

MINUTES

Tuesday, February 9, 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 11:23 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, Marguerite Young, and President Doug A. Linney were present at roll call. Director William B. Patterson joined the meeting at 11:34 a.m. All Directors participated remotely.

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Attorney Lourdes Matthew (Items 1a and 4), Director of Engineering and Construction Olujimi O. Yoloye (Item 1a), Manager of Human Resources Laura A. Acosta (Items 1a and 4), Attorney Jonathan D. Salmon (Item 2a), Attorney Derek T. McDonald (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), and Manager of Employee Relations Niger M. Edwards (Item 4).

PUBLIC COMMENT

- Addressing the Board was Eric Larsen, President, AFSCME Local 444 who thanked staff for including hyperlinks for Board meetings on the District's website and commented on hiring temporary staff in lieu of a proposed \$6 million paving contract.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

President Linney called to order the Regular Business Meeting of the Board of Directors at 1:21 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, Marguerite Young, and President Doug A. Linney were present at roll call. Director William B. Patterson joined the meeting at 1:26 p.m. 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 the Board, in closed session today, considered the claim submitted by Waste Management of Alameda County dated December 28, 2020. The claim requests that the District defend and indemnify Waste Management for the liquidated damages assessed against Waste Management on December 11, 2020 by the City of Oakland under their Mixed Materials and Organics Collection Services Contract. By unanimous vote of all Directors present, the Board has denied the claim by Waste Management. There were no other announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Motion by Director Coleman, seconded by Director Katz, to approve the recommended actions for Items 1-2 on the Consent Calendar carried (6-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (Patterson).
1. **Motion No. 026-21** – Approved the Special Meeting Minutes of January 26, 2021 and the Regular Meeting Minutes of January 26, 2021.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Coronavirus Update,” dated February 9, 2021; **2)** Presentation entitled, “Water Supply Update,” dated February 9, 2021; **3)** Presentation entitled, “General Counsel Recruitment,” dated February 9, 2021; **4)** Presentation entitled, “Racial Equity and Justice and Diversity, Equity and Inclusion Strategic Plan, and District Values Projects Update,” dated February 9, 2021; and **5)** Speakers’ Bureau and Outreach Record CY21 dated February 5, 2021.

DETERMINATION AND DISCUSSION

3. Legislative Update.

Manager of Legislative Affairs Marlaigne K. Dumaine reviewed the bills in Legislative Report No. 02-21. She reported AB 100 (Holden) is similar to AB 2060 (Holden) and SB 61 (Hurtado) is similar to SB 1103 (Hurtado) and that the Board approved positions of support on AB 2060 and SB 1103 in 2020. Legislative/Human Resources Committee Chair John A. Coleman reported the committee met earlier in the day (remotely) and voted to support the staff recommendations for AB 100 and SB 61. Next, Ms. Dumaine provided an overview of SB 222 (Dodd) and SB 223 (Dodd) and an update on discussions regarding federal funding for COVID-19 relief which includes potential funding for water and wastewater utility customers.

- Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Item 3 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. 027-21 – Received Legislative Report No. 02-21 and approved positions on the following bills: 1) SUPPORT AB 100 (Holden) Drinking Water: Pipes and Fittings: Lead Content; 2) SUPPORT SB 61 (Hurtado) Workforce Training Programs: Supportive Services; and Received Information on: 1) SB 222 (Dodd) Water Affordability Assistance Program; 2) SB 223 (Dodd) Discontinuation of Residential Water Service; and 3) State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

4a-d. Approve actions related to the recruitment and selection process for the General Counsel position.

Manager of Recruitment and Classification Richard G. Jung reported that on January 12, 2021 the current General Counsel announced plans to retire from the District. Staff is seeking Board authorization for the following: 4a) Approve a recruitment and selection process for the General Counsel position; 4b) Approve the text for the recruitment brochure; 4c) Approve a proposed schedule for the recruitment, selection and hiring process; and 4d) Appoint a Board Ad Hoc Advisory Selection Committee. Mr. Jung reviewed the following three recruitment options: 1) Internal only candidates; 2) Internal and external candidates, with outreach focused in California; and 3) Internal and external candidates, with nationwide outreach.

- Motion by Director Mellon, seconded by Director Coleman, to approve the recommended actions for Item 4a 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. 028-21 – Approved a recruitment and selection process for the General Counsel position and authorized the Human Resources Department to initiate a recruitment effort for a new General Counsel that includes both internal and external candidates, with outreach focused in California.

Next, Mr. Jung requested Board feedback on the text in the recruitment brochure and the proposed recruitment schedule. In the recruitment brochure, Director Mellon pointed out there was no reference to knowledge of the Meyers-Milias-Brown Act or bargaining law. Director Young requested that bullet 4 under the “Ideal Candidate” section be moved to bullet 2 and include language emphasizing “proven excellence in managerial leadership” and the ability to work with a “diverse” legal staff. Mr. Jung advised staff will make the requested edits to the recruitment brochure and responded to questions regarding the terms “small [candidate] pool” versus “large [candidate] pool.” He said Human Resources staff will work with the Secretary’s Office to confirm Board schedules and availability. Regarding the Board Ad Hoc Advisory Selection Committee, staff is recommending the Board consider appointing the President, Vice-President, and immediate past President to serve on the committee.

- Motion by Director Young, seconded by Director Mellon, to approve the recommended actions for Items 4b-4d 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. 029-21 – Approved the text for the recruitment brochure for the General Counsel position with edits received from Board members; approved the proposed schedule for the recruitment, selection and hiring process; and appointed President Doug A. Linney, Vice-President John A. Coleman, and Director Marguerite Young to serve as the Board Ad Hoc Advisory Selection Committee for the General Counsel recruitment.

5. **General Manager’s Report.**

Water Supply Update

Director of Operations and Maintenance David A. Briggs presented an update on the District’s and the state’s water supplies. He reviewed gross water production; East Bay and Mokelumne precipitation through February 2; snow depth at Caples Lake which was 106% of average as of February 2; state water supply projections; current storage in the state’s reservoirs; and current storage at Pardee, Camanche and East Bay reservoirs. He said current total system storage is 559,060 acre-feet or 99% of average and 72% of capacity. He concluded with an overview of projected District total system storage for 2021. The Board raised no questions.

Coronavirus Update

Next, Mr. Briggs reported that although all District counties are in the purple tier (most restrictive) of the state’s positivity matrix, to date, there have been no significant changes to District safety protocols and no significant impact is expected on District operations. He reviewed the current status of the District’s vaccination plan and revisions to the state plan which is now following an age-based priority system. The District is in the fifth week of its COVID-19 testing pilot with 1,300 tests conducted to date. The current telecommuting plan for staff has been extended to June 18 and management is updating the Safe Return to Work Plan (formerly the Reconstitution Plan). As of today, all 65 employees that have tested positive for COVID-19 are back at work; there are 16 employees in quarantine.

Racial Equity and Justice (REJ) Project; Diversity, Equity, and Inclusion (DEI) Strategic Plan; and District Values Project Update

Manager of Employee and Organizational Development Derry L. Moten presented an update on each initiative. He reviewed actions completed or in progress for the REJ Project task forces and training status for the Core and senior management teams. These teams are working to develop the District's DEI Strategic Plan and over the next five months will apply the Government Alliance for Racial Equity Tool to the following five pilot projects focused on addressing both internal and external equity issues: capital infrastructure investments; community engagement; contracts and procurement; hiring and recruitment; and promotion and retention. The completion of these projects will create the action plan for the DEI Strategic Plan. Mr. Moten reported on values and inclusion activities by staff including training for managers and supervisors and updates to integrate "inclusive leadership" into existing training subjects. New resources have been added to the Values Toolbox and members of the Advocates group have been presenting on the District's values during New Employee Orientation sessions. To facilitate a sustainable long-term approach to DEI, staff is recommending a restructuring of the Diversity and Inclusion Office and including it as part of a new Office of Diversity, Equity, and Development. The proposed office will bring together the Diversity and Inclusion Office, Contract Equity Office, and the Employee and Organizational Development Division. Linking these three divisions into one office within the Office of the General Manager Department embodies the District's commitment to creating a diverse workforce, building equity in the communities we serve, and developing an inclusive organizational culture. The office's structure is aligned with best practices and benchmarks from the Global Insights in Diversity and Inclusion report. This office will be led by a Special Assistant to the General Manager and will advise the senior management team in the implementation of strategic diversity and equity practices; developing and maintaining a values-based organizational culture focused on employee engagement and inclusion; and aligning the District's internal and external equity programming. Mr. Moten reviewed the REJ Project and DEI Strategic Plan schedules and next steps and reported staff should receive the initial findings from The Winters Group's assessment within the next two weeks. Mr. Moten responded to Board questions regarding which work group would manage the District's summer intern program and if Customer Assistance Program outreach will be a part of the pilot project on community engagement.

General Manager Clifford C. Chan announced he was available to answer questions regarding the January 2021 Monthly Report and reported on an uptick in water quality complaints from customers in Albany, Berkeley, El Cerrito, Oakland, Piedmont, and Richmond. Staff is tracking these complaints as they relate to Pardee tunnel construction work and operations to support that work. He confirmed that information on this matter will be posted to the District's social media sites, including multiple posts to Nextdoor.

REPORTS AND DIRECTOR COMMENTS

6. Committee Reports.

- Filed with the Board were the Minutes for the January 26, 2021 Finance/Administration Committee and Sustainability/Energy Committee meetings.

- 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. 02-21 and information on state and federal government actions related to the Coronavirus Disease 2019. (COVID-19).

7. **Other Items for Future Consideration.**

None.

8. **Director Comments.**

- Director Coleman reported attending the memorial service for Tom Guarino (remotely) on January 30 and plans to attend the East Bay Economic Development Alliance Land Use and Infrastructure meeting (remotely) on February 10 and the ACWA Federal Affairs Committee meeting (remotely) on February 16.
- Directors Katz, McIntosh, Mellon, Patterson and Young and President Linney had no report.

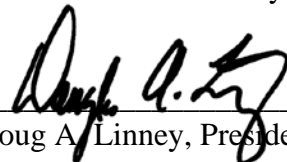
ADJOURNMENT

President Linney adjourned the meeting at 2:45 p.m.

SUBMITTED BY:


Rischa S. Cole, Secretary of the District

APPROVED: February 23, 2021


Doug A. Linney, President of the Board