

MINUTES

Tuesday, November 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 11:01 a.m. He announced that in accordance with Government Code section 54953(e), this meeting would be conducted by webinar and teleconference only. A physical location was not provided for this meeting.

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 Derek T. McDonald, Assistant General Counsel Lourdes Matthew (Item 1), Director of Finance Sophia D. Skoda (Item 1), Director of Human Resources Laura A. Acosta (Item 1), Manager of Employee Relations Niger M. Edwards (Item 1), and IEDA representatives Jeff Bailey and Gregory Ramirez (Item 1).

PUBLIC COMMENT

- Addressing the Board were the following: 1) Randy Hernandez, Plant Maintenance Mechanic commented on his experience as an essential worker at the District and urged the Board to provide a meaningful contract for employees; 2) Eddie Cheung, Storekeeper II commented on Storekeeper duties and urged the Board to approve a fair and equitable contract; 3) Adriana Soares, New Business Representative II voiced support for AFSCME Local 2019's wage and equity proposals and asked the Board to give the District's lead negotiator more authority; 4) Brandon Lee, Senior IT Engineer voiced support for AFSCME Local 2019's wage and equity proposals and asked the Board to give the District's lead negotiator more authority; 5) Gus Cicala, Associate Civil Engineer commented on negotiations and asked the Board to give the District's lead negotiator more authority; 6) Joe Pangelinan, Electrical Technician and Chief Steward, AFSCME Local 444 commented on Electrical Technician duties, the cost of living in the Bay Area, and the need for a real general salary increase; 7) David Valenzuela, Senior IT Engineer voiced support for AFSCME Local 2019's wage and equity proposals and asked the Board to give the District's lead negotiator more authority; 8) Henry La Vigne, Senior IT Engineer commented on negotiations and asked the Board to review the equity adjustment requests for the Senior IT Engineer classification; 9) Tyrell Jackson, Water Distribution Plumber II commented on the cost of living in the Bay Area and the need for employees to be compensated to remain on par with other agencies in the area; 10) George Cleveland, Information Systems Specialist III commented on negotiations, recommended the District review billing for large meter customers, and asked the Board to give the District's lead negotiator more authority; 11) John Pennington, Senior IT Engineer commented

on Senior IT Engineer duties, urged the Board to review the equity adjustment proposals for the Senior IT Engineer classification, and asked the Board to give the District's lead negotiator more authority; 12) Michael Morgan, Water Distribution Plumber III commented on general salary increases, challenges living in the service area, and urged the Board to look at general salary increases for the service area; 13) Eric O. Larsen, President, AFSCME Local 444 commented on FY21 District revenues, the cost of living in the service area, and the need for a meaningful wage package for employees; 14) Jakira Jekayinfa-Brown, Associate Electrical Engineer commented on Associate Electrical Engineer duties, the wage and equity proposals from the District, and asked the Board to give the District's lead negotiator more authority; 15) Brandon Batteate, Water Distribution Plumber IV commented on the recent Water Distribution Plumber recruitment, employee morale, and asked the Board to give the District's lead negotiator more authority; 16) Ivette Rivera, Gardener Foreman commented on the employment contract for former General Counsel Craig Spencer, employee indemnification at the District, read excerpts from the AFSCME Local 21 memorandum of understanding on indemnification, and asked the Board to give staff more authority to enforce a zero tolerance policy on harassment; 17) Colin Moy, Senior Environmental Health and Safety Specialist, AFSCME Local 2019 Contract Negotiations Team member, and ratepayer experienced technical difficulties and was cut off; and 18) Stella Tan, Associate Civil Engineer expressed disappointment with the District's wage proposal and voiced support for AFSCME Local 2019's wage and equity proposals.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

At 1:05 p.m., General Counsel Derek T. McDonald advised Secretary of the District Rischa S. Cole the Regular meeting would start at 1:55 p.m. due to information posted on the District's board meetings webpage indicating a 1:55 p.m. start time. President Doug A. Linney called to order the Regular Business Meeting of the Board of Directors at 2:00 p.m. He announced that in accordance with Government Code section 54953(e), this meeting would be conducted by webinar and teleconference only. A physical location was not provided for this meeting.

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 Derek T. McDonald, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Linney led the Pledge of Allegiance.

PRESENTATION

General Manager Clifford C. Chan announced that for the 15th consecutive year, the District has received the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting award for its Comprehensive Annual Financial Report. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. Mr. Chan acknowledged the award was achieved by the entire Accounting team, various key staff throughout the District and the following core team members responsible for producing the final report: Accountant III Yenny S. Coburn; Accounting Systems Supervisor Lawrence Fan; Accountant II Matthew J. Houck; Controller Andrea M. Miller; Accounting and Financial System Analyst David P. Siu; and Accountant III Melody Wang.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following: 1) Lindsey Edelman, Water Conservation Representative voiced support for AFSCME Local 2019's wage and equity proposals and asked the Board to give the District's lead negotiator more authority; 2) Nick Lawrence commented on continuing unsafe conditions on Tappan Terrace in Orinda; 3) Colin Moy, Senior Environmental Health and Safety Specialist, AFSCME Local 2019 Contract Negotiations Team member, and ratepayer voiced support for AFSCME Local 2019's wage and equity proposals and asked the Board to give the District's lead negotiator more authority; and 4) Ivette Rivera, Gardener Foreman commented on the employment contract for former General Counsel Craig Spencer and District language regarding indemnification for employees.

CONSENT CALENDAR

- Item 10 was pulled from the Consent Calendar for discussion.
 - Motion by Director Coleman, seconded by Director Patterson to approve the recommended actions for Items 1-9 and 11-13 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. 188-21** – Approved the Regular Meeting Minutes of October 26, 2021.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, "Oakport Wet Weather Facility Chemical Tank Failure Emergency Declaration," dated November 9, 2021; **2)** Presentation entitled, "Coronavirus Update," dated November 9, 2021; **3)** Presentation entitled, "Drought Update," dated November 9, 2021; and **4)** Oakland Post article regarding the Freeport Regional Water Authority dedication ceremony attended by Director William B. Patterson and Pastor David Kiteley, dated February 2007.

3. **Motion No. 189-21** – Awarded a contract to the lowest responsive/responsible bidder, Cummins, Inc., for supplying four 100 kilowatt (kW) and one 150 kW portable engine-generator package systems for a total cost, after the addition of taxes, not to exceed \$450,000 under Request for Quotation No. 2109.
4. **Motion No. 190-21** – Awarded a contract to the lowest responsive/responsible bidder, Mountain Cascade, Inc., in an amount not to exceed \$8,678,567 for construction of the San Pablo Reservoir Hypolimnetic Oxygenation System under Specification 2152.
5. **Motion No. 191-21** – Awarded a sole source contract to DLT Solutions, LLC, for supplying Autodesk software subscriptions to develop construction drawings for planning, design, construction, and maintenance of District assets and facilities, for two years, beginning on or after November 9, 2021 for a total cost after the addition of taxes, not to exceed \$347,241.
6. **Motion No. 192-21** – Awarded a sole source contract to Schwing Bioset, Inc., for supplying spare parts for dewatered sludge cake pumps at the Main Wastewater Treatment Plant Sludge Dewatering Facility for one year, beginning on or after November 9, 2021 with two options to renew for additional one-year periods for a total cost, after the addition of taxes, including options years, not to exceed \$585,000.
7. **Motion No. 193-21** – Authorized an agreement beginning on or after November 9, 2021 with Blankinship and Associates, Inc. for three years with two options to renew for additional one-year periods for a total amount, including option years, not to exceed \$464,400 to provide Pest Control Advisor consulting services for the District’s Integrated Pest Management program.
8. **Motion No. 194-21** – Authorized an agreement beginning on or after November 9, 2021 with the City of Albany for the District to provide Utility Users Tax billing and collection services for approximately 5,000 Albany ratepayers.
9. **Motion No. 195-21** – Authorized an agreement beginning on or after November 9, 2021 with the City of Orinda in an amount not to exceed \$200,000 for construction contract services for the Bear Creek Bridge Pipeline Replacement Project.
10. **Motion No. 199-21** – Authorized an amendment to the cooperating agreement with the City of Hayward (Hayward) for Groundwater Sustainability Plan (GSP) development previously authorized under Board Motion Nos. 077-18 and 202-20 to appoint a Plan Manager for the East Bay Plain Subbasin GSP and allocate legal and financial responsibility between East Bay Municipal Utility District and Hayward, including reciprocal indemnity, for new monitoring wells and aquifer testing.
 - Director Mellon acknowledged Associate Civil Engineer Grace Su for assuming the role as Groundwater Sustainability Plan Manager and commented on the City of Hayward’s responsibility in the overall project.
 - Motion by Director Mellon, seconded by Director Patterson to approve the recommended actions for Item 7 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

11. **Motion No. 196-21** – Authorized amendments to the agreements previously authorized under Board Motion No. 093-21 with the following service providers to increase the aggregate amount of those agreements by \$3,750,000 to a total aggregate amount not to exceed \$9,250,000 for tree trimming and related services: 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.
12. **Motion No. 197-21** – Approved the Water Supply Assessment requested by the City of El Cerrito for the El Cerrito San Pablo Avenue Specific Plan Update pursuant to California Water Code Sections 10910-10915.
 - During the General Manager’s Report, General Manager Clifford C. Chan responded to Director Coleman’s request for clarification on why the estimated projected water usage numbers in the staff report are lower than the numbers in the documentation submitted by the City of El Cerrito.
13. **Motion No. 198-21** – Authorized the Office of General Counsel to continue the employment of the law firm of Downey Brand, LLP, for specialized legal services related to natural resources and environmental regulatory and litigation matters in an additional amount not to exceed \$50,000.

DETERMINATION AND DISCUSSION

14. **Adopt a resolution in observance of the life and public service of Alameda County Supervisor Wilma Chan.**

President Linney highlighted the life and work of Supervisor Chan, a passionate activist for civil rights, education and health care who rose to become the first Asian American elected to the Alameda County Board. She passed away on Wednesday, November 3. Ms. Chan was elected to the California State Assembly in 2000 and in 2006, agreed to author AB 1953, on behalf of EBMUD, to get the lead out of drinking water plumbing. AB 1953 established a landmark California lead-free standard for drinking water plumbing. AB 1953 was enacted into state law in 2006 and served as the model for subsequent federal legislation that enshrined California’s AB 1953 lead standard into federal law. After two terms in the Assembly, Ms. Chan returned to Oakland and regained her seat on the Alameda County Board of Supervisors in 2010. Until her untimely death, she was a champion for her community, particularly for those who are underserved. In 2021, she expressed her support for federal funding for EBMUD’s Upper San Leandro Water Treatment Plant Improvement Project that will provide benefits to numerous disadvantaged communities as well as the greater Bay Area. President Linney and Directors Patterson and Young shared memories of their personal interactions and work with Ms. Chan over the years. General Manager Chan said the District will provide copies of the adopted resolution and proclamation to Ms. Chan’s family and the Alameda County Board of Supervisors.

- Motion by Director Linney, seconded by Director Patterson to approve the recommended actions for Item 14 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 35252-21 - Adopting a Proclamation in Recognition of Wilma Chan.

15. **Ratify the General Manager’s November 3, 2021 declaration of a District emergency in accordance with Policy 7.03 – Emergency Preparedness/Business Continuity as a result of catastrophic failure of a sodium hypochlorite chemical storage tank at the Oakport Wet Weather Facility.**

Director of Wastewater Eileen M. White presented an overview of the need to declare a District emergency to address the catastrophic failure of one of the three 10,000-gallon sodium hypochlorite storage tanks at the Oakport Wet Weather Facility (WWF). The incident occurred on Monday, November 1, 2021 and it was determined the tank cannot be repaired. Staff is asking the Board to ratify the General Manager’s “Declaration of Emergency” in accordance with Policy 7.03. Ms. White explained sodium hypochlorite dosing is needed to disinfect the flow that enters the Oakport WWF and the failure of one tank creates a significant shortage of chemical supply at the WWF. Ms. White reviewed the timeline of events, staff’s response to the emergency and the planned approach to manage wet weather operations. Since the emergency declaration, the District has secured a contractor to install a temporary storage system that will include two storage tanks, piping, and secondary containment. The contractor will remove and replace the failed tank with a spare tank from the District’s Orinda Water Treatment Plant and provide a trailer of chemicals to have on hand to directly fill the tanks. District staff will install the secondary containment piping, chemical pump and eye wash station; perform the electrical and instrumentation work for the spare tank; and manage chemical procurement in the interim. Work is scheduled to begin on November 11 as timely installation of the temporary storage system is necessary to ensure the District can meet the treatment requirements of the Consent Decree for discharge of flows from the Oakport WWF. The cost to install the temporary storage facilities is estimated at \$200,000 to \$300,000. Ms. White responded to questions and confirmed only one tank had failed and that there were no air quality issues as a result of the incident.

- Motion by Director McIntosh, seconded by Director Mellon 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).

Resolution No. 35253-21 – Ratifying General Manager’s Declaration of the Existence of a District Emergency and Authorizing Expenditure of Sums as Needed in Response to Such Emergency.

16. **General Manager’s Report.**

Coronavirus Update

Director of Operations and Maintenance David A. Briggs presented an update on daily positive COVID-19 cases in Alameda and Contra Costa counties; the number of positive employee and contractor COVID-19 cases at the District to date; the number of staff currently quarantined or in isolation and unable to telecommute; and the most recent vaccination rates for the District, Alameda

and Contra Costa counties noting the counties' figures reflect vaccinations for those over 12 years of age. Staff continues implementing the District's vaccination policy, which requires all employees to be vaccinated or have an exemption on file by November 1. As of this report, approximately 1,700 employees are fully vaccinated and approximately 140 have approved exemptions on file. Employees reporting to a District worksite who have exemptions on file are still required to test weekly. Testing continues to be performed on District time and is being paid for by the District. Staff is exploring less expensive, alternative testing methods to be used for future testing. He reviewed the District's safety protocols which are based on a variety of sources including local and state health orders, OSHA regulations and Centers for Disease Control guidelines, and recent updates to COVID-19 regulatory changes. Staff continues meeting and conferring with the unions over impacts from the vaccination policy and will begin the disciplinary process for approximately 40 unvaccinated employees that have no approved exemption on file. The Board raised no questions.

2021 Drought Update

Director of Operations and Maintenance David A. Briggs presented an update on Mokelumne watershed and local precipitation which is 27 and 30 percent of the seasonal normal, respectively. Water production decreased from 185 million gallons per day (MGD) to 130 MGD in late October due to rain. As of November 4, the District has diverted 8,100 acre-feet (AF) of its 33,250 AF of Central Valley Project (CVP) allocation through the Freeport Regional Water Authority (FRWA) and diverted 2,000 AF of transferred CVP water from Contra Costa Water District (CCWD). On October 29, the District suspended wheeling CVP water for CCWD until the end of 2021 at CCWD's request. Only 885 TAF was wheeled out of a total of 3,200 AF potentially available under the settlement agreement. He noted FRWA diversions were briefly suspended in October during intense stormwater runoff in the Sacramento River.

In response to a request from the Board during its October 12, 2021 meeting, Manager of Water Supply Linda H. Hu reported on operating costs for FRWA which are currently around \$387 per AF and include labor, power, chemicals and fees and reviewed graphs comparing the unit cost of various water supplies (Mokelumne, CVP, water transfers, Los Vaqueros Expansion water, groundwater banking, recycled water, and desalinization). Ms. Hu confirmed the two photos of the Pardee Reservoir tower shown in the October 12 drought update presentation were taken during different months and that future uses of these images will cite the month and year each photo was taken.

Director of Water and Natural Resources Michael T. Tognolini provided an update on efforts to assist Marin Municipal Water District (MMWD) on their request for the District to potentially wheel up to 8 MGD for MMWD through Freeport under certain conditions in 2022. The District executed a Memorandum of Understanding with MMWD that outlines the scope of work and reimbursement to the District for all costs incurred. The wheeling will not impact the District's ability to obtain its own transfer water and will not otherwise impact District customers. Furthermore, the District will not sell any of its water to MMWD. Mr. Tognolini reviewed the process for the EBMUD Board to consider the wheeling agreement with MMWD. Staff will provide status updates during Regular Board meetings and present draft principles which were reviewed with the Planning Committee earlier in the day for Board consideration in November or December. If EBMUD's principles are satisfied, staff will present the wheeling agreement for Board consideration in January or February 2022.

Senior Public Information Representative Andrea A. Pook discussed District involvement in community engagement efforts regarding the proposed project with MMWD. Staff participated in meetings with the City Council and Point Richmond Neighborhood Council in October and plans to participate in additional meetings with various community stakeholder groups. Information on District involvement has been posted to Nextdoor for Richmond residents and businesses. The District continues its customer outreach efforts regarding drought. The next virtual Water Wednesday Speaker Series will be held on November 17 and will focus on drought myth busters. Ms. Pook reported on media activity around drought and MMWD, social media messaging, and how the District is using Pandora for drought advertisement and to promote conservation. The Pandora ads include five-minute shower songs and as of November 1 has reached over 200,000 people. She concluded with an overview of the District's overall drought communication strategy and said District staff continue to act as spokespersons for the State's "Save Our Water" campaign.

Ms. Hu responded to questions from the Board on the option to use green energy instead of electricity for desalination. The Board requested additional information on costs for recycled water versus desalination.

The Board commented on ways to proactively communicate with customers regarding outages and other service-related information after the District received calls about service and water pressure issues resulting from a main break caused by a non-District contractor in late October. General Manager Clifford C. Chan said staff is reviewing the incident and will provide an update to the Board which will also include potential customer notification processes. Mr. Chan also reported staff is seeking feedback from all Board members regarding the draft wheeling agreement principles reviewed by the Planning Committee. Staff is contacting MMWD to determine if they will provide their draft principles for EBMUD review before November 23.

Monthly Report – October 2021

General Manager Clifford C. Chan said he is available to answer questions regarding the Monthly Report.

REPORTS AND DIRECTOR COMMENTS

17. Committee Reports.

- Filed with the Board were the Minutes for the October 26, 2021 Redistricting Ad Hoc Committee, Sustainability/Energy Committee, and Finance/Administration Committee meetings.
- Planning Committee Chair Marguerite Young reported the Committee met earlier in the day (remotely) and received updates on the Wastewater Pretreatment and Pollution Prevention Programs; South Interceptor Special Structures Rehabilitation Phase 1 Project; Main Wastewater Treatment Plant Odor Control Program; Mokelumne Watershed Routine Maintenance Project and Final Mitigated Negative Declaration; and Marin Municipal Water District Drought Assistance and Draft Principles of Agreement.

18. Other Items for Future Consideration.

None.

19. **Director Comments.**

- Director Coleman reported participating in a virtual EBMUD briefing for the Los Vaqueros Reservoir Joint Powers Authority Board meeting on November 3 and plans to participate in the virtual Los Vaqueros Reservoir Joint Powers Authority Board meeting on November 10 and the virtual East Bay Leadership Council Water Task Force meeting on November 16. Director Coleman also acknowledged the District's IT staff for assistance with technical issues over the past week and General Manager Chan and staff for providing information on District consultant design contracts.
- Director Patterson announced the passing of Pastor Emeritus David Kiteley of Shiloh Church in Oakland, read highlights of Pastor Kiteley's life and accomplishments, and asked the Board to consider adjourning the meeting in memory of Pastor Kiteley.
- Director Young reported on plans to participate in the virtual briefing for Ward 3 on November 17.
- Director Katz reported he is currently participating in the United Nations COP26 climate change conference in Glasgow, Scotland.
- Directors McIntosh, Mellon, and President Linney had no reports.

ADJOURNMENT

President Linney adjourned the meeting at 3:38 p.m. in memory of Pastor Emeritus David Kiteley of Shiloh Church in Oakland.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: November 23, 2021



Doug A. Linney, President of the Board