



NOTICE: In compliance with AB 361 (2021), the Personnel Committee meeting scheduled below will be accessible via Zoom video conferencing. Members of the public may participate in the meeting through the Zoom link or phone number below.

- Zoom link: <https://us02web.zoom.us/j/83985681739>
- Telephone dial-in: 1(669) 900-6833, meeting ID #839 8568 1739

ITEM NO. 15

PERSONNEL COMMITTEE AGENDA

**Tuesday, June 14, 2022
10:00 a.m.**

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

Committee Members: Johnson (Chair), Duncan

- 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. Biennial Review of the Authority's Conflict of Interest Code**
(The Committee will review the Conflict of Interest Code.)
- P6. Motion to Approve Fiscal Year 2022/2023 Commission Chairperson and Vice Chairperson**
(The Committee will consider the motion.)
- P7. Motion to Accept FY 2022/2023 Committee Appointments and Schedule**
(The Committee will consider the motion.)
- 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.

Agenda Explanation
East Bay Dischargers Authority
Personnel Committee
June 14, 2022

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 Juanita Villasenor at juanita@ebda.org or (510) 278-5910. 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
Tuesday, September 13, 2022 at 10:00 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

As discussed in Item No. 8, modifications to Brown Act requirements have been made over the past several years to accommodate teleconferencing as a public health measure during the COVID-19 pandemic. The Brown Act requires that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate. The Act also allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency’s jurisdiction.

Executive Order N-29-20 (“Order N-29-20”), issued by the Governor on March 17, 2020, allowed 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. Executive Order N-29-20 expired on September 30, 2021.

On September 16, 2021, Governor Newsom signed AB 361 (2021) which allows for local legislative bodies to continue to conduct meetings via teleconferencing without complying with certain Brown Act provisions under specified conditions and includes a requirement that the Commission make specified findings. AB 361 amended section 54953 of the Government Code and essentially codified portions of the Executive Orders issued by the Governor, which relaxed Brown Act teleconferencing restrictions. AB 361 (2021) took effect October 1, 2021 and is effective until January 1, 2024. Pursuant to AB 361, legislative bodies are allowed to continue to meet remotely during a declared State of Emergency if the legislative body finds that meeting in person would present imminent risks to the health or safety of attendees. Each month, beginning in October 2021, EBDA’s Commission has adopted a resolution authorizing the continued use of remote teleconference meetings pursuant to AB 361.

Several bills were introduced in the state legislature this session to allow flexibility in teleconferencing beyond a declared emergency or public health risk. These included AB 2449 (Rubio and Blanca) and AB 1944 (Lee and C. Garcia).

AB 2449, sponsored by the Three Valleys Municipal Water District, amends the non-emergency teleconference provisions within the Brown Act to allow members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public,, so long as at least a quorum of the public board does participates in person from an open and public location within the jurisdiction of the agency. Agency board members participating remotely would have to participate through both audio and visual technology. The board cannot require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the board and offer comment in real time.

AB 1944 would allow a local agency to conduct public meetings via teleconference, as long as they provide both: a) a video stream accessible to members of the public and b) an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option. The bill would require the agenda to identify any member of the legislative body that will participate in the meeting remotely, however the local agency would no longer be required to disclose the location of a member of a legislative body teleconferencing from a non-public location.

Both bills have been passed out of the Assembly and are currently being considered in the State Senate. Staff will keep the Commission apprised on the passage of one or both.

ITEM NO. P5 BIENNIAL REVIEW OF THE AUTHORITY'S CONFLICT OF INTEREST CODE

Recommendation:

Review draft revisions to the Authority's Conflict of Interest Code and provide input to staff.

Background

The Political Reform Act requires every local government agency to review its Conflict of Interest Code (Code) for accuracy biennially and to notify the County Board of Supervisors whether it does or does not need to be amended. The Biennial Notice must be submitted to the County Board of Supervisors no later than October 1, 2022.

Discussion

Updates to the Authority's Code were approved by the Alameda County Board of Supervisors on November 22, 2016. Since the 2016 review, EBDA has not had any changes to its organizational structure, and no revisions have been recommended through the last two biennial review cycles.

Based on review by Authority staff and legal counsel, the attached revisions are recommended for clarity. A version showing proposed edits, as well as a clean copy incorporating those edits, are attached to facilitate review. Following review and input from the Committee, staff will bring the revised Code to the Commission for consideration.

CONFLICT OF INTEREST CODE

OF EAST BAY DISCHARGERS AUTHORITY OF ALAMEDA COUNTY

SECTION 1. Purpose. Pursuant to the provisions of Government Code sections 87300 et seq., EAST BAY DISCHARGERS AUTHORITY (“AUTHORITY”) OF ALAMEDA COUNTY (~~the “EBDA”~~) hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the California Political Reform Act of 1974.

SECTION 2. Incorporation of Regulation. The California Fair Political Practices Commission adopted a regulation (Title 2 California Code of Regulations section 18730) which contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency’s code. Therefore, the terms of Title 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the California Fair Political Practices Commission are hereby incorporated herein by this reference. The provisions of Title 2 California Code of Regulations section 18730 and the provisions below, designating officials and employees and establishing disclosure categories, along with the applicable sections of the California Political Reform Act, shall constitute the Conflict of Interest Code of ~~EBDA~~the Authority.

SECTION 3. Designated Positions and Disclosure Categories. ~~The positions listed in this Section 3 are designated positions. Officers and employees holding these positions are designated public officials, and~~Persons holding a Designated Position listed below shall file a Statement of Economic Interest in the form of a Form 700. Those individuals holding a Designated Position are deemed to be in a position to make, or participate in the making of, decisions on behalf of the AUTHORITY which may foreseeably have a material effect on ~~an~~their economic interests ~~of the designated public official. Each designated public official shall file an annual statement disclosing that public official’s interests in investments, interests in real property, and business positions held or received during the previous calendar year, as required by the disclosure category applicable to that public official.~~

<u>Designated Position</u>	<u>Disclosure Category</u>
Commission Member	1
General Manager	1
Treasurer/Controller	2 <u>1</u>
<u>Legal Counsel</u>	<u>1</u>
Consultant	3 <u>2</u>

Disclosure Category 1: ~~Persons-Designated Positions~~ in this category shall disclose all of the following interests: investments, interests in real property within ~~EBDA’s~~the AUTHORITY’s jurisdiction*, personal income, business entity income, and business positions held or received during the previous calendar year ~~and income including~~

~~loans, gifts and travel payments— from all sources.~~

Disclosure Category 2: Persons in this category shall disclose ~~all of the following interests: investments, business positions held or received during the previous calendar year, interests in real property within EBDA’s jurisdiction*, and income—including loans, gifts and travel payments— from all sources~~investments and business positions in business entities, and income from business entities of the type to provide bids, supplies, vehicles and equipment of the type used by the AUTHORITY.

Consultant Disclosure Category 3: Consultants shall disclose all of the interests required to be disclosed pursuant to Disclosure Category ~~1~~2, subject to the following limitation: The General Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The ~~District~~General Manager’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

*~~EBDA’s~~The AUTHORITY’s “jurisdiction” ~~as set forth above in the disclosure categories~~ is Alameda County. For the purposes of this Conflict of Interest Code, an interest in real property is located within the jurisdiction of ~~EBDA~~the AUTHORITY if any part of the property is located in, or within two miles of, ~~the Alameda~~ County, or if the property is located within two miles of any land owned or used by ~~EBDA~~the AUTHORITY.

SECTION 4. Place, Manner and Time of Filing.

(a) ~~All designated public officials shall file statements of economic interests with the EBDA’s Administrative Assistant. Upon receipt of the statements, the Administrative Assistant shall make and retain a copy and forward the original of the statements to the Alameda County Clerk of the Board of Supervisors. Statements of Economic Interests are public records available for public inspection. Individuals holding a Designated Position shall file their Statements of Economic Interests with the AUTHORITY, which will make the statements available for public inspection and reproduction (Government Code Section 81008). The AUTHORITY will retain copies of the Statements of Economic Interests and file the original statements with the Alameda County Clerk of the Board of Supervisors.~~

(b) All designated ~~public officials~~filers shall comply with the provisions of Title 2 California Code of Regulations section 18730 along with the applicable sections of the California Political Reform Act, (and as that section may be amended), which contains detailed instructions regarding the scope and types of interests to be reported as well as the manner of reporting them. The regulation can be found online at:

~~<http://www.fppe.ca.gov/content/dam/fppe/NS->~~

[Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730.pdf](https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730.pdf)<https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730Provisions-of-Conflict-of-Interest-Codes.pdf>.

(c) ~~Within 30 days after the effective date of this Code, all designated public officials shall submit an initial statement disclosing all reportable investments, business positions held or received during the previous calendar year, interests in real property, and income received during the 12 months before the effective date of this Code.~~Initial Statements. All designated filers shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an Initial Statement within 30 days after the effective date of the amendment.

(d) ~~Employees assuming any designated position shall submit an initial statement disclosing all reportable investments, business positions held on the date of assuming office, interests in real property, and income received during the 12 months before assuming office, within 30 days of assuming said designated position.~~Assuming Office Statements. All persons assuming Designated Positions after the effective date of this code shall file an Assuming Office Statement within 30 days after assuming the designated positions.

(e) ~~Employees leaving any designated position shall submit an initial statement disclosing all reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office, within 30 days of leaving said designated position.~~Leaving Office Statements. All persons who leave designated positions shall file a Leaving Office Statement within 30 days after leaving office.

(f) ~~All designated public officials shall submit an annual statement. Such statements shall cover the period of the preceding calendar year. Annual statements shall be filed no later than April 1 following the end of the preceding calendar year.~~Annual Statements. All designated filers shall file an Annual Statement no later than April 1 every calendar year.

SECTION 5. Disqualification. No designated filer shall make, participate in making, or in any way attempt to use their position to influence the making of any governmental decision which they know~~Designated public officials must disqualify themselves from making, participating in the making, or in any way attempting to use his or her official position to influence the making of any governmental decision which he or she knows~~ or has a reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of ~~his or her~~the official's immediate family or on any reportable interest of the public official as defined in Title 2 California Code of Regulations section 18730(b)(9).

CONFLICT OF INTEREST CODE

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SECTION 2. Incorporation of Regulation. The California Fair Political Practices Commission adopted a regulation (Title 2 California Code of Regulations section 18730) which contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency’s code. Therefore, the terms of Title 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the California Fair Political Practices Commission are hereby incorporated herein by this reference. The provisions of Title 2 California Code of Regulations section 18730 and the provisions below, designating officials and employees and establishing disclosure categories, along with the applicable sections of the California Political Reform Act, shall constitute the Conflict of Interest Code of the Authority.

SECTION 3. Designated Positions and Disclosure Categories. Persons holding a Designated Position listed below shall file a Statement of Economic Interest in the form of a Form 700. Those individuals holding a Designated Position are deemed to be in a position to make, or participate in the making of, decisions on behalf of the AUTHORITY which may foreseeably have a material effect on their economic interests.

<u>Designated Position</u>	<u>Disclosure Category</u>
Commission Member	1
General Manager	1
Treasurer/Controller	1
Legal Counsel	1
Consultant	2

Disclosure Category 1: Designated Positions in this category shall disclose all of the following interests: investments, interests in real property within the AUTHORITY’s jurisdiction*, personal income, business entity income, and business positions held or received during the previous calendar year.

Disclosure Category 2: Persons in this category shall disclose investments and business positions in business entities, and income from business entities of the type to provide bids, supplies, vehicles and equipment of the type used by the AUTHORITY.

Disclosure Category 3: Consultants shall disclose all of the interests required to be

disclosed pursuant to Disclosure Category 2, subject to the following limitation: The General Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The General Manager’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

*The AUTHORITY’s “jurisdiction” as set forth above in the disclosure categories is Alameda County. For the purposes of this Conflict of Interest Code, an interest in real property is located within the jurisdiction of the AUTHORITY if any part of the property is located in, or within two miles of, Alameda County, or if the property is located within two miles of any land owned or used by the AUTHORITY.

SECTION 4. Place, Manner and Time of Filing.

(a) Individuals holding a Designated Position shall file their Statements of Economic Interests with the AUTHORITY, which will make the statements available for public inspection and reproduction (Government Code Section 81008). The AUTHORITY will retain copies of the Statements of Economic Interests and file the original statements with the Alameda County Clerk of the Board of Supervisors.

(b) All designated filers shall comply with the provisions of Title 2 California Code of Regulations section 18730 along with the applicable sections of the California Political Reform Act, (and as that section may be amended), which contains detailed instructions regarding the scope and types of interests to be reported as well as the manner of reporting them. The regulation can be found online at:
<https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730Provisions-of-Conflict-of-Interest-Codes.pdf>.

(c) Initial Statements. All designated filers shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an Initial Statement within 30 days after the effective date of the amendment.

(d) Assuming Office Statements. All persons assuming Designated Positions after the effective date of this code shall file an Assuming Office Statement within 30 days after assuming the designated positions.

(e) Leaving Office Statements. All persons who leave designated positions shall file a Leaving Office Statement within 30 days after leaving office.

(f) Annual Statements. All designated filers shall file an Annual Statement no later than April 1 every calendar year.

SECTION 5. Disqualification. No designated filer shall make, participate in making, or in any way attempt to use their position to influence the making of any governmental decision which they know or has a reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of the official's immediate family or on any reportable interest of the public official as defined in Title 2 California Code of Regulations section 18730(b)(9).

ITEM NO. P6 MOTION TO APPROVE FISCAL YEAR 2022/2023 COMMISSION CHAIRPERSON AND VICE CHAIRPERSON

Recommendation

Approve the motion rotating the Chairperson to Angela Andrews and Vice Chair to Anjali Lathi, commencing July 1, 2022.

Background

In July 1999, the Commission approved Resolution 99-11 Establishing Policy for Commission Chair Rotation. The policy established an equitable system for rotation of the Commission Chair by agency in the following order: Union Sanitary District, Oro Loma Sanitary District, Castro Valley Sanitary District, City of San Leandro, and City of Hayward. The Vice-Chair shall be from the Agency scheduled to be the Chair in the following year. In Fiscal Year 2021/2022 the Chair and Vice-chair were Commissioners Pauline Russo Cutter, City of San Leandro, and Angela Andrews, City of Hayward, respectively.

Discussion

For fiscal Year 2022/2023, if the historical rotation is followed, the Chair would be Angela Andrews, City of Hayward, and the Vice Chair would be Anjali Lathi, Union Sanitary District, beginning on July 1, 2022.

ITEM NO. P7 MOTION TO ACCEPT FISCAL YEAR 2022/2023 COMMITTEE APPOINTMENTS AND SCHEDULE

Recommendation

Approve, by motion, the Committee appointments and calendar for Fiscal Year 2022/2023.

Discussion

Commissioner Andrews has considered the Commissioner's individual preferences and made appointments to Authority Committees. The appointments are indicated in the following table.

Committee	Members	Day and Time
Personnel	Cutter (Chair), Duncan	Tuesday, 10-11am
Operations & Maintenance	Johnson (Chair), Cutter	Monday, 9-10am
Financial Management	Duncan (Chair), Andrews	Monday, 11am-12pm
Regulatory Affairs	Lathi (Chair), Johnson	Wednesday, 11am-12pm

A proposed schedule of Committee and Commission meetings for Fiscal Year 2022/2023 is attached.

EAST BAY DISCHARGERS AUTHORITY
Commission and Committee Meetings
July 2022 - June 2023

Commission	Financial Management	MAC	O&M	Personnel	Regulatory Affairs
Commissioners	Duncan (Chair), Andrews	Managers	Johnson (Chair), Cutter	Cutter (Chair), Duncan	Lathi (Chair), Johnson
Thursday 9:30 a.m.	Monday 11:00 am - 12:00 pm	Thursday 1:30 pm	Monday 9:00 - 10:00 am	Tuesday 10:00 - 11:00 am	Wednesday 11:00 am - 12:00 pm
July 21, 2022	July 18, 2022	July 14, 2022	July 18, 2022	--	July 20, 2022
September 15, 2022	September 12, 2022	September 8, 2022	September 12, 2022	September 13, 2022	--
October 20, 2022	October 17, 2022	October 13, 2022	October 17, 2022	--	October 19, 2022
November 17, 2022	November 14, 2022	November 10, 2022	November 14, 2022	November 15, 2022	--
December 15, 2022	December 12, 2022	December 8, 2022	December 12, 2022	--	December 14, 2022
January 19, 2023	January 16, 2023*	January 12, 2023	January 16, 2023*	January 17, 2023	--
February 16, 2023	February 13, 2023	February 9, 2023	February 13, 2023	--	February 15, 2023
March 16, 2023	March 13, 2023	March 9, 2023	March 13, 2023	March 14, 2023	--
April 20, 2023	April 17, 2023	April 13, 2023	April 17, 2023	--	April 19, 2023
May 18, 2023	May 15, 2023	May 11, 2023	May 15, 2023	May 16, 2023	--
June 15, 2023	June 12, 2023	June 8, 2023	June 12, 2023	--	June 14, 2023

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. *Due to the MLK, Jr. holiday, this meeting will be rescheduled.

Last Updated: June 9, 2022