

MINUTES

Tuesday, September 8, 2020

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

Regular Closed Session Meeting

President Marguerite Young called to order the Regular Closed Session Meeting of the Board of Directors at 11:02 a.m. She 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 via teleconference only. 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, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (all via teleconference).

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Assistant General Counsel Fred S. Etheridge (Item 1a), Attorney Jonathan D. Salmon (Items 1a and 2), Attorney Anna P. Gunderson (Item 2), Attorney Lourdes Matthew (Item 3), Director of Water and Natural Resources Michael T. Tognolini (Item 1a), Engineering Manager Lena L. Tam (Item 1a), Director of Wastewater Eileen M. White (Item 2), and Manager of Human Resources Laura A. Acosta (Item 3).

PUBLIC COMMENT

- Addressing the Board were the following persons: 1) Eric Larsen, President, AFSCME Local 444 commented on telecommute options for Local 444 staff who are required to quarantine due to potential COVID-19 exposure; and 2) Tony Martin, 2nd Vice President, AFSCME Local 444 commented the safety of janitorial staff as they clean District facilities during the COVID-19 pandemic.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

At 1:05 p.m. President Young informed Secretary Cole that due to an extended Closed Session Meeting, the Regular Business Meeting would start at 1:30 p.m.

President Young called to order the Regular Business Meeting of the Board of Directors at 1:31 p.m. She 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 via teleconference only. 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, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (all via teleconference). Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Young led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

The Board, in closed session this morning, by a unanimous vote of the Directors attending, approved and authorized the execution of a protest withdrawal agreement among the District, the Amador Water Agency, and the Jackson Valley Irrigation District. The protest withdrawal agreement resolves a written protest submitted by the District to the State Water Resources Control Board in connection with an ongoing water rights proceeding pending before that agency. The water rights proceeding concerns an application filed by Amador Water Agency for a permit to appropriate water from the Mokelumne River. In the protest withdrawal agreement, the District has agreed to support the water rights application of Amador Water Agency on the terms and conditions set forth in the agreement.

There were no other announcements required from closed session.

PUBLIC COMMENT

There was no public comment.

CONSENT CALENDAR

- Item 11 was pulled from the Consent Calendar for separate discussion.
- Motion by Director Coleman, seconded by Director McIntosh, to approve the recommended actions for Items 1-10 on the Consent Calendar carried (7-0), by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

1. **Motion No. 165-20** – Approved the Regular Meeting Minutes of August 11, 2020 and Special Meeting Minutes of August 18, 2020.

2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Coronavirus Update,” dated September 8, 2020; and **2)** Presentation entitled, “Racial Equity and Justice and Diversity and Inclusion Master Plan Projects Update,” dated September 8, 2020.
3. **Motion No. 166-20** – Awarded a contract to the lowest responsive/responsible bidder AqueoUS Vets in an annual amount, after the addition of taxes, not to exceed \$3,500,000 for supplying ductile iron pipe and fittings for the District's pipeline replacement program for one year, beginning on or after September 8, 2020 with four options to renew for additional one-year periods for a total cost of \$17,500,000 under Request for Quotation No. 2005.
4. **Motion No. 167-20** – Awarded a sole source contract to E. G. Solutions, Inc. in the amount not to exceed \$120,000 to replace two rotary screw traps and one accompanying trailer beginning on or after September 8, 2020.
5. **Motion No. 168-20** – Authorized an agreement beginning on or after September 8, 2020 with the City of San Ramon in an amount not to exceed \$217,140 to upgrade District gate valve boxes after street paving.
6. **Motion No. 169-20** – Authorized an agreement beginning on or after September 8, 2020 with Diede Construction, Inc. in an amount not to exceed \$120,000 for removal and replacement of siding on two residences and a garage at the Mokelumne River Fish Hatchery.
7. **Motion No. 170-20** – Authorized an agreement beginning on or after September 8, 2020 with Trussell Technologies, Inc. in an amount not to exceed \$1,042,777 to conduct a water quality improvements pilot study for the East Bayshore Recycled Water Project.
- 8a-b. **Motion No. 171-20** – Authorized agreements with Eyeball Enterprise, Inc., Ferguson Welding Service, Inc., Mid Mountain Mechanical, Inc., and Woods Welding for the rental of fully maintained and operated (FM&O) welding services in the aggregate amount of \$250,000 during the period September 9, 2020 to September 9, 2021; and authorized additional agreements for FM&O welding services with vendors that meet District standards and offer pricing at or below the range in the agreements above. These additional agreements may be issued, on an as-needed basis, in order to increase flexibility. The Board of Directors will be notified of additional qualified vendors by means of the General Manager's monthly report.
- 9a-b. **Motion No. 172-20** – Authorized an amendment to the agreements awarded under Board Motion No. 091-16 with Don's Tire Service, Inc., East Bay Tire Co., George Oren Tire Specialist, Inland Industrial Tire, Inc., Morgan Tire of Sacramento, Melvin A. Wikerson Jr. dba Dusty and Sons Truck Tire Services, Rubber Dust, Inc. dba J&O Commercial Tire, Fleet Tire, Inc. dba Brannon Tire, Goodyear Commercial Tire Sales, Jackson Tire Service, Inc., Thiel's Tire Service, LLC, and Bridgestone Americas, Inc. dba GCR Tires and Service, to increase the amount by \$550,000 to a total amount not to exceed \$2,050,000 and extend the agreement term to June 30, 2021 for the purchase of automobile and light, medium, and heavy truck tires for District vehicles; and authorized additional agreements for the purchase of automobile and light, medium, and heavy truck tires for District vehicles with vendors that meet District standards and offer the Government and Utility Price Schedules program, to increase flexibility and ensure vendor availability. The Board of Directors will be notified of additional qualified vendors by means of the General Manager's monthly report.

10. **Motion No. 173-20** – Authorized the Ergonomic Home Office Equipment Loan Program to allow employees to purchase ergonomic home office equipment through an interest-free loan program.
11. **Resolution No. 35201-20** – Appointing Niger M. Edwards As Manager Of Employee Relations (*effective September 14, 2020*).

Director Mellon pulled Item 11 to congratulate Ms. Edwards on her appointment. Ms. Edwards thanked the Board for the opportunity and said she looked forward to working in her new capacity.

- Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 11 carried (7-0), by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

DETERMINATION AND DISCUSSION

12. **Legislative Update.**

Manager of Legislative Affairs Marlaigne K. Dumaine provided an overview of the two ballot initiatives in Legislative Report No. 08-20. She discussed the staff recommendations for the initiatives, how passage of both could benefit the District, and the process for the Board to consider adopting resolutions in support of the initiatives. If the Board votes to support Proposition 15, staff will prepare a resolution for consideration at an upcoming Regular meeting. Ms. Dumaine said the Board previously adopted a “Support” position for ACA 5 on June 23, 2020 which is now Proposition 16 on the November 2020 ballot. A resolution in support of Proposition 16 will be presented for consideration under Agenda Item 13. President Young asked if the Board could take action on Proposition 15 at this meeting instead of waiting to take action at a future meeting. Ms. Dumaine explained that if the Board votes in the affirmative to support Proposition 15 today, staff will prepare a resolution to formally support the initiative at an upcoming Regular meeting. Director McIntosh reported that the Legislative/Human Resources Committee met earlier and voted (2-1) to support the staff recommendation for Proposition 15 and voted (3-0) to support the staff recommendations for Proposition 16. Director Coleman voted “No” on the staff recommendation for Proposition 15. Director Coleman stated his concerns about the potential impact Proposition 15 could have on businesses due to the state of the economy as well as to Amador and Calaveras counties. Next, Ms. Dumaine highlighted state and federal legislative activities including the latest information regarding federal activities regarding COVID-19 relief packages.

- Addressing the Board were the following persons: 1) Theodore Q. Lam, Chapter Administrative Vice-President, IFPTE Local 21 who commented Local 21 endorses Proposition 15 and encouraged the Board to support the initiative; and 2) Joey D. Smith, President, AFSCME Local 2019 who thanked the Board for considering support of Proposition 15.

- Motion by Director Young, seconded by Director Linney, to approve the recommended actions for Proposition 15 carried (6-1), by the following roll call vote: AYES (Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (Coleman); ABSTAIN (None); ABSENT (None).
- Motion by Director Patterson, seconded by Director McIntosh to approve the recommended actions for Proposition 16 carried (7-0), by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 174-20 – Received Legislative Report No. 08-20 and approved positions on the following ballot initiatives: 1) Support Proposition 15 – Increases Funding Sources for Public Schools, Community Colleges, and Local Government Services by Changing Tax Assessment of Commercial and Industrial Property (Initiative Constitutional Amendment); and 2) Support Proposition 16 -Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions (Legislative Constitutional Amendment); and received information on State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

13. **Resolution No. 35202-20** – Resolution Supporting Proposition 16 - Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions (Legislative Constitutional Amendment).
- Motion by Director Patterson, seconded by Director McIntosh, to approve the recommended action for Item 13 carried (7-0), by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
14. **General Manager’s Report.**

Racial Equity and Justice (REJ) and Diversity and Inclusion Master Plan (DIMP) Projects Update.

Manager of Employee and Organizational Development Derry L. Moten presented a status update for both projects. He reported that going forward he will oversee both projects until the District recruits a new Diversity and Inclusion Officer. He reviewed actions taken to date by the REJ Project steering committee, which launched on August 19, and task forces for REJ Project Strategies 1 and 6. He highlighted the recruitment efforts for the Long-Term Senior Human Resources Analyst position to support the projects and said the task forces for REJ Project Strategies 7 and 8 are on hold until the position is filled. He reported that the nine use-of-force reforms proposed by California’s Attorney General for law enforcement will become a part of the District’s discussion with partner agencies regarding their policies as outlined under REJ Project Strategy 8. The Winters Group, the DIMP consultant is still collecting data through employee focus groups and one-on-one interviews with key stakeholders and conducting foundational education training with the core and senior management teams. He discussed the project schedule and next steps and asked the Board to provide additional guidance on specific outcomes the Board envisions if the REJ and DIMP Projects are combined. He also requested feedback on the schedule and progress reported to date. The Board thanked Mr. Moten for the update and his work on the projects. The Board questioned whether Mr. Moten had enough resources to adequately manage both projects. Mr. Moten reviewed current staffing resources and confirmed the adequacy of resources at this point in

the projects. Regarding specific project outcomes, Board members commented they would like to see a “level playing field” for all employees at the District; for the hiring process to include a mechanism to factor in more than test scores and interviews; for both projects to show continuity throughout the process; and District processes that can be revised quickly if Proposition 16 is passed particularly processes around recruitment and hiring. Director Katz commented on a presentation by East Bay Regional Park District’s police chief regarding EBRPD’s police department policies at the August 18 EBMUD/EBRPD Liaison Committee meeting, and asked staff to consider including a citizen police review process as part of the scope for REJ Project Strategy 8. Mr. Moten responded to Board questions on which staff is being interviewed as a part of the DIMP Project and the interview selection process and having The Winters Group include additional employees in the 1:1 and focus group interviews. The Board asked that the DIMP Project interviewees include District union leadership; to consider a 1:1 ratio between management and staff during interview selections; and to consider conducting a staff survey once the District receives recommendations from the REJ Project task forces and feedback from the DIMP Project interviews.

Coronavirus Update

Acting Director of Operations and Maintenance David A. Briggs presented an update on the District’s response to the coronavirus. He reviewed the most recent updates to the counties’ health orders including a new system implemented by the state to assist businesses with reopening. He reported on the employees’ COVID-19 related leave statistics and assistance being offered to employees including additional leave options, distance learning support for parents with children in school, flexible work schedules, and continued use of telecommuting. Director of Water and Natural Resources responded to Board questions regarding enforcement policies and the ability to issue citations to Lafayette Reservoir visitors who do not wear face coverings. The Board asked staff to check if signage at the reservoir could include language regarding citations for failure to wear face coverings; and to provide information on how flexible work schedules are being used by staff that work in the field and staff that are able to telecommute.

REPORTS AND DIRECTOR COMMENTS

15. Committee Reports.

- Filed with the Board were the August 11, 2020 Planning Committee and Legislative/Human Resources Committee Minutes.
- Planning Committee Chair Doug Linney reported the Committee met earlier in the day (via teleconference) and received updates on the following: Water Quality Program Semi-Annual Update; Regulatory Compliance Semi-Annual Report; Fiscal Year 2020 Annual Readiness Report; and the Dam Safety Program Annual Report.
- Legislative/Human Resources Chair John A. Coleman reported the Committee met earlier in the day (via teleconference) and was chaired by Director Lesa R. McIntosh. The Committee received updates on the following: Legislative Report No. 08-20; information on State and Federal Government Actions Related to the Coronavirus Disease 2019; Ergonomic Home Office Equipment Loan Program; and the Racial Equity and Justice and Diversity and Inclusion Master Plan Projects.

16. **Other Items for Future Consideration.**

- Have Board members participating in EBMUD Joint Powers Authority/Liaison Committee meetings provide reports similar to Committee meeting reports during future Board meetings.

17. **Director Comments.**

- Director Coleman reported attending the following: Interview with The Winters Group (remotely) on August 26; DERWA Board meeting (remotely) on August 31; meeting with EBMUD auditors (remotely) on August 31; and plans to attend the East Bay Leadership Council Board meeting (remotely) on September 18.
- Director Katz reported attending the EBMUD/EBRPD Liaison Committee meeting on August 18 (remotely) and commented on the topics discussed at the meeting.
- Director Patterson commented on the District's recent press release regarding completed infrastructure projects and the Upper Mokelumne River Water Authority's 20th year anniversary.
- President Young commented on the District's East Bay Express insert regarding coastal cleanup events.
- Directors Linney, McIntosh and Mellon had no report.

ADJOURNMENT

President Young adjourned the meeting at 3:21 p.m.

SUBMITTED BY:



Rischa S. Cole, Secretary of the District

APPROVED: September 22, 2020



Marguerite Young, President of the Board