



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, SEPTEMBER 22, 2020
5:00 PM**

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER:

A Closed Session and Regular Meeting of the Santa Clara Valley Water District (Valley Water) Board of Directors was called to order in the Valley Water Headquarters Building Boardroom at 5700 Almaden Expressway, San Jose, California at 5:00 p.m.

1.1 Roll Call.

Board members in attendance were Tony Estremera, Nai Hsueh, and Richard Santos. Participating by teleconference was Barbara Keegan, constituting a quorum of the Board.

Directors Gary Kremen, Linda LeZotte, and John Varela joined the meeting by teleconference, as indicated below.

Staff in attendance was M. King, Clerk, Board of Directors. Staff participating by teleconference were R. Callender, Chief Executive Officer (CEO), S. Yamamoto, District Counsel, L. Bankosh, R. Chan, R. Gibson, G. Hall, M. Lugo, H. McMahon, A. Noriega, M. Richardson, D. Rocha, D. Taylor, S. Tippets, and T. Yoke.

2. TIME CERTAIN:

5:00 PM

Chairperson Hsueh confirmed that the Board would adjourn to Closed Session for consideration of Items 2.1 and 2.2.

During Closed Session, Directors Kremen, LeZotte, and Varela joined the meeting by teleconference.

Upon return to Open Session, the same Board members, including Directors Kremen, LeZotte and Varela, and staff were present.

- 2.1 CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
SCVWD v. San Francisco Bay Regional Water Quality Control Board
First Appellate District, Court of Appeal of the State of California, Case
No. A157127.
- 2.2 CLOSED SESSION
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957(b)(1)
Title: Chief Executive Officer, District Counsel and Clerk of the Board.

6:00 PM

- 2.3 District Counsel Report on Closed Session.

Chairperson Hsueh reported that the Board met in Closed Session with all members present, including Directors Kremen, LeZotte and Varela, and in regard to Item 2.1 took no reportable action, and in regard to Item 2.2 gave direction to the Board Chairperson.

- 2.4 Pledge of Allegiance/National Anthem.

Director Estremera led all present in reciting the Pledge of Allegiance.

- 2.5 Orders of the Day.

Chairperson Hsueh confirmed that there were no changes to the Orders of the Day.

- 2.6 Time Open for Public Comment on any Item not on the Agenda.

Chairperson Hsueh declared time open for public comment on any item not on the agenda. There was no one present who wished to speak.

3. CONSENT CALENDAR:

The Board considered Consent Calendar Items 3.1 through 3.7, under one motion.

- 3.1 Approve City of Santa Clara Successor Agency Compensation Agreement.

Recommendation: Approve City of Santa Clara Successor Agency
Compensation Agreement.

- 3.2 Membership Nominations for Committee Appointments to the Santa Clara Valley Water Youth Commission.

Recommendation: Consider nominations for two-year membership
appointments to the Santa Clara Valley Water Youth
Commission.

3.3 Recognition of Outgoing Youth Commission Members.

Recommendation: Acknowledge and Recognize Outgoing Youth Commission Members.

3.4 Notice of Completion of Contract and Acceptance of Work for the Rinconada Water Treatment Plant Oak Woodland Project, Ecological Concerns, Inc., Contractor, Project No. 93294057, Contract No. C0651 (Los Gatos) (District 7).

Recommendation: A. Accept the work for the Rinconada Water Treatment Plant Oak Woodland Project, Project No. 93294057, Contract No. C0651 as complete; and
B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work and submit for recording to the Santa Clara County Clerk Recorder.

3.5 Accept the CEO Bulletin for the Weeks of August 28 – September 10, 2020.

Recommendation: Accept the CEO Bulletin.

3.6 Approval of Minutes.

Recommendation: Approve the minutes.

3.7 Adopt Recommended Position on Measure T, the Santa Clara Valley Open Space Authority's Open Space, Wildlife Habitat, Clean Water, and Increased Public Access Measure.

Recommendation: Adopt a position of "Support" on Measure T, the Santa Clara Valley Open Space Authority's Open Space, Wildlife Habitat, Clean Water, and Increased Public Access Measure.

Motion: Approve Consent Calendar Items 3.1 through 3.7, under one motion, as follows: approve City of Santa Clara Successor Agency Compensation Agreement, as contained in Item 3.1; approve nominations for two-year membership appointments to the Santa Clara Valley Water Youth Commission, as contained in Item 3.2; acknowledge and recognize outgoing Youth Commission members, as contained in Item 3.3; approve and direct the Clerk to file with the Santa Clara County Clerk Recorder the Notice of Completion and Acceptance of Work for the Rinconada Water Treatment Plant Oak Woodland Project, as contained in Item 3.4; accept the CEO Bulletin, as contained in Item 3.5; approve the Minutes, as contained in Item 3.6; and adopt a position of "Support" on Measure T, as contained in Item 3.7.

Move to Approve: Richard Santos
 Second: Tony Estremera
 Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela
 Nays: None
 Abstains: None
 Recuses: None
 Absent: None
 Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

- 4.1 Consider the July 27, 2020 Diversity and Inclusion Ad Hoc Committee Recommendation to Adopt a Resolution Addressing Systemic Racism and Promoting Equity and Present the Resolution to all Board Committees.

Recommendation: A. Consider the July 27, 2020 Diversity and Inclusion Ad Hoc Committee recommendations to adopt a Resolution Addressing Systemic Racism and Promoting Equity, and refer to staff to present the Resolution, if adopted, to all Board committees;
 B. Adopt the Resolution ADDRESSING SYSTEMIC RACISM AND PROMOTING EQUITY; and
 C. Refer to staff to present the Resolution, if adopted, to all Board committees.

Motion: Adopt Resolution 20-78 ADDRESSING SYSTEMIC RACISM AND PROMOTING EQUITY, by roll call vote.

Move to Adopt: John L. Varela
 Second: Tony Estremera
 Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela
 Nays: None
 Abstains: None
 Recuses: None
 Absent: None
 Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

- 4.2 Receive Board Independent Auditor Report Findings Regarding Hiring Practices Ad-hoc Desk Review and Consider the Recommendation of the Board Audit Committee Regarding Comprehensive Background Checks for New or Existing Employees Being Considered for Executive Level or Fiduciarly Responsible Positions.

Recommendation: A. Consider the July 27, 2020 Diversity and Inclusion Ad Hoc Committee recommendation to adopt a Resolution

recognizing Senator Kamala Harris as the first woman of color to be selected as a Vice Presidential candidate on a major political party ticket; and

- B. Adopt the RESOLUTION RECOGNIZING SENATOR KAMALA HARRIS AS THE FIRST WOMAN OF COLOR TO BE SELECTED AS A VICE PRESIDENTIAL CANDIDATE ON A MAJOR POLITICAL PARTY TICKET.

Motion: Adopt Resolution 20-79 RECOGNIZING SENATOR KAMALA HARRIS AS THE FIRST WOMAN OF COLOR TO BE SELECTED AS A VICE PRESIDENTIAL CANDIDATE ON A MAJOR POLITICAL PARTY TICKET, by roll call vote.

Move to Adopt: John L. Varela
Second: Barbara Keegan
Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, John L. Varela
Nays: None
Abstains: Richard Santos
Recuses: None
Absent: None
Summary: 6 Yeas; 0 Nays; 1 Abstains; 0 Absent.

Director Santos clarified that Board action on this item was in recognition of the first woman of color being selected as a Vice Presidential candidate on a major political party ticket, and should not be misconstrued to imply Valley Water's preference of one political party over another.

4.3 Financial Status Update and Strategy Recommendations during COVID-19 Pandemic.

Recommendation: A. Receive financial status update as it relates to the impact of the COVID-19 Pandemic;
B. Direct staff not to pursue a mid-year water rate adjustment for FY 2020-21;
C. Direct staff to continue to pursue partnerships to assist with water related programs and to continue to expand outreach and support for small businesses; and
D. Direct staff to implement a Retailer Loan Program based on the attached draft termsheet.

Mr. Darin Taylor, Chief Financial Officer, reviewed the information on this item, and confirmed that Board Agenda Memo Page 2, Paragraph 1, Line 7, and Attachment 1, Page 2, Valley Water Finance Section, Bullet 7, should be revised to replace 3038 with 2038.

Director LeZotte confirmed her opposition to implementing a retailer loan program, as discussed in Recommendation D, and the Board expressed concern that more outreach was needed to the agricultural community and to local elected officials before a determination on Recommendation D could be made.

Motion: Approve Recommendations B, and C, and direct staff to work with Board members in each of their respective Districts to provide increased outreach to elected officials and the agricultural community, and bring Recommendation D back to the Board with updated information on retailer, municipal, and agricultural community interest in the proposed loan program.

Move to Adopt: Tony Estremera
Second: Richard Santos
Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela
Nays: None
Abstains: None
Recuses: None
Absent: None
Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

4.4 Board Committee Reports.

The Board noted Handouts 4.4-A and 4.4-B without formal action.

4.3 Proposed Future Board Member Agenda Items.

None.

5. WATER UTILITY ENTERPRISE:

None.

6. WATERSHEDS:

6.1 Approve the Agreements with Panorama Environmental, Inc., CAS File 5077, for a Total Not-to-Exceed Amount of \$3,000,000, and with GEI Consultants, Inc., CAS File 5119, for a Total Not-to-Exceed Amount of \$3,000,000, for Project No. 62041043, On-Call Environmental Planning and Permitting Services Project.

Recommendation: A. Approve the Standard On-Call Consultant Agreement by and between Santa Clara Valley Water District and Panorama Environmental, Inc. for On-Call Environmental Planning and Permitting Services (Project) for a not-to-exceed fee of \$3,000,000; and
B. Approve the Standard On-Call Consultant Agreement by and between Santa Clara Valley Water District and GEI Consultants, Inc. for On-Call Environmental

Planning and Permitting Services (Project) for a not-to-exceed fee of \$3,000,000.

Ms. Lisa Bankosh, Assistant Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Move to Approve: Barbara Keegan
Second: Gary Kremen
Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela
Nays: None
Abstains: None
Recuses: None
Absent: None
Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

7. ASSISTANT CHIEF EXECUTIVE OFFICER:

7.1 Fiscal Year 2019-2020 (FY20) Safe, Clean Water and Natural Flood Protection Program Annual Report – Year 7.

Recommendation: A. Approve the proposed text adjustment to the Safe, Clean Water and Natural Flood Protection (Safe, Clean Water) Program;
B. Approve the FY20 Safe, Clean Water Program Annual Report – Year 7 with unaudited financials; and
C. Authorize staff to finalize the FY20 Safe, Clean Water Program Annual Report – Year 7 Annual Report (with audited financials) and submit the final report to the Independent Monitoring Committee (IMC) for its review.

Ms. Meenakshi Ganjoo, Program Administrator, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 2.

Ms. Kit Gordon, SCW Independent Monitoring Committee (IMC) District 7 Representative, requested that the SCW Annual Report, Year 7, FY 20 (2019-2020) be revised to include the SCW IMC letter to the Board dated February 25, 2020 regarding SCW Annual Report, Year 6, FY 19 (2018-2019), and that all future SCW Annual Reports include the SCW IMC's letter from the previous year. She expressed concern with Valley Water's timelines for coordinating public meetings, and the impact this had on the SCW IMC's ability to provide input on the SCW Enhancement and Renewal Program; and stated that although she looked forward to reviewing the SCW Annual Report, Year 7, FY 20 (2019-2020), she had preliminary concerns about delays in various flood protection projects.

Move to Approve: Richard Santos
 Second: John L. Varela
 Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela
 Nays: None
 Abstains: None
 Recuses: None
 Absent: None
 Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

8. EXTERNAL AFFAIRS:

8.1 Moved to Item 3.7.

The Board noted that Item 8.1 had been moved to Item 3.7.

Chairperson Hsueh momentarily stepped out of the meeting and returned as noted below. During Chairperson Hsueh’s absence, the meeting was facilitated by Vice Chairperson Estremera.

Director Kremen briefly ended his participation by teleconference, and rejoined as noted below.

8.2 Adopt Recommended Positions on State Ballot Initiatives: Proposition 15 – Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative; and Proposition 16 – Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions, Legislative Constitutional Amendment.

Recommendation: A. Adopt a position of “Support” on Proposition 15 – Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative; and
 B. Adopt a position of “Support” on Proposition 16 – Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions, Legislative Constitutional Amendment.

Chairperson Hsueh returned and resumed facilitation of the meeting.

Mr. Donald Rocha, Acting Deputy Administrative Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Four statements expressing support for Proposition 15 were received from: Mr. Mike Duffy, Valley Water Professional Managers’ Association President; Ms. Marisela Garcia, Valley Water Engineers’ Society President; Mr. John Tucker, American Federation of State, County and Municipal Employees (AFSCME) Representative; and Mr. Eric Leitterman, Valley Water Assistant Civil Engineer II.

Two statements expressing support for both Proposition 15 and 16 were received from: Mr. Nicholas Barron, American Federation of Teachers, Local 6554; and Mr. Stanley Young, International Federation of Professional and Technical Engineers (IFPTE) Local 21 Representative.

Move to Adopt: Tony Estremera
Second: Richard Santos
Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Linda J. LeZotte, Richard Santos, John L. Varela
Nays: None
Abstains: None
Recuses: None
Absent: Gary Kremen
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

Director Kremen rejoined the meeting by teleconference.

9. CHIEF EXECUTIVE OFFICER:

9.1 Update on COVID-19 Response.

Mr. Alexander Gordon, Emergency and Security Manager, informed the Board that staff was in the process of reviewing new orders issued by the Santa Clara County Department of Public Health, and provided a status on the projected return-to-work dates of one positively testing Valley Water employee, and three Valley Water employees on precautionary leave.

9.2 CEO and Chiefs' Report.

Mr. Rick Callender, Chief Executive Officer, reported on Valley Water's receipt of AA1 and AA+ bond debt credit ratings.

Ms. Melanie Richardson, Assistant Chief Executive Officer, advised the Board of the upcoming retirement of Acting Chief Operating Officer, Mr. Garth Hall, and discussed Mr. Hall's academic and professional achievements, and his contributions to Valley Water.

Mr. Hall reported on an anticipated one to two day shutdown of the Silicon Valley Advanced Water Purification Center (SVAWPC); explained that the shutdown was in response to the routine maintenance closure of the City of San Jose Recycled Water Facility adjacent to the SVAWPC; and confirmed there would be no interruption in delivery of recycled water to customers.

Ms. Sue Tippetts, Acting Chief Operating Officer, discussed various permit delays; confirmed that no impacts to completing maintenance projects by the end of the season was anticipated as a result of permit delays; and confirmed that future Stream Maintenance Report Handouts would include information on the Watershed Division's work on Water Utilities projects and infrastructure, and more information on trash clean up on creeks.

Ms. Tina Yoke, Chief Operating Officer, reported that an administrative policy providing vacation donation assistance to Valley Water employees impacted by natural disasters had been completed; advised the Board of the upcoming retirement of Chief People Officer, Ms. Anna Noriega; and discussed Ms. Noriega's tenure and contributions to Valley Water.

The Board individually and collectively congratulated Mr. Hall and Ms. Noriega and wished them well in their retirement.

Ms. Rachael Gibson, Acting Chief of External Affairs, reviewed the information in the attached Office of Governmental Relations Update, identified as Handout 9.2-A herein, and provided a verbal report on outreach efforts associated with dewatering Anderson Reservoir. Copies of the Handout were distributed to the Board and made available to the public.

Director Kremen concluded his participation by teleconference and did not rejoin.

10. ADMINISTRATION:

10.1 Adopt Resolution Approving the Amended Compensation Plan for Unrepresented Employees in the Executive Service (July 1, 2018 through June 30, 2022).

- Recommendation:
- A. Receive information pertaining to the August 2019 CalPERS findings temporary upgrade pay reported as special compensation; and
 - B. Adopt the Resolution APPROVING THE AMENDED COMPENSATION PLAN FOR UNREPRESENTED EMPLOYEES IN THE EXECUTIVE SERVICE – (JULY 1, 2018 THROUGH JUNE 30, 2022).

Ms. Noriega reviewed the information on this item per the attached Board Agenda Memo and confirmed that a typographical error on Attachment 1, Resolution Page 1, Paragraph 2, discussing the current Memorandum of Understanding expiration, would be revised to correct the expiration from December 2022 to December 2021.

Motion: Adopt Resolution No. 20-80, APPROVING THE AMENDED COMPENSATION PLAN FOR UNREPRESENTED EMPLOYEES IN THE EXECUTIVE SERVICE – (JULY 1, 2018 THROUGH JUNE 30, 2022, by roll call vote.

Move to Adopt: Richard Santos
Second: Tony Estremera
Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Linda J. LeZotte, Richard Santos, John L. Varela
Nays: None
Abstains: None
Recuses: None

Absent: Gary Kremen
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

11. DISTRICT COUNSEL:

None.

12. ADJOURN:

12.1 Board Member Reports/Announcements.

Director Varela reported attending a Holiday Lakes Estate Neighborhood meeting; Association of California Water Agencies Region 5 and San Luis Delta-Mendota Water Authority (SLDMWA) Board meetings; and an Anderson Dam Federal Energy Regulatory Commission (FERC) Order Compliance Project (FOCP) community outreach Zoom meeting.

Director Keegan reported attending a Board Audit Committee (BAC) prep meeting; a Valley Water Townhall meeting; BAC, Fish and Aquatic Habitat Collaborative Effort (FAHCE), Santa Clara Valley Habitat Conservation Plan (HCP) Joint Power Authority (JPA), and Delta Conveyance Authority (DCA) meetings; and various meetings with staff.

Director Santos reported attending the aforementioned SLDMWA Board and Anderson Dam FOCP community outreach Zoom meetings; and a SCW Enhancement and Renewal Program Measure S outreach meeting.

Director LeZotte reported attending the aforementioned BAC, FAHCE, and Santa Clara Valley HCP JPA meetings; a Santa Clara County Elected Officials COVID-19 briefing; Capital Improvement Program (CIP) Committee, Envision San Jose 2040 General Plan 4-year Review Task Force, and California Special Districts Association meetings; and various meetings with staff.

Chairperson Hsueh reported attending the aforementioned CIP meeting; Budget, Project Labor Agreement (PLA), and Recruitment Working Group meetings; a Murdock Neighborhood community meeting; and various meetings with staff. She also reported receiving an email from a retired Valley Water employee who had attended the aforementioned Anderson Dam FOCP community outreach Zoom meeting, and shared the retiree's compliments on management of the meeting.

Director Estremera reported attending the aforementioned Budget and PLA Working groups, FAHCE, and DCA meetings; and various meetings with staff.

12.2 Clerk Review and Clarification of Board Requests.

Ms. Michele King, Clerk, Board of Directors, confirmed that there were no new Board Member Requests.

- 12.3 Adjourn to Regular Meeting at 1:00 p.m., on September 8, 2020, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.

Chairperson Hsueh adjourned the meeting at 8:30 p.m., to the 11:00 a.m. Closed Session and 1:00 p.m. Regular meeting on October 13, 2020, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.

Michele L. King, CMC
Clerk, Board of Directors

Approved:

Date: