



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, SEPTEMBER 24, 2024
11:00 AM**

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER/ROLL CALL:

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, and by Zoom teleconference at 11:00 a.m.

1.1. Roll Call.

Board members in attendance were Tony Estremera, Barbara F. Keegan, Richard P. Santos, and Nai Hsueh, Chairperson presiding, constituting a quorum of the Board.

Director Jim Beall was excused from attending; Director Rebecca Eisenberg arrived, and Director John Varela joined the meeting by teleconference as noted below.

Staff members in attendance were R. Callender, Chief Executive Officer, C. Orellana, District Counsel, M. King, Clerk, Board of Directors, E. Aryee, A. Baker, L. Bankosh, M. Bilski, J. Bourgeois, R. Chan, T. Chinte, J. Codianne, R. Gibson, A. Gordon, C. Hakes, B. Hopper, C. Lawson, A. Lee., M. Lugo, P. McElroy, T. Ndah, L. Penilla, K. Struve, D. Taylor, and T. Yoke.

2. 11:00 AM - CLOSED SESSION:

Chairperson Hsueh confirmed that the Board would adjourn to Closed Session to consider Items 2.1, 2.2 and 2.3.

Director Eisenberg arrived.

- 2.1. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION
Pursuant to Government Code section 54956.9(d)(1)
Cesar Toledo v. San Joaquin Regional Rail Commission et al.
(Santa Clara Super Ct. Case No. 21CV382290)

- 2.2. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4)
One Potential Case
- 2.3. CLOSED SESSION
CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6
Agency Designated Representative: Chair Nai Hsueh
Unrepresented Employees: CEO, District Counsel, and Clerk of the Board
- 2.4. District Counsel Report on Closed Session.

Upon return from Closed Session, the same Board members, including Director Eisenberg and excluding Director Varela, and staff were present.

Carlos Orellana, District Counsel, reported that in regard to Item 2.1 and Item 2.2, the Board met in Closed Session with all members participating, including Director Eisenberg and excluding Directors Varela and Beall; with respect to Item 2.1, the Board gave direction to staff; with respect to Item 2.2, direction was given to staff to initiate an administrative appeal of CalPERS' staff's determination that the Public Employees Pension Reform Act prohibits Valley Water from amending its Tier II pension program. The action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry.

Chairperson Nai Hsueh reported that in regard to Item 2.3, the Board met in Closed Session with all members participating, including Director Eisenberg and excluding Directors Varela and Beall, and took no reportable action.

3. 1:00 PM - TIME CERTAIN:

Director Varela joined the meeting by teleconference.

Michele King, Clerk of the Board, requested that Director Varela state for the record if there are any individuals over 18 years of age present in the room, and if so, state the general relationship to the individual and confirmed that all votes for the meeting would be roll call votes in compliance with AB 2449. Director Varela confirmed there were no individuals over the age of 18 present in the room.

- 3.1. Pledge of Allegiance/National Anthem.

Vice-chairperson, Richard Santos, led all present in reciting the Pledge of Allegiance.

- 3.2. Orders of the Day.

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

- 3.3. 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.

REGULAR AGENDA:

4. CONSENT CALENDAR: (4.1 - 4.9)

Chairperson Hsueh removed Item 4.8 from the Consent Calendar for individual consideration, and the Board considered Consent Calendar Items 4.1 through 4.7, and Item 4.9, under one motion.

- 4.1. Adopt a Resolution Setting Time and Date of Public Hearing on the Engineer's Report and CEQA Exemption Determination for the Security Upgrades and Enhancements Project, for Coyote Pumping Plant (Morgan Hill, District 1), Santa Teresa Water Treatment Plant (San Jose, District 7), Winfield Complex (San Jose, District 4), Headquarters Corporate Yard (San Jose, District 4), and Silicon Valley Advanced Water Purification Center (San Jose, District 3) for Project No. 60204022.

Recommendation: Adopt the Resolution SETTING TIME AND DATE OF PUBLIC HEARING ON THE ENGINEER'S REPORT AND CEQA EXEMPTION DETERMINATION FOR THE SECURITY UPGRADES AND ENHANCEMENTS PROJECT, to occur on October 8, 2024, at 1:00 PM, in the Boardroom at Santa Clara Valley Water District, Headquarters Building, 5700 Almaden Expressway, San Jose, California

- 4.2. Adopt a Resolution Authorizing Conveyance of Real Property Rights to City of Santa Clara, APNs 104-40-008 and 104-39-022, Real Estate File Nos. 2019-11.2, 2019-41.1, 2019-104.1, (Santa Clara, District 3).

Recommendation: A. Consider the environmental effects of the Laurelwood Data Center Project as discussed in the Initial Study and Mitigated Negative Declaration (ISMND) prepared by the California Energy Commission;
B. Adopt the Resolution AUTHORIZING CONVEYANCE OF REAL PROPERTY RIGHTS TO THE CITY OF SANTA CLARA and finding the ISMND is adequate for use by Santa Clara Valley Water District as a responsible agency and adopting Santa Clara Valley Water District's Mitigation Monitoring and Reporting Program for the Project; and
C. Authorize the Chief Executive Officer, or designee to execute the Aerial Easement Deed, Real Estate File Nos. 2019-11.2, 2019-41.1, 2019-104.1.

- 4.3. Adopt Plans and Specifications and Authorize Advertisement for Bids for the West Pipeline Inspection and Rehabilitation Project - Phase 1, as part of the 10-Year Pipeline Inspection and Rehabilitation Project, Project No. 95084002, Contract No. C0705 (Town of Los Gatos, City of Campbell, City of Saratoga, City of Cupertino, City of Los Altos, and City of Santa Clara, Districts 4, 5, and 7).

- Recommendation:
- A. Consider Addendum No. 2 to the Pipeline Maintenance Program Final Environmental Impact Report (EIR);
 - B. Find that certain Supervisory Control and Data Acquisition (SCADA) instrumentation components as specified in the Plans and Specifications be designated as sole source products to match other products already in use at other Santa Clara Valley Water District facilities using the SCADA system. Public Contract Code Section 3400(c)(2);
 - C. Adopt the Plans and Specifications and Authorize Advertisement for Bids for construction of the West Pipeline Inspection and Rehabilitation Project - Phase 1, per the Notice to Bidders; and
 - D. Authorize the Designated Engineer to issue addenda, as necessary, during the bidding process.

4.4. Receive the Single Audit Report for Fiscal Year Ending June 30, 2023.

Recommendation: Receive the Single Audit Report for Fiscal Year ending June 30, 2023.

4.5. Receive a Report from the Independent Auditor Related to the Audit of Financial Statements for the Fiscal Year Ended June 30, 2023.

Recommendation: Receive a report from the Independent Auditor related to the Audit of Financial Statements for the Fiscal Year Ended June 30, 2023.

4.6. Approve Amendment No. 4 to the Standard On-Call Consultant Agreement A4382G, CAS File No. 5095 with PMA Consultants, LLC to Provide On-Call Third-Party Internal Auditor Services, Increasing the Not-to-Exceed Fee by \$150,000 for a Revised Total Not-to-Exceed Fee of \$700,000 and Extending the Agreement Term from July 31, 2025, to July 31, 2027.

Recommendation: Approve Amendment No. 4 to the Standard On-Call Consultant Agreement A4382G, CAS File No. 5095 with PMA Consultants, LLC to provide On-Call Third-Party Internal Auditor Services for the audit and advisory services to the Internal Audit Program, increasing the not-to-exceed fee by \$150,00 for a revised Total Not-to-Exceed Fee of \$700,000 and extending the term to July 31, 2027.

4.7. Approval of Minutes.

Recommendation: Approve the minutes.

4.9. Accept the CEO Bulletin for the Weeks of September 6 -19, 2024.

Recommendation: Accept the CEO Bulletin.

Motion: Approve Consent Calendar Items 4.1 through 4.7 and Item 4.9, under one motion, as follows: adopt Resolution Nos. 24-46, SETTING TIME AND DATE OF PUBLIC HEARING ON THE ENGINEER'S REPORT AND CEQA EXEMPTION DETERMINATION FOR THE SECURITY

UPGRADES AND ENHANCEMENTS PROJECT, and 24-47, AUTHORIZING CONVEYANCE OF REAL PROPERTY RIGHTS TO THE CITY OF SANTA CLARA, and find that the Initial Study and Mitigated Negative Declaration is adequate for use by Santa Clara Valley Water District as a responsible agency and adopting Santa Clara Valley Water District's Mitigation Monitoring and Reporting Program for the Project, and Authorize the Chief Executive Officer, or designee to execute the Aerial Easement Deed, by roll call vote, as contained in Items 4.1 and 4.2; consider Addendum No. 2 to the pipeline maintenance program final Environmental Impact Report (EIR) and find that certain Supervisory Control and Data Acquisition (SCADA) instrumentation components as specified in the plans and specifications be designated as sole source products per public contract code section 3400(c)(2) and adopt the plans and specifications and authorize advertisement for Bids for construction of the West Pipeline Inspection and Rehabilitation Project - Phase 1, per the Notice to Bidders and authorize the designated engineer to issue addenda, as necessary, during the bidding process, as contained in Item 4.3; receive the single audit report for fiscal year ending June 30, 2023, as contained in Item 4.4; receive a report from the Independent Auditor related to the audit of financial statements for the fiscal year ended June 30, 2023, as contained in Item 4.5; approve amendment No. 4 to the standard on-call consultant agreement with PMA Consultants, LLC to provide on-call third-party internal auditor services for the audit and advisory services to the internal audit program, increasing the not-to-exceed fee by \$150,00 for a revised total not-to-exceed fee of \$700,000 and extending the term to July 31, 2027, as contained in Item 4.6; approve the minutes, as contained in Item 4.7; and accept the CEO bulletin, as contained in Item 4.9.

Move to Approve: Richard Santos
Second: Tony Estremera
Yeas: Rebecca Eisenberg, Tony Estremera, Barbara F. Keegan, Richard Santos, John L. Varela, Nai Hsueh
Nays: None
Abstains: None
Recuses: None
Absent: Jim Beall
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

The Yeas have it, and the motion passed.

- 4.8. Santa Clara Valley Water District's Fiscal Year 2024-2025 Member Contribution of \$350,935.49 to the San Francisquito Creek Joint Powers Authority Operating Budget (Palo Alto, District 7). (*Previously Listed as Item 7.1)

Recommendation: *Approve payment of Santa Clara Valley Water District's Fiscal Year 2024-2025 Annual Member Contribution of

\$350,935.49 to the San Francisquito Creek Joint Powers Authority (SFCJPA) Operating Budget.

The Board considered Item 4.8 without a staff presentation.

Margaret Bruce, Executive Director for the San Francisquito Creek Joint Powers Authority (SFCJPA), expressed gratitude for the Board's decision to approve payment of Santa Clara Valley Water District's Fiscal Year 2024-2025 Annual member contribution to the SFCJPA operating budget.

Motion: Approve payment of Santa Clara Valley Water District's Fiscal Year 2024-2025 Annual Member Contribution of \$350,935.49 to the San Francisquito Creek Joint Powers Authority (SFCJPA) Operating Budget.

Move to Approve: Tony Estremera
Second: Richard Santos
Yeas: Rebecca Eisenberg, Tony Estremera, Barbara F. Keegan, Richard Santos, John L. Varela, Nai Hsueh
Nays: None
Abstains: None
Recuses: None
Absent: Jim Beall
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

The Yeas have it, and the motion passed.

Motion: Refer the San Francisquito Creek Joint Powers Authority policy issues to the Board Policy and Monitoring Committee, and item to review how the Board governs Board representatives' participation on Joint Power Authorities, to bring to the full Board recommendations at a future Board meeting.

Move to Refer: Tony Estremera
Second: Richard Santos
Yeas: Tony Estremera, Richard Santos, John L. Varela, Nai Hsueh
Nays: Rebecca Eisenberg, Barbara F. Keegan
Abstains: None
Recuses: None
Absent: Jim Beall
Summary: 4 Yeas; 2 Nays; 0 Abstains; 1 Absent.

The Yeas have it, and the motion passed.

5. BOARD OF DIRECTORS:

- 5.1. Consider the June 18, 2024, Board Audit Committee Recommendation to Approve Amendment No.1 to the Standard Consultant Agreement A4570A with Sjoberg Evashenk Consulting, Inc., to Provide Board Audit Consultant Services, Extending the Agreement Term to November 23, 2025.

Recommendation: Consider the June 18, 2024, Board Audit Committee Recommendation to Approve Amendment No.1 to the

Standard Consultant Agreement A4570A with Sjoberg Evashenk Consulting, Inc., to provide Board Audit Consultant Services, extending the Agreement term to November 23, 2025, and incorporating administrative changes.

Darin Taylor, Chief Financial Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Move to Approve: Tony Estremera
Second: John L. Varela
Yeas: Rebecca Eisenberg, Tony Estremera, Barbara F. Keegan, Richard Santos, John L. Varela, Nai Hsueh
Nays: None
Abstains: None
Recuses: None
Absent: Jim Beall
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

The Yeas have it, and the motion passed.

- 5.2. Consider the August 30, 2024, Board Policy and Monitoring Committee Recommendation to Adopt the Proposed Changes to Board Governance Policies Executive Limitations 1 (EL-1): General Principles; Executive Limitations 2 (EL-2): Customer Relations; and Executive Limitations 3 (EL-3): Human Resources, and Related BAO Interpretations.

Recommendation: Consider recommendations resulting from the August 30, 2024, Board Policy and Monitoring Committee meeting to:

- A. Adopt the Proposed Changes to Board Governance Policies Executive Limitations 1 (EL-1): General Principles, Executive Limitations 2 (EL-2): Customer Relations, Executive Limitations 3 (EL-3): Human Resources, and Related BAO Interpretations; and
- B. Provide feedback and recommendations to staff, as necessary.

The Board considered Item 5.2 without a staff presentation.

Motion: Adopt the Proposed Changes to Board Governance Policies Executive Limitations 1 (EL-1): General Principles and Executive Limitations 2 (EL-2): Customer Relations and Related BAO Interpretations. Refer Executive Limitations 3 (EL-3): Human Resources back to the Board Planning and Monitoring Committee for further discussion on EL-3.8 and EL-3.14.

Move to Adopt: Tony Estremera
Second: Rebecca Eisenberg
Yeas: Rebecca Eisenberg, Tony Estremera, Barbara F. Keegan, Richard Santos, John L. Varela, Nai Hsueh
Nays: None

Abstains: None
Recuses: None
Absent: Jim Beall
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

The Yeas have it, and the motion passed.

5.3. Board Committee Reports.

The Board reviewed the information on the January 17, 2024, Youth Commission; January 22, 2024, Environmental and Water Resources Committee; April 15, 2024, Environmental and Water Resources Committee; April 17, 2024, Youth Commission; April 22, 2024, Capital Improvement Program Committee; May 20, 2024, Capital Improvement Program Committee; June 17, 2024, Capital Improvement Program Committee; July 1, 2024, Agricultural Water Advisory Committee; July 15, 2024, Capital Improvement Program Committee; August 21, 2024, Board Audit Committee; August 26, 2024, Water Supply and Demand Management Committee; August 30, 2024, Board Planning and Monitoring Committee; and September 23, 2024, Water Supply and Demand Management Committee meeting summaries and agendas contained in Handouts 5.3-A and 5.3-M, respectively, and noted the information without formal action. Copies of the Handouts were distributed to the Board and made available to the public.

6. WATER UTILITY ENTERPRISE:

- 6.1. Approve the Amended and Restated Design-Build Agreement for the Coyote Pumping Plant Adjustable Speed Drive Replacement Project, Project No. 91234002, Contract No. C0675, with Kiewit Infrastructure West Co., for Phase 2 (Construction Services), increasing the fee by \$33,335,994 for a total Guaranteed Price Not-to-Exceed Fee of \$37,650,071; Phase 1 (\$4,314,077) and Phase 2 (\$33,335,994) (Morgan Hill, District 1).

Recommendation: A. Approve Amended and Restated Design-Build Agreement for the Coyote Pumping Plant Adjustable Speed Drive Replacement Project, Project No. 91234002, Contract No. C0675, with Kiewit Infrastructure West Co., for Phase 2 (Construction Services), increasing the fee by \$33,335,994 for a total Guaranteed Price Not-to-Exceed Fee of \$37,650,071; Phase 1 (\$4,314,077) and Phase 2 (\$33,335,994); and B. Approve a contingency sum of \$3,333,600 and authorize the Chief Executive Officer or designee to approve individual change orders up to the designated amount.

The Board considered Item 6.1 without a staff presentation.

Move to Approve: John L. Varela
Second: Tony Estremera
Yeas: Rebecca Eisenberg, Tony Estremera, Barbara F. Keegan, Richard Santos, John L. Varela, Nai Hsueh
Nays: None

Abstains: None
Recuses: None
Absent: Jim Beall
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

The Yeas have it, and the motion passed.

7. WATERSHEDS:

None.

8. ASSISTANT CHIEF EXECUTIVE OFFICER:

None.

9. EXTERNAL AFFAIRS:

None.

10. CHIEF EXECUTIVE OFFICER:

10.1. CEO and Chiefs' Reports.

Rita Chan, Assistant Chief Executive Officer, informed the Board that Valley Water has reached an agreement with the City of San Jose to build interim housing on Cherry Ave for the unhoused. Rick Callender, Chief Executive Officer, informed the Board that Contra Costa has withdrawn from the Los Vaqueros Joint Powers Authority (LVJPA), resulting in the winding down of the LVJPA. Rachael Gibson, Chief of External Affairs, reviewed the attached REDI Summary, identified as Handout 10.1-A and Communications Summary, identified as Handout 10.1-B; and Darin Taylor, Chief Financial Officer, reviewed the attached Grants Update, identified as Handout 10.1-C, respectively herein. Copies of the Handouts were distributed to the Board and made available to the public.

11. ADMINISTRATION:

None.

12. DISTRICT COUNSEL:

None.

13. BOARD POLICY PLANNING CALENDAR/PROPOSED FUTURE BOARD AGENDA ITEMS:

13.1. Review the Fiscal Year 2024-2025 Board Policy Planning Calendar.

Recommendation: Review the Fiscal Year 2024-2025 Board Policy Planning Calendar.

Chairperson Hsueh reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 1.

The Board noted the information, without formal action.

14. BOARD MEMBER REPORTS/ANNOUNCEMENTS:

Director Keegan reported attending a Board Audit Committee (BAC), and Water Supply and Demand Management (WSDM) Committee meetings; and reported participating in Santa Clara and San Benito Counties Annual Building Trades BBQ, and various meetings with staff.

Director Varela reported attending the aforementioned WSDM, Capital Improvement Program (CIP) Committee meetings, and Association of California Water Agencies (ACWA) Board meetings; and reported participating in various meetings with staff.

Director Estremera reported attending the aforementioned CIP Committee meeting; Delta Conveyance Authority (DCA) prep meeting and Special District Seminar; and reported participating in a Valley Water's Town Hall, and various meetings with staff.

Chairperson Hsueh reported attending the aforementioned CIP, and WSDM Committee meetings; a Management Leadership meeting; a Sunnyvale Youth Group meeting; and reported participating in an Upper Llagas Creek press conference, and various meetings with staff.

Director Santos reported participating in the Coastal Cleanup Day.

Director Eisenberg reported auditing the aforementioned CIP, and WSDM Committee meetings.

15. CLERK REVIEW AND CLARIFICATION OF BOARD REQUESTS:

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

16. ADJOURN:

16.1 Adjourn to the 1:00 p.m. Regular Meeting on October 8, 2024, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California, and via Zoom teleconference.

Chairperson Hsueh adjourned the meeting at 2:30 p.m., to the 11:00 a.m. Closed Session and 1:00 p.m. Regular Meeting on October 8, 2024, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California, and via Zoom teleconference.

Michele L. King, CMC
Clerk, Board of Directors

Approved:

Date: