

MINUTES

Tuesday, June 8, 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 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, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. Director Andy Katz joined the meeting at 11:02 a.m. All Directors participated remotely.

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Director of Finance Sophia D. Skoda (Item 1), Manager of Employee Relations Niger M. Edwards (Item 1), Manager of Human Resources Laura A. Acosta (Item 1), Industrial Employers Distributors Association representatives Gregory Ramirez and Jeff Bailey (Item 1) and Manager of Recruitment and Classification Richard G. Jung (Item 2).

PUBLIC COMMENT

Addressing the Board was Gus Cicala, Treasurer, AFSCME Local 2019 who commented on the Safe Return to Workplace Plan and asked that staff be allowed to continue telecommuting until the emergency order is lifted and Cal/OSHA issues guidance on returning to the workplace.

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 1:18 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.

PRESENTATION:

General Manager Clifford C. Chan announced a cohort of twenty-one District employees recently graduated from the EBMUD/Laney College Cohort Learning Program. The program, which began in 2017 is a partnership between EBMUD and the Peralta Community College District in which students can earn up to 24 accredited units. The employees began the six-semester, two-year program in person and completed it online after the pandemic hit. They each earned a certificate from Laney College. General Manager Chan acknowledged their dedication to education and perseverance throughout the program and encouraged them to continue their personal and professional growth. Laney College President Dr. Rudy Besikof congratulated the graduates and acknowledged the Laney College staff members that work with the program. Patrick Inthavisay, Water Distribution Plumber III and class valedictorian gave his speech. General Manager Chan said in addition to the Laney College certificate, each graduate would receive a custom mahogany wood plaque, a certificate of completion and tote bag from EBMUD, as well as the book Mindset, the New Psychology of Success by author Carol Dweck. The following graduates were recognized for their achievements: Nicholas Ballentine, Water Distribution Plumber III; Adrian Camacho Water Distribution Plumber I; Vicenta Cespedes, Laboratory Technician III; Joseph Esmond, Maintenance Specialist II; Daniel Fernandez, Water Distribution Plumber III; Brittney Follings, Dispatch Center Representative; Samuel Gonzalez, Water Distribution Crew Foreman; Blake Hammerquist, Water Distribution Plumber III; Paul Irvine, Water Distribution Plumber III; Kenneth Kelly, Power Treatment and Transmission Maintenance Supervisor; Casey Kennedy, Water Distribution Plumber III; Beau Krummen, Water Distribution Plumber III; Timothy Lewis, Water Distribution Crew Foreman; George Mery, Meter Mechanic II; Alfonso Nunez, Maintenance Specialist III; William Rotenkolber, Water Distribution Crew Foreman; May Shiu, Environmental Health and Safety Specialist II; Jorge Valencia, Material Specialist; Gary Walters II, Engineering Designer II; and Darrold Withrow, Senior Mechanic. President Linney acknowledged the graduates for their achievements and Director Coleman asked that a hyperlink to the video of the meeting proceedings be provided to the graduates.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

Addressing the Board were the following: 1) HG Fintel commented on new developments in Oakland and how the District accounts for water demand for these developments; 2) Gary Walters II, EBMUD Engineering Designer II thanked General Manager Chan for his vision for the EBMUD/Laney College Cohort Learning Program and support for EBMUD staff development; and 3) Ming commented on programs to assist customers with receiving recycled water for lawns. Secretary of the District Risha S. Cole read the following comments into the record: 1) Email from EBMUD employee Rosemary West regarding telecommuting at the District.

EBMUD Engineering Manager David J. Rehnstrom responded to the comments from HG Fintel. Director Coleman commented information on historical water use is in the District's budget and rates documents and President Linney encouraged the public to participate in the Board workshops on water conservation and water supply.

President Linney advised Ming to email the Secretary of the District for information on recycled water for lawns.

CONSENT CALENDAR

- Motion by Director McIntosh, seconded by Director Coleman to approve the recommended actions for Items 1-9 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. 100-21** – Approved the Regular Meeting Minutes of May 25, 2021.
2. The following correspondence was filed with the Board: **1)** Presentation entitled “Drought Update,” dated June 8, 2021; **2)** Presentation entitled “Coronavirus Update,” dated June 8, 2021; **3)** Presentation entitled “Fiscal Years 2022 and 2023 Public Hearing, Rates & Charges, and Biennial Budget,” dated June 8, 2021; **4)** Presentation entitled “Presentation New LGBTQIA+ Pride Flag for the Administration Building,” dated June 8, 2021; **5)** Presentation entitled “Racial Equity and Justice Project and Diversity, Equity, and Inclusion Strategic Plan Update,” dated June 8, 2021; **6)** Presentation entitled “Tassajara Parks Project,” dated June 8, 2021; **7)** Letter dated June 2, 2021 From Sara Lillevand, City of Piedmont City Administrator to the Board of Directors regarding East Bay Municipal Utility District Surplus Land and Piedmont's Regional Housing Needs Allocation; **8)** Letter dated June 7, 2021 from Bryan W. Wenter with Miller, Starr and Regalia to President Doug Linney regarding Potential EBMUD Board Meeting to Consider Tassajara Parks Project Prior to Action by Contra Costa County and LAFCO; **9)** Alameda Journal Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **10)** Alameda Times-Star Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **11)** Amador Ledger Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. V626 published March 26 and April 2, 2021); **12)** Berkeley Voice Proof of Publication of the East Bay

Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **13) Calaveras Enterprise** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (published March 25 and April 1, 2021); **14) Contra Costa Times** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **15) Daily Review** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **16) El Cerrito Journal** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **17) Lodi News** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 195950 published March 26 and April 2, 2021); **18) Montclarion** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **19) Oakland Tribune** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **20) Piedmonter** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **21) San Ramon Valley Times** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **22) The Record** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 228909 published March 26 and April 2, 2021); **23) The Sacramento Bee** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. IPL 0016185 published March 26 and April 2, 2021); **24) West County Times** Proof of Publication of the East Bay Municipal Utility District's Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan (Legal No. 6563321 published March 26 and April 2, 2021); **25) Amador Ledger** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2022 & 2023 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees (Legal No. V709 published May 14 and May 21, 2021); **26) Oakland Tribune** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2022 & 2023 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees (Legal No. 6575557 published May 14 and May 21, 2021); **27) Calaveras Enterprise** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2022 & 2023 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees (published May 13 and May 20, 2021); **28) Contra Costa Times** Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2022 & 2023 Revisions to Water and

Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees (Legal No. 6575557 published May 14 and May 21, 2021); **29)** Lodi News Proof of Publication of the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2022 & 2023 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees (Legal No. 196597 published May 14 and May 21, 2021); **30)** Affidavit of Posting dated June 15, 2021 for the “Public Notice - East Bay Municipal Utility District’s Draft Urban Water Management Plan 2020 and 2020 Water Shortage Contingency Plan”; **31)** Affidavit of Posting dated June 15, 2021 for the “the Notice of the Time and Place of Public Hearing on the East Bay Municipal Utility District Biennial Report and Recommendation of the General Manager Fiscal Years 2022 & 2023 Revisions to Water and Wastewater System Schedule of Rates and Charges, Capacity Charges, and Other Fees”; **32)** Email dated April 24, 2021 from Dirk Neyhart to waterconservation@ebmud.com regarding the public hearing on the rate increase; **33)** Email dated June 8, 2021 from Scott Ehrenpfort regarding the proposed rate increase; and **34)** Email dated June 2, 2021 from Rosemary West, EBMUD employee to Clifford Chan and Board of Directors regarding telecommuting.

3. **Motion No. 101-21** – Awarded a sole source contract to Miles Chemical Company, Inc. for supplying calcium thiosulfate for use at the Camanche Raw Water Pumping Plant for one year, beginning on or after June 8, 2021 with one option to renew for an additional year for a total cost, after the addition of taxes, including the option year, not to exceed \$1,250,000.
4. **Motion No. 102-21** – Authorized an agreement beginning on July 1, 2021 with ENS Resources, Inc. for \$140,000 for one year for continued legislative and regulatory information-gathering, analysis, representation, and liaison services in Washington, D.C.
5. **Motion No. 103-21** – Authorized an agreement beginning on or after July 1, 2021 with American Custom Private Security, Inc. for three years with three options to renew for additional one-year periods for a total amount, including option years, not to exceed \$396,000 for security guard services at the District’s Mokelumne River Day Use Area.
6. **Motion No. 104-21** – Authorized an agreement beginning on or after June 8, 2021 with Enthalpy Analytical for \$88,000 for one year with two options to renew for additional one-year periods for a total amount, including option years, not to exceed \$264,000 for laboratory sample analysis.
7. **Motion No. 105-21** – Authorized an amendment to the agreement previously authorized under Board Motion No. 102-18 with Ford Construction Company, Inc. to increase the agreement amount by \$495,000 to a total amount not to exceed \$995,000 for supply, transport, on-site sorting and placement of gravel, and development of floodplain habitat in the lower Mokelumne River for spawning and rearing enhancement.
8. **Motion No. 106-21** – Authorized the Office of General Counsel to continue the employment of the law firm of Apex Employment Law, LLP for specialized legal services related to public sector labor and employment law and litigation matters in an additional amount not to exceed \$125,000.

9. **Motion No. 107-21** – Filed the Report and Recommendation of the General Manager to Transfer Unpaid Liens for Delinquent Charges to Alameda and Contra Costa Counties' 2021-2022 Property Tax Rolls.

PUBLIC HEARING

10. **Conduct a Public Hearing to consider revisions to Water and Wastewater Systems Schedules of Rates and Charges.**

President Linney opened the Public Hearing at 1:43 p.m. He announced the process for lodging a valid protest in light of the COVID-19 pandemic. He noted that public comments will not be included in the tabulation of written protests for purposes of determining whether a majority protest exists under Proposition 218 and said all written protests must be lodged before the close of the Public Hearing. Staff will report on the number of valid protests received after the close of the Public Hearing. President Linney announced the Board would receive public comment before the staff presentation.

Addressing the Board were the following: 1) Zach Morrissey expressed concerns with the proposed rate increase; 2) Jamila Woods, Service Workers' Project for Affordable Utilities and Water (SWPAUW) expressed opposition to the proposed rate increase, opposition to the District implementing flow restrictors, and asked the Board to place a moratorium on shut-offs; 3) Caroline Knef, SWPAUW expressed opposition to the proposed rate increase and asked the Board to place a moratorium on shut-offs; 4) Craig Bender commented on the District's debt coverage and debt service and told the Board to reduce the debt coverage and do not increase the rates; 5) Tessa Maurer commented on infrastructure investments and water affordability for all customers; 6) Gloria Riley, SWPAUW expressed opposition to the proposed rate increase, opposition to the District implementing flow restrictors, and asked the Board to place a moratorium on shut-offs; 7) Aaron Petrik, SWPAUW expressed opposition to the proposed rate increase, opposition to the District implementing flow restrictors, and asked the Board to place a permanent moratorium on shut-offs; 8) Tsarina, SWPAUW, expressed opposition to the proposed rate increase, opposition to the District implementing flow restrictors, and asked the Board to place a moratorium on shut-offs; 9) Fredrick Hagen commented on the proposed rate increase, and whether the District's tiered rate structure complies with Proposition 218. He asked if the District conducted a cost of service study for providing water to low-income customers; 10) Patrick Kennedy, Panoramic Interests thanked the Board for the proposal to lower the District's system capacity charge for small units; 11) Mahen expressed opposition to the rate increase and concerns regarding meter service and sewer service charges on the water bill; 12) John Holtzman commended the Board for the proposal to lower the District's system capacity charge for small units; and 13) Julie Mills expressed opposition to the proposed rate increase and opposition to the District implementing flow restrictors. Secretary of the District Rischa S. Cole read the following comments into the record: 1) Email from Scott Ehrenpfort opposing the proposed rate increase; and 2) Email from Dirk Neyhart commenting the proposed rate increase is too conservative.

General Manager Clifford C. Chan responded to the comments regarding sewer service charges, water shut-offs and implementing flow restrictors.
Mahen was advised to email the Secretary of the District for follow up.

Director of Finance Sophia D. Skoda responded to questions regarding the District's debt service, debt coverage, cost of water, tiered rates, water shut-offs, the District's Cost of Service studies, Advanced Metering Infrastructure, the System Capacity Charge study, proposed reductions to the District's system capacity charges, and accessory dwelling units. Next, she presented the staff recommended actions for revisions to the water and wastewater system schedules of rates and charges, capacity charges and other fees for Fiscal Years 2022 (FY22) and 2023 (FY23). She provided an historical overview of the District as EBMUD nears its 100th year and discussed the 24/7 operations required to ensure water is delivered to customers. Staff is recommending the Board adopt the Proposition 218 rates and charges and the non-Proposition 218 rates, charges, fees and regulations outlined in the Biennial Report and Recommendation of the General Manager for FY22 and FY23 submitted to the Board on May 11, 2021; adopt the FY22 and FY23 biennial operating and capital budget; and adopt the position resolution. The water and wastewater rates were developed based on Cost of Service studies conducted by an independent rate consultant in 2015 and 2019. In 2021, the Board held two budget workshops (January 26 and March 23) and a public budget and rates webinar on May 6. Proposition 218 notices were mailed in April for today's hearing.

Ms. Skoda reported the proposed rate increase for the Water System is an overall 4 percent for FY22 and an additional overall 4 percent for FY23. The proposed rate increase for the Wastewater System is an overall 4 percent for FY22 and an additional overall 4 percent for FY23. She highlighted how water and wastewater rate dollars are used; current and proposed monthly billing impacts to the average single-family residential customer and other customer classes; the current and proposed wet weather facilities charge; an agency comparison of water and wastewater rates and charges; proposed revisions to water and wastewater fees, charges, regulations and other fees not subject to Proposition 218; the FY22 and FY23 biennial operating and capital budget including budget priorities, challenges, and Capital Improvement Program funding and highlights; and proposed revisions to the FY22 and FY23 position resolution. She commented on the Budget-in-Brief pamphlet which has been updated for FY22 and FY23 and will be available in Chinese and Spanish. Ms. Skoda said if the Board adopts the rates and charges, which include the wet weather facilities charge, the District will hold a public hearing as required by the Health and Safety Code on July 13 to consider the adoption of a resolution ordering the collection of the wet weather facilities charge on the property tax roll. Based on a comment from the Board, she clarified that although the District declared a Stage 1 drought on April 27, 2021 and drought rate surcharges are included in the proposed rate structure as a contingency plan, there is no surcharge for a Stage 1 drought so surcharges are not being considered for implementation at this time.

Secretary Cole informed President Linney of two additional speakers for public comment.

- Addressing the Board were the following: 1) Priyana Hassan expressed opposition to the proposed rate increase; and 2) Fredrick Hagen commented again on tiered rates and a cost of service study.

Ms. Skoda and General Counsel Craig S. Spencer responded to the comments on tiered rates and cost of service.

John Holtzman was advised to contact the District's New Business Office with questions regarding system capacity charges for accessory dwelling units.

President Linney closed the Public Hearing at 3:17 p.m. and announced staff received 42 valid protests from the record owners of parcels upon which the water and wastewater service rates and charges are proposed to be imposed on tenants who are directly liable for the payment of the proposed water service rates and charges.

There was Board discussion regarding the public comments and information presented. Director Katz asked questions on the service interruption charge in Schedule C and charges for customers that have flow restrictors. He asked the Board to consider suspending flow restrictor installation charges when a customer with a flow restrictor is enrolled in a payment plan and consider waiving the flow restrictor installation charge once the payment plan is satisfied. He also proposed reducing water service charges by 50 percent for customers with flow restrictors. Manager of Customer and Community Services Andrew L. Lee clarified when flow restrictors would be installed and when charges would be assessed. Because water service charges are fixed charges, a discount on water service charges will have to be reviewed in a future cost of service study. The Board commented on Director Katz's proposals and the use of flow restrictors. Director Katz requested a memo detailing which District policies outline when charges are assessed. Director Young asked staff to develop key performance indicators to monitor the the length of time flow restrictors are installed for customers with delinquent accounts. Staff clarified the District's goal is to keep water on for all customers and has a multi-step notification process for delinquent accounts. A flow restrictor would only be installed after all notification steps have taken place. All Board members expressed support for the staff recommendations.

DETERMINATION AND DISCUSSION

11.1. Adopt the rates and charges subject to Proposition 218 recommended in the Biennial Report and Recommendation of the General Manager for Fiscal Years 2022 (FY22) and 2023 (FY23) filed with the Board of Directors on May 11, 2021.

The recommended changes to the schedules of rates, charges, and fees subject to Proposition 218 are summarized below.

- Modify Schedule A of the Water System Schedules of Rates and Charges including modifications to monthly Water Service Charge, Water Flow Charge, Private Fire Service Charge, and Elevation Surcharge.
 - The proposed modifications will increase overall water non-drought rates (Water Service Charge, Water Flow Charge, Private Fire Service Charge, and Elevation Surcharge) by approximately 4.0 percent overall for FY22 and by an additional 4.0 percent overall for FY23.
 - Excluding any potential Drought Surcharges, the impact of the overall 4.0 percent rate increase for FY22 will be 4.0 percent for a typical single-family residential customer using 8 hundred cubic feet (CCF)/month, 4.0 percent for a typical multi-family residential customer using 50 CCF/month, 4.0 percent for a typical commercial

customer using 50 CCF/month, and 4.0 percent for a typical industrial customer using 500 CCF/month. For FY23, the approximate increase to the typical customers will be 4.0 percent.

- Maintain Schedule L Drought Surcharge Rate Schedule of Water Service.
 - The District’s Proposition 218 notice for FY22 and FY23 includes information regarding the Drought Surcharges so that they remain available to the Board to implement in the event the District is in a Stage 2 or greater drought. Prior to implementing Drought Surcharges, the District will prepare an updated drought budget, and develop and adopt exact Drought Surcharges based on the 2015 cost of service (COS) study. Any Drought Surcharges imposed will be consistent with the current staged system and will not exceed the maximum Drought Surcharge percentages listed in Schedule L.

- Modify Schedule A and Schedule B of the Wastewater System Schedules of Rates and Charges (see Exhibit B to the attached resolution), including modifications to the Wastewater Rates for Treatment Service (Monthly Service Charge, Strength Charge, Flow Charge) and the Wet Weather Facilities Charge (WWFC).
 - The proposed modifications will increase the Wastewater System rates and charges by approximately 4.0 percent overall for FY22 and by an additional 4.0 percent overall for FY23, as shown in Wastewater System Schedule A – Rates for Treatment Service (Service, Strength and Flow charges).
 - The proposed modifications will increase the overall WWFC as shown in Wastewater System Schedule B by 4.0 percent for FY22 and by an additional 4.0 percent for FY23.
 - For the wastewater charges collected on the water bill, the impact of the FY22 changes to the wastewater system rates and charges will be an increase of 3.9 percent for a typical single-family residential customer using 6 CCF/month, an increase of 3.8 percent for a typical multi-family residential customer using 25 CCF/month, an increase of 3.9 percent for a typical commercial customer using 50 CCF/month, and an increase of 3.8 percent for a typical industrial customer using 500 CCF/month. As noted above, differences in percentages are attributed to rounding and other adjustments recommended by the COS study to the individual components of the wastewater system rates and charges. For FY23, the approximate increase to the typical customers will be 4.1 percent.
 - The WWFC is based on customer lot size and is collected on the property tax bill pursuant to the District’s authority under the California Health & Safety Code (H&SC). The proposed FY22 annual charges for the three lot size types will be \$120.34 for lots between 0 to 5,000 square feet (sq. ft.), \$187.98 for lots between 5,001 to 10,000 sq. ft., and \$427.62 for lots over 10,000 sq. ft. The H&SC requires approval by two-thirds of the members of the Board (i.e., by at least five of seven Board members) for the WWFC to be collected on the property tax roll. Additional H&SC requirements include filing a written report every year listing each parcel and the applicable WWFC to be collected on the tax roll; a public hearing every year for the Board to consider objections to the report

and to adopt the report if a majority of property owners do not protest; and filing the report with the county auditors prior to August 10 of each year.

The rate increases are recommended to be effective beginning on July 1, 2021 for FY22 and on July 1, 2022 for FY23.

- Motion by Director Mellon, seconded by Director McIntosh, to approve the recommended actions for Item 11.1 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. 35224-21 – Adopting Water System Schedule of Rates and Charges and Wastewater System Schedule of Rates and Charges Subject to Proposition 218 for Fiscal Year 2022 and Fiscal Year 2023; Approving an Exemption Under the California Environmental Quality Act; and Directing Staff to File a Notice of Exemption.

11.2. Adopt the rates, charges, fees and regulations not subject to Proposition 218 recommended in the Biennial Report and Recommendation of the General Manager for Fiscal Years 2022 (FY22) and 2023 (FY23) filed with the Board of Directors on May 11, 2021.

The recommended changes to the rates, charges, fees and regulations not subject to Proposition 218 are summarized below.

Modifications to Water Rates, Charges and Fees

- Modify Schedule C, Charges for Special Services, to increase the Meter Testing, Service Interruption Charges, Lien Processing Fees, Flow-Restrictor Installation Charge, Backflow Device Annual Certification Charge, and Backflow Device Violation Charge to reflect current costs, and to remove issuance of water service discontinuation notice and/or payment extension in the field. The Schedule C changes for FY22 are proposed to be effective July 1, 2021.
- Modify Schedule D, Water Service Installation Charges, to increase charges for Installing a Service, Increasing Meter Size, Reducing Meter Size, Relocating an Existing Service, Conversion of Individual Service to Branch Service and Conversion of Branch Service to Individual Service, and Service Eliminations to reflect current costs. The Schedule D increases for FY22 are proposed to be effective July 1, 2021.
- Modify Schedule E, Private Fire Service Installation Charges, to increase charges for Installing a Private Fire Service to reflect current costs. The Schedule E increases for FY22 are proposed to be effective July 1, 2021.
- Modify Schedule F, Public Fire Hydrant Installation Charges, to increase charges for Hydrant Installation by the District, Hydrant Installation by Applicant on Applicant-Installed Main Extensions, Hydrant Removal, Relocation of a Fire Hydrant, Setback/Offset of a Fire Hydrant, and Replacement of a Hydrant Body to reflect current costs. The Schedule F changes for FY22 are proposed to be effective July 1, 2021.

- Modify Schedule G, Water Main Extension Charges, to increase charges for District-Installed Mains and Applicant-Installed Mains to reflect current costs. The Schedule G increases for FY22 are proposed to be effective July 1, 2021.

Modifications to the System Capacity Charge (SCC), Standard Participation Charge (SPC), and Water Demand Mitigation Fees

- Modify Schedule J, SCC, to update the SCC for Standard Service and Nonpotable Water Service based on the findings of the 2021 Water SCC Study recommendations for the SCC unit cost calculations and consumption analysis. The proposed modifications reduce the current SCC for most standard services and create two categories of multi-family residential (MFR) dwelling units (over 500 sq ft and 500 sq ft and under). Also, this schedule is modified to clarify how Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) are addressed in the SCC. Changes to Schedule J for FY22 are proposed to be effective July 1, 2021.
- Modify Schedule H, SPC, to reduce charges for SPC to reflect updated costs using the findings from the 2021 Water SCC Study. The Schedule H rate reductions for FY22 are proposed to be effective July 1, 2021.
- Modify Schedule N, Water Demand Mitigation Fees, to reduce charges to reflect updated costs using the findings from the 2021 Water SCC Study. The Schedule N rate reductions for FY22 are proposed to be effective July 1, 2021.

Water System Regulations Governing Water Service

- Modify Water Regulations Section 1 – Explanation of Terms Used in These Regulations to update and simplify definitions of an ADU and JADU.
- Modify Water Regulations Section 3 – Standard Service to clarify when individual meters are required for each dwelling unit in a MFR and multi-unit commercial structure.
- Modify Water Regulations Section 7 – Service through Fire Hydrant to allow for providing water for emergency domestic use for those who are unhoused, unsheltered or experiencing homeless at authorized sites.
- Modify Water Regulations Section 13 – Payment of Bills to authorize additional leak adjustments to customer after taking into consideration the circumstances surround the leak.
- Modify Water Regulations Section 15 – Discontinuation of Service and Section 15A – Nonpayment of Bills by Single-Family Residential Customers to reflect the District’s “alternative water shutoff” approach approved by the Board in 2020.
- Modify Water Regulations Section 17 – Change in Use and/or Size of Service to add JADUs along with ADUs in the description of how SCCs are applied.

- Modify Water Regulations Section 31 – Water Efficiency Requirements to notify applicants seeking water service for new MFR and multi-unit commercial structures of EBMUD’s individual and submetering requirements.
- Modify Water Regulations Sections 3B, 3C, 4, 9, 13, 15, 19, 21, 24, 26, 28, 29 and 30 to remove pronouns.

Modifications to Wastewater Charges and Fees

- Modify Schedule C, Industrial Permit Fees, to increase the FY22 and FY23 Wastewater Discharge Permit Fee, Estimation Permit Fee, and Limited Term Discharge Permit Fee to reflect current costs. The fees are proposed to be effective July 1, 2021 for the FY22 increase and July 1, 2022 for the FY23 increase.
- Modify Schedule D, Other Fees to increase the FY22 and FY23 Monitoring Fees, Violation Follow-up Fees and Private Sewer Lateral Compliance Fees. The fees are proposed to be effective July 1, 2021 for the FY22 increase and July 1, 2022 for the FY23 increase.
- Modify Schedule E, Testing Fees to remove unnecessary tests, edit names of test and method references, and update the Laboratory Testing Charges to reflect current costs. The changes for FY22 are proposed to be effective July 1, 2021.
- Modify Schedule F, Rates for Resource Recovery Material Treatment to increase the treatment rates for Septage, Process Water, Brine, Sludge, Clean Liquid Food Waste Slurry, Liquid Organic Material, Protein Material, and Solid Organic Material. The fees for FY22 are proposed to be effective July 1, 2021.
- Modify Schedule H, Wastewater Interceptor Connection Review, Coordination, and Inspection Fees to increase the fees to reflect current costs. The updated charges for FY22 are proposed to be effective July 1, 2021.

Modifications to Wastewater Capacity Fees

- Modify Wastewater Schedule G to update the Wastewater Capacity Fee (WCF) to include updates for the construction of additional facilities and construction cost escalations and create two categories of MFR dwelling units (over 500 sq ft and 500 sq ft and under) as recommended by the 2021 Water SCC Study. Changes to Schedule G for FY22 are proposed to be effective on July 1, 2021.

Modifications to Recreation Use Fees

- Modify Recreation Use Fees for the Camanche Reservoir, San Pablo Recreation Area, and Camanche Hills Hunting Preserve to recover the costs of recreation programs and update the list to reflect current use. Modifications to the Recreation Use Fees are proposed to be effective January 1, 2022 for the 2022 changes.

Modifications to Public Records Act Fees

Modify the Public Records Act Fee Schedule to reflect the District's current cost of duplication and computer programming. Modifications to Public Records Act Fees for FY22 are proposed to be effective July 1, 2021.

- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended actions for Item 11.2 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. 35225-21 – Adopting Revised Regulations and Revised Water and Wastewater Systems Schedules of Rates, Charges, and Fees Not Subject to Proposition 218 for Fiscal Year 2022 and Fiscal Year 2023, Including System Capacity Charge, Standard Participation Charge, Wastewater Capacity Fee, Recreation Use Fees, Public Records Act Fees; Approving an Exemption Under the California Environmental Quality Act, and Directing Staff to File a Notice of Exemption.

12. **Adopt, in accordance with the provisions of the Municipal Utility District Act, the Fiscal Years 2022 and 2023 Operating and Capital Budgets for the Water and Wastewater Systems as recommended in the FY22 and FY23 Proposed Biennial Budget.**

- Motion by Director McIntosh, seconded by Director Young, to approve the recommended actions for Item 12 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. 35226-21 – Approving the Budget of the East Bay Municipal Utility District Water and Wastewater Systems for Fiscal Year 2022 and Fiscal Year 2023 and Establishing the Terms and Conditions for the Payment of Demands Against the District.

13. **Adopt the proposed position resolution for Fiscal Years 2022 and 2023 to implement necessary staffing and classification changes.**

- Motion by Director Patterson, seconded by Director Coleman, to approve the recommended actions for Item 13 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. 35227-21 – Authorizing the Number and Character of Positions and Authorizing the General Manager to Take Action in Connection Therewith.

14. **Legislative Update.**

Special Assistant Debbie L. Michel reviewed Legislative Report No. 06-21, which included three bills – AB 418, SB 63, and H.R. 3404. Director John A. Coleman reported the Legislative/Human Resources Committee met earlier and supported the staff

recommendations. Ms. Michel also provided an update on state and federal government activities including actions related to COVID-19.

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

Motion No. 108-21 – Received Legislative Report No. 06-21 and approved positions on the following bills: SUPPORT AB 418 (Valladares) Emergency Services: Grant Program; SUPPORT SB 63 (Stern) Fire Prevention: Vegetation Management: Public Education: Grants: Defensible Space: Fire Hazard Severity Zones: Forest Management; SUPPORT H.R. 3404 (Huffman) FUTURE Western Water Infrastructure and Drought Resiliency Act; and received information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

15. **Adopt a resolution supporting the intent of the federal Green New Deal’s goals to reduce greenhouse gas emissions, build resiliency against climate change-related disasters, and increase the use of clean, renewable, and zero-emission energy sources.**

Special Assistant Debbie L. Michel highlighted S. Res. 166 and H. Res. 332, introduced to Congress by Senator Markey and Representative Ocasio-Cortez to create a Green New Deal. She explained the resolutions contain several provisions that are consistent with EBMUD’s Policy 7.05 (Sustainability and Resilience), Policy 7.15 (Climate Action), Policy 7.07 (Energy), the District’s 2021 Federal Initiatives, and its mission. The resolutions are pending in the Senate and House with no date set for formal action. The Board adopted a similar resolution of support in 2019.

- Motion by Director Patterson, seconded by Director Young, 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. 35228-21 – Resolution Supporting the Intent of the Federal Green New Deal’s Goals to Reduce Greenhouse Gas Emissions, Build Resiliency Against Climate Change-Related Disasters, and Increase the Use of Clean, Renewable, and Zero-Emission Energy Sources.

- Director McIntosh left the meeting at 3:59 p.m.

16. **Adopt a resolution expressing the District’s opposition to annexing the Tassajara Parks Project (Project) to the District’s service area, finding the Project inconsistent with the District’s annexation policies, and making other findings and declarations regarding the unavailability of water to serve the Project.**

Engineering Manager David J. Rehnstrom presented an overview of the proposed project which is located off Camino Tassajara in unincorporated Contra Costa County, outside the County Urban Limit Line, and outside but adjacent to the District’s service area, Ultimate Service Boundary (USB), and sphere of influence. The project consists of two sites (southern and

northern site), covering approximately 771 acres east of the Town of Danville. The southern site includes approximately 616 acres which are proposed to be dedicated open space and deeded to the East Bay Regional Park District (EBRPD). The northern site includes approximately 155 acres which includes the proposed development of 125 residential units on approximately 30 acres, with the remainder proposed to be dedicated open space and deeded to the EBRPD. The project's final Environmental Impact Report (EIR) assumes the District would provide water service to the Project, based on a proposed offsite water conservation offset under which the developer would fund water conservation projects throughout the District to offset the Project's water demand. Because the project is located outside the USB, the District would be required to annex the project into its service area. The District has not planned to provide water service to the project. Mr. Rehnstrom reviewed the history of the District's responses to the County and said throughout the County's California Environmental Quality Act review process starting from 2010, the District stated its opposition to annexing the project into its service area and providing water service. The District's opposition is based on the following Board-adopted policies regarding annexation – Policy 3.01 – Annexations, Policy 3.05 – Considerations for Extension of Water Beyond the Ultimate Service Boundary, and Policy 3.08 – Advisory Election for Annexations Outside the Contra Costa County Urban Limit Line. He explained sources of uncertainty regarding the District's water supply and regulations which include climate change, impacts from the Bay-Delta Water Quality Control Plan, drought-related state actions, and Central Valley Project cutbacks and said it is not feasible for the District to commit any of its supplies, including new water created through conservation to serve the project. If the Board adopts the proposed resolution, staff will provide oral comments at the June 9 Contra Costa County Planning Commission meeting and reaffirm the District's opposition to annexing the project.

There was considerable Board discussion and questions about a proposal for the project developer to donate to the District a 595-acre-foot-per-year contractual right to Central Valley Project (CVP) water as an additional community benefit, upon receipt of all approvals as outlined in a June 7, 2021 letter from Bryan W. Wenter with Miller, Starr and Regalia to President Doug Linney. Mr. Wenter emailed the letter to Board members on June 7. General Counsel Craig S. Spencer and Director of Water and Natural Resources Michael T. Tognolini responded to questions regarding the feasibility of the District being able to obtain CVP water.

- Addressing the Board was Bryan W. Wenter who expressed concern and commented District staff's request is premature since the project has not been presented for consideration by the land use agency (Contra Costa County).

There was additional discussion regarding Mr. Wenter's letter and today's comments. Director Coleman said he had many unanswered questions specifically about the District's potential to obtain the CVP water. He advised he would be voting "no" on the resolution.

- Motion by Director Patterson, seconded by Director Mellon, to approve the recommended actions for Item 16 carried (5-1-0) by the following roll call vote: AYES (Katz, Mellon, Patterson, Young, and Linney); NOES (Coleman); ABSTAIN (None); ABSENT (McIntosh).

Resolution No. 35229-21 – Declaring East Bay Municipal Utility District’s (District) Opposition to Annexing the Tassajara Parks Project Into the District’s Service Area, Finding the Project Inconsistent With the District’s Annexation Policies, and Making Findings and Declarations Regarding the Unavailability of Water to Serve the Project.

17. **General Manager’s Report.**

Coronavirus Update

Director of Operations and Maintenance David A. Briggs presented an overview of the most recent State regulations and guidance including information on indoor masking, physical distancing and travel restrictions. He said county health orders are expected to reflect State regulations and Cal/OSHA standards will likely go into effect on June 15. Although social distancing will be phased out after June 15, the District will continue social distancing protocols and occupancy limits at District facilities. He reviewed the number of positive COVID-19 cases at the District to date; the latest data on employee and State vaccinations; and outlined the Safe Return to Workplace Plans for staff and the Board. Staff that has been fully telecommuting will return to worksites one to two days per week beginning June 21. The Board is scheduled to return to in-person meetings on June 22; however the Board room will remain closed to the public. Mr. Briggs explained the public will still be able to participate in Board meetings by telephone or webinar.

2021 Drought Update

Director of Water and Natural Resources Michael T. Tognolini reported the District’s end of September storage projections and the California Department of Water Resources (DWR) Bulletin 120 forecasts for total runoff have decreased since March 2021. The District’s median projection is currently 425 thousand acre-feet (TAF) and DWR’s is currently 219 TAF. He reviewed governor and State Board activity in response to the governor’s May 10, 2021 emergency declaration. The State Water Resources Control Board held a workshop on May 21 to discuss the methodology to be used to declare water unavailability. Curtailment orders may occur by the second week in June but he said staff does not anticipate the orders having a significant impact on the District’s water supply. On May 26, the U.S. Bureau of Reclamation announced lower allocations which reduced the District’s Center Valley Project (CVP) allocation from 73,150 AF to 24,938 AF or 18.75 percent of contract. The District is coordinating with Contra Costa Water District (CCWD) to potentially use 2,000 AF of previously stored water in Los Vaqueros Reservoir in partial exchange for the 3,200 AF of water CCWD seeks to purchase from the CVP and wheel to their service area via the Freeport Regional Water Authority and EBMUD. With higher production at the Upper San Leandro and Sobrante water treatment plants he reported water customers west of hills may notice a change in taste and odor. Staff will operate the system to minimize taste and odor issues. Next, he discussed current water transfer rates, plans to optimize recycled water production and delivery from operating projects, and inquiries from Marin Municipal Utility District (MMWD) about a possible pipeline connection across the Richmond-San Rafael Bridge. MMWD has begun to consider the scope of a feasibility study that would be the first step in determining whether the District has system capacity to wheel water through its system from another source and deliver it to MMWD. No specific scope for the study has been developed. To protect fish during this

drought, the District agreed with California Department of Fish and Wildlife transferring approximately 500,000 steelhead from the Nimbus Fish Hatchery to the Mokelumne River Fish Hatchery (MRFH) to provide more suitable conditions. The transfer occurred on June 1, 2021. The steelhead will be held at MRFH until November, when temperature conditions are expected to improve on the American River. The District has increased its customer outreach activities with social media campaigns; a “Water Wednesday Speaker Series”; presentations to local government agencies, civic councils, community organizations, and other neighborhood groups on drought and water conservation; collaborations with other agencies on a regional webinar; and outreach materials targeted for each customer class. Staff is also working to expand outreach to homeowners’ associations. Upcoming actions include finalizing the Freepoint diversion schedule, working with CCWD on the potential 2,000 AF transfer, updates to the District’s Excessive Use Penalty ordinance, and working with partners on permitting and agreements for 2022 transfers. Special Assistant to the General Manager Kelly A. Zito responded to questions regarding publicity plans for the “Water Wednesday Speaker Series.”

Racial Equity and Justice Project and Diversity, Equity, and Inclusion Strategic Plan Update

General Manager Chan said the presentation on this item would be deferred. The Board will receive a full update on the District’s Racial Equity and Justice Project and Diversity, Equity, and Inclusion Strategic Plan during the discussion with The Winters Group regarding the District’s Cultural Audit at the Special Board meeting on June 29.

New Pride Flag

Assistant Engineer Max A. Fefer presented information on the updated Pride flag for the Administration Building. Max discussed how the District’s Raining Pride Affinity group promotes awareness and inclusion at the District, reviewed LGBTQIA+ terminology, and why the original flag, designed in 1979 was updated to the “Progress” Pride flag. The Raining Pride Affinity group donated the flag to the District and it is flying at the Administration Building in June for Pride Month. Legislative/Human Resources Chair John A. Coleman said Max presented information on a resolution in support of the LGBTQIA+ community at the Committee meeting earlier in the day. The Board will consider adopting the resolution at its meeting on June 22. The Board thanked Max for the presentation.

Monthly Report – May 2021

General Manager Clifford C. Chan said he was available to answer questions regarding the May 2021 Monthly Report.

REPORTS AND DIRECTOR COMMENTS

18. Committee Reports.

- Filed with the Board were Minutes for the May 25, 2021 Finance/Administration Committee meeting.

- Planning Committee Chair Marguerite Young reported the Committee met earlier in the day (remotely) and received information on the Annual Recreation Report – 2020; Advanced Metering Infrastructure; Mokelumne Aqueducts Resiliency Project; and the Oakport Development Project– SupplyBank.org. She said due to time constraints the presentation on Trail Use Permit Review was deferred to the July 13 Planning Committee meeting; however, staff will move forward with the recommendation to conduct a one-year pilot to offer free trail use permits to Customer Assistance Program participants.
- Legislative/Human Resources Committee Chair John A. Coleman reported the Committee met earlier in the day (remotely) and received updates on Legislative Report No. 06-21; the resolution supporting the intent of the federal Green New Deal’s goals to reduce greenhouse gas emissions, build resiliency against climate change-related disasters, and increase the use of clean, renewable, and zero-emission energy sources; Human Resources Information System (HRIS) Replacement Project; and a resolution condemning and combating discrimination, intolerance, and violence against the LGBTQIA+ Community.

19. **Other Items for Future Consideration.**

None.


20. **Director Comments.**

- Director Coleman reported presenting on the drought at the Contra Costa Mayor’s Conference on June 3 and attending a press briefing at the District’s Oakport facilities on June 4 (in person). He reported on plans to address the Danville/San Ramon Rotary and present at the San Ramon City Council on June 8; present at the San Ramon Valley Kiwanis Club on June 10 (in person); attend a retirement celebration for Sam Schuchat on June 14; present at the Pleasant Hill Chamber of Commerce on June 14 (in person); attend the East Bay Leadership Board meeting on June 18; and present at the City of Pleasant Hill on June 21. All meetings and events were/will be attended remotely unless otherwise noted.
- Director Patterson reported attending the Asian-American Community Benefit District kick-off on May 15, 2021.
- President Linney reported participating in a tour of the Upper San Leandro Water Treatment Plant with staff and Oakland Mayor Libby Schaaf on May 27 during which they discussed the District’s jobs training programs.
- Director Mellon reported he would be out of the area for one week beginning June 9, 2021.
- Directors Katz, McIntosh, and Young had no report.

ADJOURNMENT

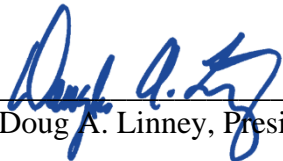
President Linney adjourned the meeting at 5:39 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: June 22, 2021



Doug A. Linney, President of the Board