



EAST BAY DISCHARGERS AUTHORITY
2651 Grant Avenue
San Lorenzo, CA 94580-1841
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FAX (510) 278-6547

A Joint Powers Public Agency

Pursuant to the Governor's Executive Order N-25-20 the Personnel Committee Meeting scheduled for June 15th at 1:30 p.m. will be telephonic. The dial-in number for the meeting is +1 669 900 6833 with meeting I.D. #880 0036 2242. Members of the public are encouraged to dial-in to the meeting using the same number. <https://us02web.zoom.us/j/88000362242>

ITEM NO. 18

PERSONNEL COMMITTEE AGENDA

**Monday, June 15, 2020
1:30 p.m.**

**East Bay Dischargers Authority
2651 Grant Avenue, San Lorenzo, CA 94580**

Committee Members: Handley (Chair), Lamnin

- P1. Call to Order**
- P2. Roll Call**
- P3. Public Forum**
- P4. Brown Act Review**
(The Committee will discuss legal counsel's annual review of the Brown Act.)
- P5. Resolution Adopting Rules of the Commission**
(The Committee will consider a resolution adopting Rules of the Commission.)
- P6. Motion to Accept Committee Appointments and Calendar for FY 2020/2021**
(The Committee will consider Committee appointments for next fiscal year.)
- P7. Resolution Adopting the Fiscal Year 2020/2021 Compensation Plan**
(The Committee will consider a resolution adopting the Compensation Plan.)
- P8. Adjournment**

(Any member of the public may address the Commission at the commencement of the meeting on any matter within the jurisdiction of the Commission. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Commission limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Commission on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.)

(In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact the Administrative Assistant at the EBDA office at (510) 278-5910 or kyambao@ebda.org. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.)

(In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>.)

**The next Personnel Committee meeting will be held
Monday, August 17, 2020 at 9:00 a.m.**

ITEM NO. P4 BROWN ACT REVIEW

Recommendation

Receive and review the foregoing updates to the Brown Act.

Background

The Ralph M. Brown Act (“Brown Act” or “Act”) (Gov. Code section 54950 et seq.), governs the public’s rights to attend and participate in meetings of local legislative bodies, and provides procedural requirements for such meetings. The Brown Act is updated from time to time by the State legislature, or Gubernatorial Orders. The Personnel Committee annually reviews the Ralph M. Brown Act for changes that may have an effect on how EBDA conducts its Committee and Commission meetings.

Discussion

EBDA’s legal counsel has provided the following summary of updates to the Brown Act, including Governor’s Orders during the COVID-19 Shelter-in-Place.

Posting Agendas Online

Each legislative body of a local agency, including advisory committees, commissions, or boards, as well as standing committees of legislative bodies, must provide an agenda at least seventy-two (72) hours before the regular meeting. As of January 1, 2019, the meeting agenda must be posted in a physical location that is freely accessible to members of the public, and additionally posted via direct link on the agency’s home webpage. The agenda available online must be downloadable, indexable, electronically searchable, platform independent and machine readable, and available to the public free of charge. Alternatively, the agenda online may be posted on a dedicated webpage that provides agenda information. (Gov. Code §§ 54590 – 54963.)

Public Comment When Using A Translator

The Brown Act provides that every agenda for a regular meeting must provide an opportunity for members of the public to address the legislative body on any item under the subject matter jurisdiction of the body. The legislative body is allowed to adopt reasonable regulations, including regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. (Gov. Code section 54954.3(b).) If a legislative body does adopt regulations limiting the time for public comment, it must provide at least twice the allotted time to a member of the public who uses a translator. (Gov. Code § 54954.3(b)(2) – (3).)

Governor’s Orders – COVID-19

Executive Order N-29-20: Executive Order N-29-20 (“Order N-29-20”) was issued by the Governor on March 17, 2020. Order N-29-20 allows local legislative or state bodies to hold public meetings via teleconference without having to provide a physical location from which members of the public may observe the meeting and offer public comment, as long as members of the public are allowed to observe and address the meeting telephonically or otherwise electronically, subject to specified notice and accessibility requirements.

Here are a few of the highlights for the teleconference rules under Order N-29-20:

- Physical presence of members of the legislative body or of the public are not required as a condition of participation in or quorum for a public meeting
- Notice is not required of each teleconference location from which a member will be participating in a public meeting
- Teleconference location does not have to be accessible to the public
- The possibility of members of the public addressing the body at each teleconference conference location is not required
- Agendas do not have to be posted at all teleconference locations
- During teleconference meetings, at least a quorum of the members of the legislative body are not required to participate from locations within the boundaries of the territory over which the legislative body exercises jurisdiction

Legislative bodies holding meetings via teleconferencing must still allow members of the public to observe and address the meeting telephonically or otherwise electronically. If a legislative body holds a meeting via teleconference and allows members of the public to observe and address the meeting, the body shall also:

- Have and advertise (each time meeting notice is given) a procedure for receiving and swiftly resolving requests for a reasonable accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act.
- Provide advance notice of the time of, and post the agenda for, each public meeting according to the timeframes prescribed by the Brown Act. Include the means by which members of the public may observe the meeting and offer public comment.

Executive Order N-35-20: Executive Order N-35-20 ("Order N-35-20") was issued by the Governor on March 21, 2020. Order N-35-20 allows members of a legislative body to receive updates ("including, but not limited to, simultaneous updates") from federal, state, and local officials relevant to the declaration emergency ("including, but not limited to, updates concerning the impacts of COVID-19, the government response to COVID-19, and other aspects relevant to the emergency").

This means members of the legislative body may ask questions of those federal, state and local officials who provide the updates in order to stay apprised of emergency operations and the impact the emergency has on their constituents. However, members of the legislative body may not take action on, or discuss amongst themselves, any item of business that is within the subject matter jurisdiction of the legislative body without complying with otherwise-applicable requirements of the Brown Act.

Order N-35-20 states that members of a legislative body may "receive updates" and "ask questions," but they may not "discuss amongst themselves" nor may they "take action." While the meaning of taking action is clear, when receiving updates, members should be cautious not to discuss information, especially the answers to the questions that they ask. If the topic of a question feels like it will lead to a topic of a discussion, then

Agenda Explanation
East Bay Dischargers Authority
Personnel Committee
June 15, 2020

the communication should be deferred to a future Brown Act compliant meeting. Questions that only clarify are likely to be the most appropriate questions. While the update does not have to be brief, it should be conducted similar to a traditional press briefing or task force briefing, which are typically designed only to inform or educate.

ITEM NO. P5 RESOLUTION ADOPTING RULES OF THE COMMISSION

Recommendation

Approve a resolution adopting Rules of the Commission.

Background

While EBDA has adopted individual policies regarding conduct of Commission business, the Authority does not have formal Rules of the Commission. The Joint Powers Agreement (JPA) also contained content regarding the conduct of the Commission and meeting protocols. That language was removed in the Amended and Restated JPA in favor of creating Rules of the Commission that would cover the details of Commission business and could be more easily modified than the JPA. The Rules of the Commission document is intended to be a high-level guidance manual for the workings of the Commission.

Draft Rules were reviewed at the Personnel Committee's March and May 2020 meetings, and Committee and Commission input has been incorporated.

Discussion

The attached Rules of the Commission formalize officer roles, meeting protocols, voting procedures, Committee practices, and communication protocols for the EBDA Commission. They are consistent with and expand upon rules and procedures outlined in the Amended and Restated JPA, including how weighted voting works and where it will be applied. The Rules also state that most actions taken by the Commission will be by motion, and only certain actions will require a resolution, a change from current practice. The Rules can be amended by the Commission in the future as desired.

EAST BAY DISCHARGERS AUTHORITY

RULES OF THE COMMISSION

June 2020

EAST BAY DISCHARGERS AUTHORITY

RULES OF THE COMMISSION

	Page
RULE I. OFFICERS OF THE COMMISSION	1
A. Chair.....	1
B. Vice-Chair.....	2
C. General Manager.....	2
D. Treasurer and Auditor	2
E. Term.....	2
RULE II. MEETINGS OF THE COMMISSION	3
A. Call of Meetings.....	3
1. Regular Meetings	3
2. Special Meetings.....	3
3. Emergency Meetings	3
B. Notice of Meetings.....	3
C. Agenda of Meetings	3
D. Meetings Open to the Public.....	3
E. Order of Business.....	4
F. Procedure.	4
1. Role of Chair.....	4
2. Convening the Meeting and Quorum.....	4
3. Consent Calendar	4
4. General Principles for Discussion or Debate	5
5. Motions	5
6. Voting	6
7. Time Limit on Meetings	6
8. Adjournment	6
9. Minutes	6
RULE III. COMMITTEES OF THE COMMISSION	9
A. Standing Committees	9
1. Financial Management Committee	9
2. Operations and Maintenance Committee.....	9
3. Personnel Committee.....	9
4. Regulatory Affairs Committee.....	9
B. Ad Hoc Committees.....	9
C. Committee Members and Alternates	9
RULE IV. COMMUNICATIONS TO THE COMMISSION.....	10
A. General.....	10
1. Agenda Items	10
2. Non-Agenda Items	10
B. Time Limits on Public Comments	10
RULE V. COMMISSIONER COMMUNICATIONS.....	11
A. Communications with Staff	11
B. Communications on behalf of EBDA	11
C. Communications with the Public.....	11

RULE VI. SUSPENSION/AMENDMENT/REPEAL	12
ATTACHMENT 1 - Chart Of Motion Practice	
ATTACHMENT 2 - Member Agency Votes Under Weighted Voting Calculation	
ATTACHMENT 3 - Commission Voting	

EAST BAY DISCHARGERS AUTHORITY COMMISSION

RULES OF THE COMMISSION

The Commission of the East Bay Dischargers Authority (“EBDA”) adopts these Rules pursuant to Section 7(j) of the Amended and Restated Joint Exercise of Powers Agreement dated July 1, 2020 (“Amended and Restated JPA”).

The Commission is the legislative body that governs EBDA and is accountable to the member agencies for the following actions:

- Establish policies for EBDA operations;
- Establish and oversee the EBDA's finances and its budgets, programs, and performance; and
- Provide the resources needed by staff to carry out EBDA policy.

These Rules are designed solely to facilitate the Commission’s conduct of its own meetings and proceedings. They are not intended to, and do not, create procedural or substantive rights in any person.

The Rules are subordinate to state and federal law.

RULE I. OFFICERS OF THE COMMISSION

- A. Chair. The Commission shall elect a Chair from among its members annually at the regular meeting in June. Until otherwise determined by the Commission, current Commission policy is to provide for the equitable rotation of the Chair position among members (see Resolution 99-11).

The Chair shall preside at all meetings of the Commission.

The Chair's duties shall include calling meetings to order, adjourning meetings, announcing the business before the Commission in order in which it is to be acted upon, recognizing members and non-members entitled to the floor, putting to vote all questions moved and seconded, announcing results of votes, maintaining the rules of order, executing documents on behalf of the Commission when duly approved for action, and such other powers and duties as are provided elsewhere in these Rules or delegated by the Commission. The Chair shall be entitled to exercise his or her full voting rights on all questions before the Commission and need not relinquish the chair to discuss a question before the Commission.

The Chair may appoint members of the Commission to standing and ad hoc committees of the Commission and may designate the chairs of such committees. The Chair may also appoint members of the Commission to serve as the

representative of EBDA to other groups and organizations, unless the law requires such appointments to be made by action of the full Commission.

- B. Vice-Chair. The Commission shall elect a Vice-Chair from among its members annually at the regular meeting in June.

The Vice-Chair shall perform the duties of the Chair in the Chair's absence or incapacity. In the case of a vacancy of the office of the Chair, the Vice-Chair shall succeed to that office. In the case of a vacancy of the office of the Vice-Chairperson, an election shall be held at the next regular meeting to fill the vacancy.

- C. General Manager. The General Manager's duties and authority shall be as specified in Section 7(f) of the Amended and Restated JPA.
- D. Treasurer and Auditor. The Treasurer's and Auditor's duties and authority shall be as specified in Section 7(g) of the Amended and Restated JPA.
- E. Term. The term of officers shall be for one year commencing on July 1 of each and every Fiscal Year.

RULE II. MEETINGS OF THE COMMISSION

A. Call of Meetings

1. Regular Meetings. The Commission will hold at least six regular meetings each year. The date upon which, and the hour and place at which each such regular meetings will be held, will be fixed by resolution of the Commission. The date and/or time of a particular regular meeting may be changed by the Commission as needed to accommodate scheduling conflicts, subject to the notice requirements in Rule II.B below.
2. Special Meetings. Special meetings of the Commission may be called by the Chair or by a majority of the members of the Commission¹. The notice of the meeting shall state the particular business to be conducted. The Commission may not consider other business at such meetings.
3. Emergency Meetings. The majority of the members of the Commission may call an emergency meeting in the case of an “emergency situation,” as defined in the Brown Act.

B. Notice of Meetings. A notice stating the time and place of the meeting shall be sent to each Commissioner no later than the time the agenda is required to be distributed by Rule II.C. If the date, time or place of a regular meeting is changed, notice of the change shall be sent at least 72 hours in advance of the regular meeting date or the rescheduled date, whichever is earlier, to each member and to all newspapers of general circulation and radio and television stations that have requested notice of meetings pursuant to the Brown Act.

C. Agenda of Meetings. The General Manager shall prepare the agenda of all meetings of the Commission, in consultation with the Chair.

A copy of the agenda shall be posted in a location freely accessible to the public, EBDA's website, and delivered to each member, at least 72 hours before each regular meeting and at least 24 hours before each special meeting.

A copy of the agenda, and of all documents (other than those exempt from disclosure under the Public Records Act) distributed to the members with the agenda, shall be available for public inspection at EBDA's office at least 72 hours before each regular meeting and at least 24 hours before each special meeting. A copy of the agenda and such supporting documents shall also be available for public review at the meeting.

D. Meetings Open to the Public. All meetings of the Commission shall be open and public and conducted in accordance with the Brown Act.

¹ Special meetings may be called in accordance with Government Code Section 54956; weighted voting does not apply.

E. Order of Business. The Order of Business shall generally be as follows:

Call to Order
Pledge of Allegiance
Roll Call
Public Forum
Consent Calendar
Regular Calendar
Reports
Commissioners' Comments and/or Agenda Requests
Closed Session (if any)
Adjournment

A member may request that an item be taken out of order. The Chair may take any item out of order in response to a request by a member or on his or her own initiative, subject to the right of a member to appeal.

F. Procedure.

1. Role of Chair. Authority for conduct of meetings is assigned to the Chair, who shall be responsible for timely, fair and reasonable conduct of the meeting's business. Decisions of the Chair on questions of procedure are final, except that any ruling may be appealed to a vote of the Commission.

In the event both the Chair and Vice-Chair are absent from a meeting which otherwise would constitute a quorum and a Chair pro tem was not designated by the Chair at the last regular meeting, any member may call the meeting to order and a chair pro tem may be elected by majority vote, as set forth in Section 7(c)(1) of the Amended and Restated JPA, to serve until the Chair or Vice-Chair is present. In such case, the Chair pro tem is authorized only to conduct meetings of the Commission pursuant to these Rules and is not authorized to add items the Agenda for any meeting of the Commission or exercise any other duties of the Chair or Vice-Chair of the Commission.

2. Convening the Meeting and Quorum. A majority of the full Commission (or, in the absence of a member, that member's alternate) constitutes a quorum for the conduct of business. The Chair shall be responsible for ascertaining and announcing the presence of a quorum and the due convening of the meeting. In the event a majority of the Commission is not also a majority of the commissioner and weighted voting calculations pursuant to Section 7(c)(1) of the Amended and Restated JPA, the Commission may convene and hold a meeting to receive reports and information, but it may not take action to approve any item.
3. Consent Calendar. Matters to be included on the Consent Calendar are those that are regularly presented to the Commission and are routine in

nature, such as approval of minutes. All matters on the Consent Calendar may be acted upon by a single vote. Any Commission member may request that a matter on the Consent Calendar be removed for comment only, prior to a single vote on the entire Consent Calendar. If any member requests that a matter on the Consent Calendar be considered and acted upon separately, the matter shall be removed from the Consent Calendar. In the event a member of the public requests that a matter on the Consent Calendar be considered and acted upon separately, the Chair has full discretion to determine whether or not such matter shall be removed from the Consent Calendar. Such matters shall be separately considered immediately after approval of the remainder of the Consent Calendar, subject to the Chair's authority to take up the matter later in the meeting.

4. General Principles for Discussion or Debate. Discussion of any issue is subject to regulation by the Chair to assure adequate consideration of relevant points of view in the best interests of EBDA. The objectives of discussion are to:
 - Determine the will of the Commission.
 - Assure sufficient discussion and consideration of issues so that all pertinent points of view are considered.
 - Maintain the dignity and decorum of the meeting so that each recognized speaker's views are made known to the members and to ensure that appropriate respect is accorded all members and the public.
 - Present the consideration of business in a manner understood by all participants.
5. Motions. The Commission prefers a flexible format for meetings and does not insist that its meetings be conducted strictly in accordance with formal rules of procedure. The conduct of the Commission's meetings will be informed by Robert's Rules of Order, but the Commission will not be obligated to strictly comply with Robert's Rules.

The following rules of motion practice are to be applied as a guide to the Chair in disposition of motions. If a member believes that adequate order is not being maintained or that the procedures being followed do not allow for adequate and orderly discussion of an item, the member may raise a point of order to the Chair. If the member is not satisfied with the ruling of the Chair, the member may appeal to the full Commission.

All matters requiring Commission action must be presented in the form of a motion. In order for a vote to be taken on a motion, the motion must be seconded by another member. When a motion has been made and

seconded, it shall be stated by the Chair for consideration by the Commissioners.

In general, every agenda item requiring action will be presented with a written staff report and clear recommendation; however, action may be by motion and reflected in the minutes. In certain circumstances, statutory law requires Commission action by written resolution, such as matters related to CalPERS. Furthermore, in practice, the Commission may choose to adopt significant governing policies, such as a Reserve Policy and Procurement Policy, by written resolution. In each case, the Chair will call for a motion to adopt such action.

Under these Rules, motions should be limited to those set forth on the Chart of Motion Practice (Attachment 1). Motions on Attachment 1 are listed in order of precedence. When a motion is pending, any motion listed above it on the chart is in order, but those below it are out of order.

6. Voting. The affirmative vote of (a) three or more commissioners; and (b) greater than fifty percent of the weighted votes based on Maximum Flow Rate Capacity is required to adopt any action, including passing a main motion, except for unanimous or other special voting protocols as set forth in Sections 7(c)(2) and 7(c)(3) of the Amended and Restated JPA. A voice vote shall be taken first on all motions subject to weighted voting. If the voice vote is not unanimous, a roll call vote shall be taken.

A roll call shall be taken on the vote on all main motions associated with an ordinance or resolution and on any other motion when requested by a member. All votes will be recorded.

The number of votes assigned to each member for purposes of weighted voting is shown on Attachment 2.

7. Time Limit on Meetings. When a meeting of the Commission has lasted two and one quarter hours or more, no new item of business may be taken up for discussion or action unless the Commission votes to extend the meeting. This provision may be invoked by the Chair or any member. However, it has no effect on the validity of any action taken by the Commission unless and until it is invoked.
8. Adjournment. Upon completion of the meeting's agenda, or upon conclusion of a meeting pursuant to Rule II.G.7, the Chair shall adjourn the meeting. Adjournment may be accomplished by a motion or announcement of the Chair.
9. Minutes. The General Manager shall prepare minutes of each Commission meeting, which shall be submitted for action at a subsequent meeting. Minutes shall record the ayes and nays on roll call votes. Minutes should not include the text of ordinances and resolutions, which

shall be maintained by the General Manager in separate volumes. Minutes are intended to be a record of Commission action and a brief summary of discussion; they should not be an exhaustive record of deliberation.

RULE III. COMMITTEES OF THE COMMISSION

- A. Standing Committees. The Commission may establish standing committees that have continuing jurisdiction over a particular subject matter, or a set meeting schedule pursuant to the Brown Act. Rules II.B, C, D, and E shall apply to all meetings of a standing committee. Until otherwise determined by the Commissions, the current policy is that the physical presence of a single Standing Committee member is sufficient to constitute a quorum (see Resolution 05-13). Standing committees may include, but shall not be limited to the following:
1. Financial Management Committee. The Financial Management Committee advises the Commission and General Manager regarding financial matters applicable to EBDA and its related budget and expenses.
 2. Operations and Maintenance Committee. The Operations and Maintenance Committee advises the Commission and General Manager on long range objectives of EBDA and the operation and maintenance of its facilities.
 3. Personnel Committee. The Personnel Committee advises the Commission and General Manager regarding personnel matters before the Commission.
 4. Regulatory Affairs Committee. The Regulatory Affairs Committee advises the Commission and General Manager on regulations and legislation at the local, State and Federal level which may affect EBDA, requirements of regulatory agencies, coordination with environmental and water quality organizations in and about San Francisco Bay, and other EBDA policy decisions.
- B. Ad Hoc Committees. The Commission, or the Chair on his or her own initiative, may establish ad hoc advisory committees to undertake special, specific or limited assignments on behalf of the Commission pursuant to the Brown Act.
- C. Committee Members and Alternates. Following the submission of each member's preference, the Chair may appoint members to standing and ad hoc committees of the Commission and may designate the chairs of such committees. Such appointments are effective on July 1 of each and every Fiscal Year. In the event of an absence of a Committee member, including the designated chair, that commissioner's agency appointed alternate will represent the Committee member, including serving as chair, if designated. In the event of a vacancy of a designated chair of a committee, the Commission Chair will designate a new committee chair.

RULE IV. COMMUNICATIONS TO THE COMMISSION

A. General. Members of the public should address comments and questions to the Chair.

1. Agenda Items. Members of the public may speak on any item on the agenda, after receiving recognition from the Chair.
2. Non-Agenda Items. Members of the public may speak on matters not on the agenda during Public Forum. The Commission will take no immediate action on matters which are not on the Agenda. Such items raised by the public may be referred to staff for review and analysis and may be reported back to the Commission at a subsequent meeting. Members and staff may also briefly respond to statements or questions made during Public Forum or take any other action permitted by law.

If a speaker refers to any document, writing, record, picture, or other exhibit, the General Manager shall request a copy so that it can be included in the record.

B. Time Limits on Public Comments. The Chair may impose time limits on each speaker.

RULE V. COMMISSIONER COMMUNICATIONS

- A. Communications with Staff. Members should endeavor to direct all questions and requests to the General Manager for delegation to staff, as needed. Members, by making a request to the General Manager, shall have access to information relative to the operations of EBDA, including but not limited to statistical information, information serving as the basis for certain actions of staff, justification for staff recommendations, etc. Members should receive any information from staff as preliminary and be cautious with the use of the information until the General Manager makes a formal recommendation for action.

- B. Communications on behalf of EBDA. Individual members have no authority and should not make any promises on behalf of the Commission or EBDA. Only the Commission may commit EBDA to an action or a policy. If a member is speaking on behalf of EBDA at another agency's public meeting, he/she should always clearly state that what he/she is saying has been approved by the Commission and not deviate from the message and/or position. If a member speaks as a private citizen at a public gathering, he/she should clearly state that he/she is doing so in an individual capacity.

- C. Communications with the Public. Commissioners may always speak with members of the public regarding EBDA matters. It is advisable to inform the General Manager as soon as practicable regarding complaints and concerns from members of the public. Only the Chair and General Manager are authorized to speak with the media regarding EBDA matters. All media requests should be directed to the General Manager.

RULE VI. SUSPENSION/AMENDMENT/REPEAL

A Rule may be suspended at any Commission meeting by a majority vote of the Commission. The Rules may be amended or repealed by a vote of the Commission.

ATTACHMENT 1				
CHART OF MOTION PRACTICE				
Motion	Second Required?	Debatable?	Amendable?	Vote Required*
MEETING CONDUCT (PRIVILEGED) MOTIONS				
Point of Privilege	No	No	No	None
Point of Order	No	No	No	None
To Appeal Ruling of Chair	No	Yes	No	Majority + Weighted
To Recess	Yes	Yes	Yes	Majority + Weighted
To Adjourn	Yes	Yes	No	Majority + Weighted
DISPOSITION (SUBSIDIARY) MOTIONS				
To Withdraw a Motion	No	No	No	None
To Postpone Consideration (Table)	Yes	Yes	Yes	Majority + Weighted
To Refer to Committee	Yes	Yes	Yes	Majority + Weighted
To Amend	Yes	Yes	Yes	Majority + Weighted
To Limit or Close Debate (Call the Question)	Yes	Yes	Yes	2/3
MAIN MOTIONS				
To Take Action; To Reconsider	Yes	Yes	Yes	Majority + Weighted

* For privileged and subsidiary motions, required vote refers to those present and voting. Main motions require a majority of the full Commission, whether or not present and voting. Except where noted, for purposes of this motion practice, weighted voting does apply.

ATTACHMENT 2 -

MEMBER AGENCY VOTES **UNDER WEIGHTED VOTING CALCULATION**

<u>Name of Agency</u>	<u>No. of Votes</u>
Castro Valley	10.30
Hayward	14.72
Oro Loma	19.14
San Leandro	13.74
Union	42.10

In the event one or more Agencies adjusts its Maximum Flow Rate Capacity as set forth in Section 11 of the Amended and Restated JPA, this attachment will be recalculated, and all agencies will be informed, pursuant the Amended and Restated JPA. After such recalculation, a revised Attachment 2 will be automatically incorporated in these Rules.

ATTACHMENT 3

COMMISSION VOTING

A. Weighted Voting:

Except as set out in B and C below, every action will be subject to two vote calculations.

- 1) A calculation of commissioner's votes where each commissioner is allocated one vote; and
- 2) A calculation of weighted votes as set forth in Attachment 2.

B. Unanimous Voting:

The following actions require unanimous approval:

- 1) Amendment of the Amended and Restated JPA;
- 2) Termination of the JPA during the Term;
- 3) Approval of modifications to, or extension of, the Master Agreement between the Livermore-Amador Valley Water Management Agency ("LAVWMA") and the Authority, dated April 26, 2007;
- 4) Approval of any agreement that would result in the utilization of the Facilities to dispose of brine pursuant to Section 23(b)(1) of the Amended and Restated JPA;
- 5) Changes to the ownership of Authority Facilities; and
- 6) Approval of the Authority Policies and Procedures regarding purchasing and brine.

C. Other Actions:

For the purpose of Commission actions related to effluent violations addressed in Section 16(b) of the Amended and Restated JPA, the unanimous vote requirement will not include the violating Agency(ies) and the commissioner from the violating Agency(ies) will not be permitted a vote.

EAST BAY DISCHARGERS COMMISSION

EAST BAY DISCHARGERS AUTHORITY

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 20-18

INTRODUCED BY _____

RESOLUTION ADOPTING RULES OF THE COMMISSION

WHEREAS, in October 2019, the Commission of the East Bay Dischargers Authority approved an Amended and Restated Joint Powers Agreement (JPA); and

WHEREAS, the Amended and Restated JPA was signed by all parties in December 2019 and goes into effect on July 1, 2020; and

WHEREAS, the Amended and Restated JPA contains less detail than the prior JPA with respect to administration of Commission matters; and

WHEREAS, it is in the Authority's interest to adopt Rules of the Commission to govern the business of the Commission; and

WHEREAS, the Personnel Committee reviewed the Rules of the Commission and recommends their adoption, effective July 1, 2020.

NOW, THEREFORE, BE IT RESOLVED, the Commission of the East Bay Dischargers Authority hereby adopts the Rules of the Commission attached hereto.

SAN LORENZO, CALIFORNIA, JUNE 18, 2020, ADOPTED BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSENT:
ABSTAIN:

CHAIR
EAST BAY DISCHARGERS COMMISSION

ATTEST: _____
GENERAL MANAGER
EAST BAY DISCHARGERS AUTHORITY
EX OFFICIO SECRETARY

**ITEM NO. P6 MOTION TO ACCEPT COMMITTEE APPOINTMENTS AND CALENDAR
FOR FY 2020/2021**

Recommendation

Approve, by motion, the Committee appointments and calendar for FY 2020/2021.

Discussion

Commissioner Walters has considered the Commissioner's individual preferences and made appointments to Authority Committees. The appointments are indicated in the following table. The draft FY 2020/2021 EBDA meeting schedule is also attached.

Committee	Members	Day and Time
Personnel	Lamnin (Chair), Toy	Monday, 9-10am
Operations & Maintenance	Russo Cutter (Chair), Johnson	Tuesday, 9-10am
Financial Management	Walters (Chair), Toy	Tuesday, 10:30-11:30am
Regulatory Affairs	Johnson (Chair), Lamnin	Wednesday, 9-10 am

EAST BAY DISCHARGERS AUTHORITY
Commission and Committee Meetings
July 2020 - June 2021

Commission	Financial Management	MAC	O&M	Personnel	Regulatory Affairs
Committee Members	Walters & Toy		Cutter & Johnson	Lamnin & Toy	Johnson & Lamnin
Thursday @ 9:30 a.m.	Tuesday @ 10:30 a.m.	Thursday @ 1:30 p.m.	Tuesday @ 9:00 a.m.	Monday @ 9:00 a.m.	Wednesday @ 9:00 a.m.
July 16, 2020	July 14, 2020	July 9, 2020	July 14, 2020		July 15, 2020
August 20, 2020	August 18, 2020	August 13, 2020	August 18, 2020	August 17, 2020	
September 17, 2020	September 15, 2020	September 10, 2020	September 15, 2020		September 16, 2020
October 15, 2020	October 13, 2020	October 8, 2020	October 13, 2020	October 12, 2020	
November 19, 2020	November 17, 2020	November 12, 2020	November 17, 2020		November 18, 2020
December 17, 2020	December 15, 2020	December 10, 2020	December 15, 2020	December 14, 2020	
January 21, 2021	January 19, 2021	January 14, 2021	January 19, 2021		January 20, 2021
February 18, 2021	February 16, 2021	February 11, 2021	February 16, 2021	February 15, 2021	
March 18, 2021	March 16, 2021	March 11, 2021	March 16, 2021		March 17, 2021
April 15, 2021	April 13, 2021	April 8, 2021	April 13, 2021	April 12, 2021	
May 20, 2021	May 18, 2021	May 13, 2021	May 18, 2021		May 19, 2021
June 17, 2021	June 15, 2021	June 10, 2021	June 15, 2021	June 14, 2021	

Meetings are subject to rescheduling and/or cancelation. Please see the Agendas and website announcements for the latest information.
The Personnel and Regulatory Affairs Committees meet every other month, however, additional meetings may be scheduled as needed.

Last Updated: June 9, 2020

**ITEM NO. P7 RESOLUTION ADOPTING THE FISCAL YEAR 2020/2021
COMPENSATION PLAN**

Recommendation

Adopt a resolution approving the FY 2020/2021 Compensation Plan.

Background

Each year, the Authority adopts a Compensation Plan that lays out the compensation package for employees, including salaries and benefits. In May, the Personnel Committee discussed the Compensation Plan and requested that its adoption be carried over to the June meeting to allow more time for discussion on the Cost-of-Living Adjustment (COLA).

Discussion

As discussed at the previous meeting, EBDA's Compensation Plan has traditionally provided a COLA based on the December to December Consumer Price Index for Urban Workers (CPI-U) for the San Francisco Bay Area. The Authority's Personnel Policy, last amended in January 2020, states the following under Compensation Plan:

In preparing the tentative plan, the General Manager shall take into consideration class-by-class salary comparisons with Member Agencies and other comparable agencies to be designated by the Personnel Committee and across-the-board compensation adjustments received by Member Agencies since the last EBDA adjustment. Appropriate consideration shall be given to adjustments of the cost of living as measured by the National Consumer Price Index Pacific Cities, the base figure for comparison shall be the SF-Oakland-SJ city for the period of January 1 through December 30 of the previous year. Adjustments in the cost of living shall be considered once a year as the General Manager prepares the Compensation Plan. The approved salary adjustments shall be applied to all of the classifications, effective the following July 1, to the current salary of each employee on that date and the salary ranges for each classification shall be adjusted a like amount by adoption of an amended Compensation Plan.

CPI is considered an objective metric that reflects the status of the economy of the prior year. The most recent December to December CPI is 2.5%, which is included in the FY 2020/2021 Budget adopted by the Commission in May. There is a high likelihood that next year's CPI will be lower.

In light of the economic downturn caused by the COVID-19 pandemic, agencies, including cities which have been particularly hard hit, are considering whether to suspend staff COLAs as a cost-saving mechanism. A recent survey of water and sanitation agencies in the Bay Area, provided as a handout last meeting and attached here for reference, finds that the majority of water and wastewater special districts are continuing to provide COLAs for the upcoming fiscal year.

Agenda Explanation
East Bay Dischargers Authority
Personnel Committee
June 15, 2020

At the Committee's request, staff analyzed the financial benefits of reducing EBDA's FY 2020/2021 COLA to 1.75% or zero. Per the attached analysis, also provided as a handout in May, the difference between zero COLA and 2.5% COLA is just under \$16k.

One option the Commission may consider if it is concerned about the near-term financial impact of the COLA, is adopting the 2.5% increase but reducing staff hours through furlough such that there will be no salary increase in FY 2020/2021. If staff time is reduced by 52 hours/year, salaries and associated costs will remain flat, but staff will retain the benefit of the increase for the future.

Another option discussed by the Committee last month is the idea of adjusting the Personnel Policy for the future to establish a COLA based on CPI but with a floor and ceiling. For example, USD's MOU sets the COLA equal to CPI-U, but with a minimum of 3.25% and a maximum of 4.5%, CVSan sets a range of 3.0-4.5%, and OLSD has a range of 1-5%. By establishing a floor, the Commission would protect staff from a zero or negative CPI resulting in no increase next year. This approach could be implemented in combination with a reduction in the COLA for the FY 2020/2021 Compensation Plan, or independently.

Because this item was carried over from the May meeting, the Compensation Plan and associated resolution included for consideration here are the same as presented last month (i.e. they include the 2.5% COLA). Pending the Committee's recommendation, staff can provide an updated Compensation Plan for consideration at the Commission meeting, and the changes can be noted as part of the motion to adopt the resolution.

Survey on COLA Adjustment in 2020
May 18, 2020

Agency	Is your agency seeking to reduce or defer MOU scheduled COLA adjustment for employees due to the pandemic?	When is your COLA taking place this year?	What is the percentage?
Alameda County Water District	Not considering any changes	July	3.00%
Castro Valley Sanitary District	We are in the middle of negotiations and proposed to the Union to strike a one year deal since we are facing such uncertain times. The unit wants 3% COLA retro to March. We are taking it back to the Board, but I have a feeling they will not accept that.	December	2.75%
Central Contra Costa Sanitary District	No change	April	2.90%
Contra Costa Water District	No change	July	3.00%
Delta Diablo	No change	July	2.00%
Dublin San Ramon Water District	Not considering any changes	December	2.75%
Fairfield Suisun Sewer District	Proposing COLA increase for Board adoption in June. No MOU, annual COLA adjustment is min 2% & 5% max. This year’s COLA proposal is 2%; we use the SF April CPI.	July	Proposing 2%
Napa Sanitation District	MOU’s expire June 30, 2020. Board has halted negotiations and offered a one year extension of with no COLA for FY 20-21.	N/A	Likely 0%
Oro Loma Sanitary District	No change at this time.	June	1.50%
Ross Valley Sanitary District	No change	July	3.00%
Union Sanitary District	No change for SEIU (100/137 employees), COLA was negotiated in March prior to COVID-19. Contract doesn’t expire until December 31, 2022, COLA for each year is based on the CPI from December to December with 3.25% min and 4.5% max. 37 unrepresented employees typically receive an increase each September and same as what SEIU's. Not sure if the Board will approve an increase for the unrepresented employees in June.	March for SEIU; Septermber for unrepresented	3.25% for SEIU; TBD in June for unrepresented
Vallejo Flood and Wastewater District	No change	July	2.00%
West Bay Sanitary District	No change	July	4.00%
West Valley Sanitation District	No change at this time for represented; unrepresented TBD in June	July	3.25% for represented; TBD in June for unrepresented

Impact of COLA on EBDA FY 20/21 Budget

No COLA

Position	GM	O&M MGR	ADMIN. ASST.	PART TIME*	STD/LTD	PERS	W/C INS	MEDICARE	TOTAL
Hourly Rate	112.79	77.26	50.73	41.74					
Budgeted Salary	\$ 234,603	\$160,701	\$ 105,518	\$ 43,410	\$ 3,029	\$ 70,175	\$ 7,922	\$ 8,703	\$ 634,061

1.75% COLA

Position	GM	O&M MGR	ADMIN. ASST.	PART TIME	STD/LTD	PERS	W/C INS	MEDICARE	TOTAL	Total Increase	% of O&M Budget
Hourly Rate	114.76	78.61	51.62	42.47							
Budgeted Salary	\$ 238,709	\$163,513	\$ 107,365	\$ 44,169	\$ 3,081	\$ 71,376	\$ 8,053	\$ 8,852	\$ 645,118	\$ 11,057	0.32%

2.5% COLA

Position	GM	O&M MGR	ADMIN. ASST.	PART TIME	STD/LTD	PERS	W/C INS	MEDICARE	TOTAL	Total Increase	% of O&M Budget
Hourly Rate	115.61	79.20	52.00	42.78							
Budgeted Salary	\$ 240,478	\$164,727	\$ 108,155	\$ 44,490	\$ 3,103	\$ 71,891	\$ 8,109	\$ 8,916	\$ 649,868	\$ 15,807	0.46%

Total EBDA O&M Budget

\$ 3,469,244

*Note that half of the part time position salary is currently included in the budget as a Contingency Special Study

EAST BAY DISCHARGERS AUTHORITY
FY2020/2021 COMPENSATION PLAN
JULY 1, 2020 TO JUNE 30, 2021

MONTHLY SALARY RANGE					
	Step 1	Step 2	Step 3	Step 4	Step 5
Administrative Assistant	7,414.80	7,785.52	8,174.80	8,583.53	9,012.71
General Manager	17,310.80	18,176.35	19,085.17	20,039.45	21,041.42
Operations & Maintenance Manager	11,293.21	11,857.88	12,450.78	13,073.34	13,727.01

SUMMARY OF BENEFITS	
Benefit	EBDA Provided Portion
Medicare Tax	Employer contribution only, 1.45% of monthly salary.
CalPERS Miscellaneous Plan (2.5% @ 55 Formula; 1 year final compensation)	Authority shall contribute 100% of the required Employer Normal Cost Rate as determined by the CalPERS annual actuarial valuation. Classic Member ¹ shall contribute 100% of the plan's Employee Contribution Rate.
CalPERS PEPRA Plan (2% @ 62 Formula; 3 years final compensation)	Authority shall contribute 100% of the required Employer Normal Cost Rate as determined by the CalPERS annual actuarial valuation. New Member ² shall contribute 100% of the plan's Employee Contribution Rate.
Medical Coverage	Insurance premiums paid by Authority; the maximum premium paid for medical shall not exceed the premium for Kaiser California Bay Area Employee and 2+ Dependents. No recompense will be made for employees who enroll as Employee Only or Employee +1 Dependent.
Post-Retirement Medical (October 1, 2015)	The Authority contributes up to a maximum of \$473 per month for enrollment in a CalPERS health benefit plan for EBDA annuitants. The fixed employer contribution of \$473 per month includes the PEMHCA minimum. The minimum qualification for retiree health benefits is five years of continual employment at EBDA.
Dental & Vision Care	Employer pays dental and vision insurance premiums up to date of permanent separation from EBDA.
Life Insurance	Maximum policy value is equal to 1x the employee's annual salary.
Disability Insurance (2/3 salary after all accrued leave is depleted)	Employer pays Short Term and Long Term Disability insurance premiums up to the date of permanent separation from EBDA. Note: EBDA does not pay into State Disability Insurance.

Agenda Explanation
East Bay Dischargers Authority
Personnel Committee
June 15, 2020

Deferred Compensation	The Authority contributes 2.32% of each full-time employee's base salary to a deferred compensation plan determined by the Authority provided that the employee also contributes 0.32% of his/her base salary. The Authority contributes an additional \$0.50 for each \$1.00 voluntarily contributed by the employee up to a maximum additional Authority contribution of \$500.00 per calendar year per full-time employee.
Holidays	11 paid holidays plus 28 hours of personal holiday annually.

MISCELLANEOUS	
Compensatory Time Off	<p>Unclassified, exempt employees do not receive additional payment for overtime. In lieu of payment, the General Manager may adjust working hours to compensate the employee for time worked in excess of 40 hours per week.</p> <p>Classified, non-exempt employees are compensated at the rate of one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 hours per week.</p>
Calculation Method of Hourly Rate	Hourly rate equivalents shall be determined by dividing the employee's actual monthly salary rate by 173.33, which is considered to be the average number of working hours per month. The Authority shall pay any Fair Labor Standards Act overtime worked by non-exempt employees in a manner consistent with the Fair Labor Standards act.
Use of Authority Vehicle	The General Manager may authorize the use of Authority vehicles by employees for business travel when determined that such use would be in the best interest of the Authority.
Flexible Spending Accounts (FSA)	Benefit eligible employees may enroll in the Authority's FSA to make pre-tax salary contributions up to the IRS limits.

¹ Definition of a Classic Member -A classic member is defined as:

- An existing member of a California public retirement system as of December 31, 2012. Please note, however, that because new member determination is based on an appointment-by-appointment basis, upon appointment, new hires will be required to self-certify their classic member status by submitting a form that tests against the new member definition and which may ultimately result in a change in status to new member.

² Definition of a New Member -A new member is defined as any of the following:

- A new hire who is brought into a California public retirement system membership for the first time on or after January 1, 2013, and who has no prior membership in a California public retirement system.
- A new hire who was an active member of a California public retirement system and who, after a break in service of more than six months, returned to active membership in that system.

EAST BAY DISCHARGERS COMMISSION
EAST BAY DISCHARGERS AUTHORITY
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 20-19

INTRODUCED BY _____

**RESOLUTION ADOPTING THE
FISCAL YEAR 2020/2021 COMPENSATION PLAN**

WHEREAS, the East Bay Dischargers Authority Personnel Policy provides that annually, prior to the beginning of the fiscal year, a Compensation Plan shall be presented to the Commission; and

WHEREAS, the FY 2020/2021 Compensation Plan, prepared in consideration of salary comparisons with member agencies and changes to the San Francisco-Oakland Consumer Price Index, provides a 2.5% cost-of-living adjustment for all classifications listed in the Compensation Plan; and

WHEREAS, the Authority's policy is to pay 100% of the required employer contribution and to require the employee to pay 100% of the required employee contribution to employee's pension plans, noting that those required rates may change from time to time; and

WHEREAS, staff recommends, and the Personnel Committee supports, removing specific required pension contribution levels from the Compensation Plan and instead stating that the Authority will pay 100% of the required Employer Normal Cost Rate and the Employee will pay 100% of the Employee Contribution Rate; and

WHEREAS, the Personnel Committee reviewed the Compensation Plan and recommends its adoption effective July 1, 2020.

NOW, THEREFORE, BE IT RESOLVED, the Commission of the East Bay Dischargers Authority hereby adopts the FY 2020/2021 Compensation Plan attached hereto.

SAN LORENZO, CALIFORNIA, JUNE 18, 2020, ADOPTED BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSENT:
ABSTAIN:

CHAIR
EAST BAY DISCHARGERS COMMISSION

ATTEST: _____
GENERAL MANAGER
EAST BAY DISCHARGERS AUTHORITY
EX OFFICIO SECRETARY