Safe Return to Workplace Plan; **4)** Email dated May 24, 2021 from EBMUD Graphic Designer II Emily Songster regarding the District’s Safe Return to Workplace Plan; **5)** Letter from Robbie Powelson (undated) regarding an intertie between Marin Municipal Water District and EBMUD; and **6)** Email dated May 21, 2021 from Garen Corbett regarding EBMUD’s proposed rate increases.
3. **Motion No. 089-21** – Awarded a contract to the lowest responsive/responsible bidder, Garney Pacific, Inc., in an amount not to exceed \$19,001,000 for construction of the Castenada No. 1 & No. 2 Reservoirs Rehabilitation, Glen Reservoir Demolition, and Mulholland Reservoirs Roof Maintenance under Specification 2169.
4. **Motion No. 090-21** – Awarded a contract to the lowest responsive/responsible bidder, Ameritech Computer Services, Inc., for supplying printer, plotter, and desktop scanner repair services for two years, beginning on or after May 25, 2021 with three options to renew for additional one-year periods for a total cost, after the addition of taxes, including option years, not to exceed \$140,000 under Request for Proposal No. PUR 105.
5. **Motion No. 099-21** – Authorized an agreement beginning on or after May 25, 2021 with American Truck & Trailer Body Co., Inc. in an amount not to exceed \$300,000 to retrofit existing dump truck batch gates.
 - Addressing the Board was Eric Larsen, President, AFSCME Local 444 who said the union was not notified about this agreement and objects to the direct award for future service and repair of the equipment under the agreement. Director of Operations and Maintenance David A. Briggs responded to Mr. Larsen’s comments.
- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Item 5 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).
6. **Authorize an agreement beginning on or after June 21, 2021 with K.W. Emerson, Inc. in an amount not to exceed \$175,800 for paving replacement of the Pardee Center Administration Building parking area and walkway.**
 - General Manager Clifford C. Chan announced this item was removed from the agenda and being deferred to a future meeting.
7. **Motion No. 091-21** – Authorized an agreement beginning on or after May 25, 2021 with MTS Training Academy, Inc. for three years with two options to renew for additional one-year periods for a total amount, including option years, not to exceed \$845,976 for Class A and Class B commercial driver license training and support in proctoring Class A commercial driver testing.
8. **Motion No. 092-21** – Authorized an agreement beginning July 1, 2021 with Pacific States Marine Fisheries Commission for five years for a total amount not to exceed \$2,170,000 for the marking, tagging, and recovery program for Chinook salmon and steelhead trout at the Mokelumne River Fish Hatchery, and the recovery and processing of coded-wire tags in California ocean fisheries.

- 9a-b. **Motion No. 093-21** – Authorized agreements with the service providers listed below for tree trimming and related services beginning on or after May 25, 2021 for three years with two options to renew for additional one-year periods, in an aggregate amount, including option years, not to exceed \$5,500,000: A Plus Tree, Inc.; Absolute Best Care; Arbor Products Ltd. dba Expert Tree Service; Arboricultural Specialties, Inc. dba The Professional Tree Care Co.; Arborist Now, Inc.; Arborwell, LLC dba Arborwell & SavATree; Arborworks, Inc.; Asomeo Environmental Restoration Industry, LLC; Bay Area Tree Specialists; Graham Tree Service, Inc.; Hamilton Tree Service, Inc.; Julia Cabrera dba Julian Tree Care; Quality Tree Care; Tree Service Unlimited, Inc.; and West Coast Arborists, Inc.; and authorized additional agreements, for tree trimming and related services, 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 the service providers above to increase flexibility and ensure service provider availability. The Board of Directors will be notified of additional qualified service providers by means of the General Manager’s monthly report.
- 10a-b. **Motion No. 094-21** – Authorized agreements with the service providers listed below for vehicle collision repair and glass replacement beginning on or after May 25, 2021 for three years with two options to renew for additional one-year periods, in an aggregate amount, including option years, not to exceed \$1,100,00: Auto Glass Techs; Falcon Collision Repair; George V. Arth & Son; Maz Glass; Grand Collision Center, Inc.; and GlassTek, and authorized additional agreements for vehicle collision repair and glass replacement, 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. The Board of Directors will be notified of additional qualified service providers by means of the General Manager’s monthly report.
11. **Motion No. 095-21** – Authorized the District to pay a \$100,000 application fee to the U.S. Environmental Protection Agency for its Water Infrastructure Finance and Innovation Act loan program.
- 12.1- **Motion No. 096-21** – Considered the addendum to the 2011 Main Wastewater Treatment Plant
12.3 Land Use Master Plan Environmental Impact Report (2011 EIR) for the FirstElement Fuel Hydrogen Fueling Station; determined the proposed hydrogen fueling station lease would not cause environmental effects that were not analyzed in the 2011 EIR, that no further environmental review is required pursuant to California Environmental Quality Act Guidelines section 15162, and that the proposed lease falls within the scope of and is adequately described in the 2011 EIR; and authorized the execution of a ten-year land lease with FirstElement Fuel, Inc., with one option to renew for an additional five-year lease term at the District’s option, for approximately two acres of land located within the District's West End property to construct and operate a hydrogen fueling station.
13. **Motion No. 097-21** – Approved the Water Supply Assessment requested by the City of Berkeley for the 600 Addison Street Project, pursuant to California Water Code, Sections 10910-10915.
14. **Motion No. 098-21** – Approved the April 2021 Monthly Investment Transactions Report.

DETERMINATION AND DISCUSSION

15. **Conduct a second and final reading, and vote on an ordinance amending Section 21 and Section 41 of the EBMUD Employees' Retirement System Ordinance No. 40 to update the Mortality Tables and the minimum distribution age based on the Setting Every Community Up for Retirement Enhancement Act (SECURE Act) of 2019.**

Manager of Employee Services Lisa A. Sorani presented the second reading of the ordinance to update Section 21 and Section 41 of the Retirement Ordinance. The first reading of the ordinance occurred at the Regular meeting on May 11, 2021. Ms. Sorani reported Section 21 provides for an optional modification of a member's retirement allowance to provide an actuarially equivalent allowance for a surviving beneficiary and that the mortality tables are used to calculate the optional benefits in Section 21. The Plan actuary recommended a change to the mortality tables as part of their 2016-2020 Actuarial Experience Study. The SECURE Act, signed into law in 2019, increased the age at which mandatory withdrawals are required from a retirement system, if a member has not yet retired, from 70½ to 72. While the SECURE Act took effect administratively on January 1, 2020, the retirement plan language must be updated to reflect this change in the law no later than December 31, 2022. Section 41 will be updated to reflect the change to age 72 effective July 1, 2021. If approved, the ordinance amendments would take effect no earlier than 31 days after the revised ordinance's passage, and after the Municipal Utility District Act requirement that the amendments be published once a week for two successive weeks in a newspaper of general circulation published in the District. Retirement Board member Marguerite Young reported the Retirement Board heard the report on the proposed amendments at its May 19, 2021 meeting.

- Motion by Director Young, seconded by Director Coleman, to approve the recommended actions for Item 15 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

Ordinance No. 372-21 – An Ordinance Amending Section 21, “Optional Modification of Retirement Allowance,” and Amending Section 41, “Minimum Distribution Requirements,” of Ordinance No. 40, Which is the Employees' Retirement System Ordinance.

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

Coronavirus Update

General Manager Clifford C. Chan reported the District is in the process of replacing the carpet in the Administration Building and that the carpet replacement schedule coincides with the schedule for staff to begin returning to work after June 18. He said that although the District's Safe Return to Workplace Plan indicates staff should plan to begin returning to the building on June 21, managers and supervisors have been advised to coordinate return to work dates with staff based on the carpet replacement schedule. Director of Operations and Maintenance David A. Briggs reported Alameda, Contra Costa and Calaveras counties remain in the Orange Tier on the state's positivity matrix, Sacramento and San Joaquin counties are in the Red Tier, and Amador County is in the Yellow Tier. No significant impacts on District operations are expected because of tier status. Mr. Briggs highlighted California's new safety regulations related to face coverings and social distancing scheduled to go into effect after June 15 and said staff is monitoring State actions on Executive Order N-29-20 as it pertains to the Brown Act and public meetings. He reviewed the

number of positive COVID-19 cases at the District to date; the latest data on employee and state vaccinations; upcoming education sessions for staff regarding vaccinations; and the most recent CDC guidance on face coverings. He said Cal/OSHA may modify its regulations on face coverings in early June but at this time, the District will continue to require face coverings inside and outside regardless of vaccination status with a few exceptions. Staff has received the District's Safe Return to Workplace Plan and he discussed how the District will manage building occupancy levels and employees returning to worksites beginning June 21. Mr. Briggs responded to Board questions regarding employee vaccination rates; vaccination requirements for contractors; and employer-required vaccinations.

2021 Drought Update

General Manager Clifford C. Chan reported on the U.S. Bureau of Reclamation's (USBR) latest announcement regarding Central Valley Project (CVP) water allocations. Director of Water and Natural Resources Michael T. Tognolini provided an update on meetings held by the State Water Resources Control Board (SWRCB) and the USBR on May 21 regarding statewide water supply. The SWRCB held a workshop to discuss the methodology to be used to declare water unavailability. The District is expecting notification on water supply unavailability and water rights curtailment orders in early June. Mr. Tognolini said based on staff analysis, a water rights curtailment order received after June 1 would have minimal impact on the District's water supply. The USBR met with CVP contractors to provide an update on CVP conditions, its objectives relating to the state water supply, and its emergency application to the SWRCB regarding its water control requirements on the Delta. The USBR reduction in CVP allocations from 55 percent to 25 percent would reduce the District's allocation from 73 thousand acre-feet (TAF) to 33 TAF. The District has submitted a letter to the USBR expressing concerns and requesting the agency reconsider the allocation reductions. The USBR is expected to make a formal announcement regarding CVP allocations by the end of this week. Mr. Tognolini responded to Board questions on purchasing transfer water from previous water transfer partners and rates for previous and current water transfers on the open market. He also reported on a potential agreement with Contra Costa Water District for the District to obtain 2 TAF from Los Vaqueros Reservoir. Director Coleman requested an update on the District's desalination efforts at the June 8 Board meeting.

General Manager Clifford C. Chan noted today is the anniversary of George Floyd's murder and the District continues working on racial equity and justice efforts outlined in Board Resolution No. 35190-20. He said employees are appreciative of the Board's ongoing support of these efforts. Director Young asked that today's meeting be adjourned in memory of George Floyd and the 229 other Black people killed by police over the last year. President Linney acknowledged Director Young's request and said the Board is scheduled to adjourn today's meeting in honor of employees and retirees who have passed away in the past year.

REPORTS AND DIRECTOR COMMENTS

15. Committee Reports.

- Filed with the Board were Minutes for the May 11, 2021 Planning and Legislative/Human Resources Committee meetings.

- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day (remotely) and received information on the April 2021 Monthly Investment Transaction Report; Annual Update on Employees' Retirement System; and the Water Infrastructure Finance and Innovation Act Loan Application.

16. Other Items for Future Consideration.

None.

17. Director Comments.

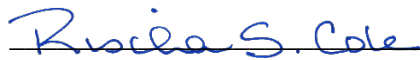
- Director Coleman reported addressing the San Ramon/Danville Real Estate Marketing Association on May 13; addressing the San Ramon Rotary on May 13; and attending the DERWA Board meeting and the City of Lafayette – Fire Prevention meeting on May 17. He reported on plans to address the Danville/San Ramon Rotary on June 8; present to the San Ramon City Council on June 8; present to the Pleasant Hill Chamber of Commerce on June 14; and present to the City of Pleasant Hill on June 21. All meetings and events were/will be attended remotely; the June 14 Pleasant Hill presentation will be in-person. Director Coleman acknowledged Community Affairs Representative II Kathryn Horn for providing support and presentation materials for multiple speaking events.
- Director Katz acknowledged Community Affairs Representative II Sharla Sullivan for providing support and presentation materials for his participation in the Berkeley Rotary meeting on May 19.
- Director Patterson read a thank you letter he received from the Martin Luther King, Jr. Freedom Center and said he would provide a copy to the Secretary for the Board.
- Directors McIntosh, Mellon, and Young and President Linney had no reports.

ADJOURNMENT

Director Linney announced that each year the District honors its employees and retirees who have passed away in the last year. He adjourned the meeting in memory of District employees and retirees who passed away between June 23, 2020 and May 16, 2021. The names of these employees were displayed onscreen while the Board and staff observed a moment of silence.

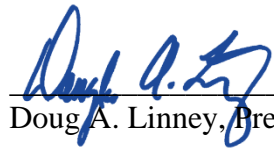
President Linney adjourned the meeting at 3:23 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: June 8, 2021



Doug A. Linney, President of the Board