

MINUTES

Tuesday, May 12, 2020

**East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California
Teleconference**

Regular Closed Session Meeting

President Marguerite Young called to order the Regular Closed Session Meeting of the Board of Directors at 11:03 a.m. She announced that due to COVID-19 and in accordance with Alameda County Health Order 20-04 (issued March 31, 2020), and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting would be conducted via teleconference only. In compliance with said orders, a physical location was not being provided for this meeting.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney, Lesa R. McIntosh, Frank Mellon, and William B. Patterson, and President Marguerite Young were present at roll call (all via teleconference).

Staff participants included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Attorney Derek T. McDonald (Items 1a, 2a-2c, and 3), Director of Engineering and Construction Olujimi Yoloye (Items 1a and 2a-2c), Engineering Manager Elizabeth Z. Bialek (Items 1a and 2a-2c), Attorney Lourdes Matthew (Item 3), Director of Operations and Maintenance Clifford C. Chan (Item 3), Director of Wastewater Eileen M. White (Item 3), Manager of Human Resources Laura A. Acosta (Items 3 and 4), and Manager of Recruitment and Classification Richard Jung (Item 4).

PUBLIC COMMENT

The following persons addressed the Board: 1) Eric Larsen, President, AFSCME Local 444 commented on District actions to address the COVID-19 pandemic and the District's Reconstitution Plan; and 2) Joey D. Smith, President, AFSCME Local 2019 commented on clerical staffing at the District's service centers in response to the staff presentation on Administrative Support at the Service Centers at the Legislative/Human Resources Committee earlier in the day; staff safety while working in the field; and an incident in which an individual brandished a firearm at a District crew working in Danville.

The Board asked questions regarding Ms. Smith's comments and General Manager Coate advised staff would gather additional details and report back to the Board.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Young announced the closed session agenda. The Board convened for discussion (via teleconference).

Regular Business Meeting

President Young called to order the Regular Business Meeting of the Board of Directors at 1:18 p.m. She announced that due to COVID-19 and in accordance with Alameda County Health Order 20-04 (issued March 31, 2020), and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting would be conducted via teleconference only. In compliance with said orders, a physical location was not being provided for this meeting.

ROLL CALL

Directors John A. Coleman, Andy Katz, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (all via teleconference).

Staff participants included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Young led the Pledge of Allegiance.

PRESENTATION

General Manager Alexander R. Coate announced the District had received The National Association of Clean Water Agencies 2020 Public Information and Education Award for the EBMUD Wastewater Treatment Plant Tour Program (Tour Program). The District's Tour Program offers free tours of the Main Wastewater Treatment Plant for attendees to learn about wastewater treatment and EBMUD's protection of public health and the San Francisco Bay. The award recognizes the Tour Program's growth and wide reach. In 2019, tours were given to over 1,000 attendees including the general public, schools, special interest groups, and various regulatory agencies. General Manager Coate announced the following representatives of the Tour Program: Joe Barge, Assistant Wastewater Shift Supervisor; Kristen Font, Wastewater Control Representative; Phoebe Grow, Supervising Wastewater Control Representative; James Hake, Assistant Engineer; Matilda Leong, Senior Administrative Clerk; Christine Pagtakhan, Wastewater Control Inspector II; Sarah Plummer, Assistant Engineer; and Camilo Rojas-Lavado, Graphic Designer II. The Board applauded staff for their work in achieving this award.

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 Patterson, to approve the recommended actions for Items 1-7 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. 081-20** – Approved the Regular Meeting Minutes of April 28, 2020.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “FY21 Proposed non-Prop 218 Rates, Charges & Regulations,” dated May 12, 2020; **2)** Presentation entitled, “Mokelumne Aqueduct System Routine Maintenance Agreements and Final Mitigated Negative Declaration,” dated May 12, 2020; **3)** Presentation entitled, “Coronavirus Update,” dated May 12, 2020; and **4)** Speakers’ Bureau and Outreach Record CY20, dated May 11, 2020.
 3. **Motion No. 082-20** – Awarded a contract to the lowest effective responsive/responsible bidder, Caggiano General Engineering, Inc., in the amount of \$520,000 for construction of the Camanche Water Transmission Pipeline Project Phase 2 under Specification 2154.
 4. **Motion No. 083-20** – Direct awarded a contract to Lotek Wireless in an amount not to exceed \$710,000 for acoustic telemetry equipment for Mokelumne River fisheries monitoring studies, and two years of tags ending December 31, 2023.
 - 5.1. **Motion No. 084-20** – Authorized an agreement on or after May 12, 2020 with CPM Associates, Inc., in an amount not to exceed \$819,456 for construction inspection services for the Pardee Chemical Plant Chemical Feed Shafts Project.
 - 5.2. **Motion No. 085-20** – Awarded a contract to the lowest responsive/responsible bidder, Force Drilling, LLC, in the amount of \$4,198,808 for construction of Pardee Chemical Plant Chemical Feed Shafts under Specification 2158.
 6. **Motion No. 086-20** – Authorize an amendment to the agreement awarded under Board Motion No. 009-19 with Consolidated CM, Inc., to increase the amount by \$610,350 to a total amount not to exceed \$1,600,398 for construction management support services for the Administration Building Heating, Ventilation, and Air Conditioning Systems Upgrade project.
 7. **Resolution No. 35177-20** – Adopting the 2019 San Francisco Bay Area Integrated Regional Water Management Plan Update.

DETERMINATION AND DISCUSSION

8. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine reviewed Senate Bill 1386 (Moorlach) in Legislative Report No. 03-20. Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier and supported staff’s recommended position on

Senate Bill 1386. Next, Ms. Dumaine provided an update on the most recent State government response and federal actions related to the COVID-19 pandemic, including potential actions regarding the State budget. As of this report, the governor has issued a total of 38 Executive Orders related to the COVID-19 emergency. She reviewed information in those executive orders of direct interest to the District. Next, she reviewed federal government activities and staff's efforts to actively engage and communicate the following requests to Congress for federal COVID-19 assistance specific to public water and wastewater agencies that are special districts:

- 1) Create a second Coronavirus Relief Fund to provide funding for special districts that provide drinking water and wastewater treatment services;
- 2) Remove the explicit prohibition for governmental employers, like public water agencies, from receiving payroll tax credit for both the required paid sick leave and the required paid family leave, similar to what was already granted to the private sector in H.R. 6201;
- 3) Include substantive ratepayer assistance specifically for drinking water and wastewater treatment services; and
- 4) Provide funding for any enhanced benefits for essential frontline workers and include public water and wastewater utility workers as eligible essential frontline workers.

She reported staff has also assembled and is leading a coalition of water agencies (Alameda County Water District, Contra Costa Water District, Metropolitan Water District of Southern California, San Diego County Water Authority, Santa Clara Valley Water District and EBMUD) to advance these requests for the next phase of coronavirus economic and health response legislation.

Ms. Dumaine and Director of Finance Sophia D. Skoda responded to Board questions on whether EBMUD funds and investments are protected against seizure by the State. Staff was asked to confirm what protections are in place for EBMUD investments in LAIF and CalTrust.

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended action for Item 8, 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. 087-20 – Received Legislative Report No. 03-20 and approved a position on the following bill: Support SB 1386 (Moorlach) Local Government: Assessments, Fees, and Charges: Water; and received information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

- 9.1.- **Report And Recommendation of the General Manager for Revisions to the Water and**
- 9.2. **Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees not subject to Proposition 218.**

Director of Finance Sophia D. Skoda presented an overview of the recommended actions for these items. As a part of the biennial budget process, the General Manager files a report and recommendation on the proposed rate adjustments and detailed budget documents with the Board in May. For FY21, staff is proposing updates to several fees and charges. None of these

charges are subject to the requirements of Proposition 218. However, these fees and charges are governed by other laws, such as Proposition 26 and Government Code section 66013, and are in full compliance with these laws, as applicable. The District is currently completing a study of the Water System Capacity Charge (SCC) by an independent financial consultant, and will present the study results and recommended revisions to the Board later in FY21. There are no changes presently recommended for the current SCC for FY21. The following revisions are proposed for FY21:

Water System: Schedule B – Account Establishment Charge; Schedule C – Charges for Special Services; Schedule D – Water Service Installation Charges; Schedule E – Private Fire Service Installation Charges; Schedule F – Public Fire Hydrant Installation Charges; Schedule G – Water Main Extension Charges; Public Records Act Fee Schedule; Real Property Use Application Fees; and Recreation Use Fees

Wastewater System: Schedule D – Wastewater Department Other Fees and Schedule G – Wastewater Department Capacity Fees

Water System Regulations: Section 6 – Public Fire Hydrants; Section 7 – Service Through Public Fire Hydrants; Section 17 – Change In Use and/or Size of Service; Section 30 – Nonpotable Water Service; and Section 31 – Water Efficiency Requirements

The proposed changes will be reviewed during the Long-Term Financial Stability, Strategic Plan Update and Mid-Cycle Budget Workshop scheduled for May 26, 2020. The Board will consider adopting the FY21 proposed rates and charges and other fees and regulations on June 9, 2020.

Ms. Skoda responded to Board questions regarding Proposition 218 requirements if the Board were to consider decreasing the FY21 rate increase scheduled to take effect July 1, 2020; changes to the SCC; the proposed increases for water service installation charges (Schedule D); how “tiny homes” projects can be supported through the District’s applicant project process; and rate increase impacts in light of the COVID-19 pandemic. Director of Water and Natural Resources Michael T. Tognolini responded to Board inquiries regarding charges for dogs in the Recreation Use fee schedule and the absence of a charge for dogs at Lafayette Reservoir.

The Board asked for information regarding the following to inform the discussion during the May 26 workshop: projected rate increase impacts; the labor and material cost components of the water service installation charges (Schedule D); System Capacity Charges; and “tiny homes” project support.

- Motion by Director McIntosh, seconded by Director Linney, to approve the recommended actions for Items 9.1 and 9.2, carried (6-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, and Young); NOES (None); ABSTAIN (Mellon); ABSENT (None).

Motion No. 088-20 – Filed the Report and Recommendation of the General Manager for Revisions to the Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees not Subject to Proposition 218, and Regulations for FY21.

Motion No. 089-20 – Set a Public Hearing on Tuesday, June 9, 2020 during the Board’s regular meeting to consider the Report and Recommendation of the General Manager for Revisions to the Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees not Subject to Proposition 218, and Regulations for FY21.

10a-e. Adopt the Final Mitigated Negative Declaration (MND) for the Mokelumne Aqueduct System Routine Maintenance Project (Project); make findings in accordance with the California Environmental Quality Act (CEQA); adopt the Mitigation Monitoring and Reporting Plan in accordance with CEQA; adopt the Practices and Procedures Monitoring and Reporting Plan; and approve the Project.

Manager of Maintenance and Construction/Water Operations David A. Briggs presented an overview of two Routine Maintenance Agreements (RMAs) which, pursuant to new California Department of Fish and Wildlife guidelines, require more extensive review under the California Environmental Quality Act prior to renewal. The RMAs are renewed every five years for routine maintenance along the Mokelumne Aqueduct system which includes sediment and debris removal, vegetation control, minor fill and rip-rap replacement and culvert replacement. Staff circulated a project MND from December 13, 2019 to January 13, 2020. Seven comment letters encompassing approximately 21 individual comments were received and the comment letters in their entirety, and comment responses are included in the Final MND. Mr. Briggs reviewed public outreach efforts and mitigation measures that will be implemented to reduce potentially significant impacts to less than significant. If the Board approves the project, staff will complete the RMA renewals in June 2020. The Board raised no questions.

- Motion by Director Linney, seconded by Director Patterson, to approve the recommended actions for Items 10a-e, carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35178-20 – Adopting the Mitigated Negative Declaration for the Mokelumne Aqueduct System Routine Maintenance Project, Adopting the Mitigation Monitoring and Reporting Plan and Practices and Procedures Monitoring and Reporting Plan, and Approving the Project.

11. General Manager’s Report.

Director of Operations and Maintenance Clifford C. Chan presented an update on the District’s response to the Coronavirus Disease (COVID-19). He reported on how the District is assisting customers with maintaining water service and statistics on payment plans, late fees, customer payments and the Customer Assistance Program since the April 28 update. He reviewed water demand from mid-February to mid-April and said staff has been reviewing data from the Advanced Metering Infrastructure pilot project to determine if the pandemic has impacted water consumption for the pilot participants. He provided an update on the District’s efforts as a Commodity Point of Distribution for CalWarn’s Office of Emergency Services Region II to distribute face masks to other Region II agencies; the District’s Reconstitution Plan which

details how the District will transition staff back to work; and District safety guidelines which have been updated to address new requirements outlined in the counties' latest health orders.

Manager of Customer and Community Services Andrew L. Lee responded to Board questions about the current billing and collection process for late payments and penalties.

General Manager Coate announced the April 2020 Monthly Report had been provided in the Board's agenda materials and that he was available for questions.

REPORTS AND DIRECTOR COMMENTS:

12. Committee Reports

- Filed with the Board were the April 28, 2020 Sustainability/Energy Committee and Finance/Administration Committee Meeting Minutes.
- Planning Committee Chair Doug Linney reported the Committee met earlier in the day (via teleconference) and received updates on the following: Fiscal Year 2019-2020 K-12 Education Program; Wastewater Treatment Plant Tour Program; Advanced Metering Infrastructure Water-Energy Nexus Study; Mokelumne Aqueduct System Routine Maintenance Project and Final Mitigated Negative Declaration; and Railroad Property Easement Acquisition – Initiation of Eminent Domain Proceedings.
- Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier in the day (via teleconference) and received updates on the following: Legislative Report No. 03-20 and Administrative Support at the Service Centers.

13. Other Items for Future Consideration


None.

14. Director Comments.


- Director Coleman reported on plans to participate in the EBMUD General Manager Recruitment meetings on May 16 in Oakland; and a DERWA Board meeting (via teleconference) on May 18.
- Director Patterson commended staff for being on the “front lines” during this time and previous emergencies and expressed appreciation for the awards the District has received over recent months and throughout the years.
- President Young commended Public Affairs staff for their work in effectively communicating the District's messages during this time and the support they provide to staff in the field.
- Directors Katz, Linney, McIntosh and Mellon had no report.

ADJOURNMENT

SUBMITTED BY:


Rischa S. Cole, Secretary of the District

APPROVED: May 26, 2020


Marguerite Young, President of the Board