



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, NOVEMBER 24, 2020
4:00 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 4:00 p.m.

1.1 Roll Call.

Board members in attendance were Tony Estremera, Nai Hsueh, and Richard Santos. Board members participating by teleconference were Barbara Keegan, Gary Kremen, Linda J. LeZotte, and John L. Varela, constituting a quorum of the Board.

Staff in attendance was M. Overland, Assistant Deputy Clerk II. Staff participating by teleconference were R. Callender, Chief Executive Officer, S. Yamamoto, District Counsel, M. Meredith, Acting Clerk, Board of Directors, J. Aranda, A. Baker, M. Cook, G. De La Piedra, R. Gibson, A. Gordon, A. Gschwind, B. Hopper, L. Orta, M. Richardson, D. Rocha, D. Taylor, S. Tippets, B. Yerrapotu, and T. Yoke.

2. TIME CERTAIN:

4:00 PM

Chairperson Hsueh confirmed that Item 2.1 had been removed from the agenda, and that the Board would adjourn to Closed Session for consideration of Items 2.2 through 2.4.

Upon return to Open Session, the same Board members and staff were present.

- 2.1 (ITEM REMOVED FROM AGENDA)
CLOSED SESSION (Continued from November 10, 2020)
CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4) - Six Potential Cases

- 2.2 CLOSED SESSION
CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6(a)
Agency Designated Representatives: Rick Callender, Laura Harbert, Tina Yoke, Ingrid Bella
Employee Organizations: Employees Association, Engineers Society, Professional Managers Association
- 2.3 CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL
Pursuant to Government Code Section 54957(a)
THREAT TO PUBLIC SERVICES OR FACILITIES - Consultation with Alex Gordon, Assistant Officer
- 2.4 CLOSED SESSION
PUBLIC EMPLOYEE EMPLOYMENT
Pursuant to Government Code Section 54957(b)(1)
Title: District Counsel

6:00 PM

- 2.5 District Counsel Report on Closed Session.

Mr. Brian Hopper, Senior Assistant District Counsel, reported that the Board met in Closed Session with all members present and, in regard to Items 2.2 and 2.3, gave direction to staff.

There was no reportable action on Item 2.4.

- 2.6 Pledge of Allegiance/National Anthem.

Mr. Hopper led all present in reciting the Pledge of Allegiance.

- 2.7 Orders of the Day.

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

- 2.8 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.

- 2.9 Receive Winter Preparedness Briefing.

Recommendation: Receive information on the Santa Clara Valley Water District's preparedness for winter operations.

Mr. Alexander Gordon, Assistant Officer, reviewed the information on this item, per the attached Board Agenda Memo, and the corresponding presentation materials contained in Attachment 1 were reviewed, as

follows: Mr. Gordon reviewed Slides 1-2 and 4-17 and Mr. Brian Garcia, National Weather Service, reviewed Slide 3.

The Board noted the information without formal action.

Director Kremen momentarily concluded his participation by teleconference and rejoined as noted below.

3. CONSENT CALENDAR:

The Board considered Consent Calendar Items 3.1 through 3.3, under one motion.

- 3.1 Consider Membership Nominations for Committee Appointments to the Environmental and Water Resources Committee, and the Safe, Clean Water Independent Monitoring Committee.

Recommendation: Consider Committee Membership Appointment Nominations to the Environmental and Water Resources Committee (EWRC), and the Safe, Clean Water Independent Monitoring Committee (SCW IMC).

- 3.2 Amendment to Employment Agreement Between Santa Clara Valley Water District and Stanly Yamamoto.

Recommendation: A. Adopt the RESOLUTION APPROVING AND ADOPTING NOVEMBER 24, 2020 AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN SANTA CLARA VALLEY WATER DISTRICT AND STANLY YAMAMOTO; and
B. Authorize the Chair of the Board to execute November 24, 2020 Amendment to Employment Agreement Between Santa Clara Valley Water District and Stanly Yamamoto.

- 3.3 Accept the CEO Bulletin for the Weeks of November 6-19, 2020.

Recommendation: Accept the CEO Bulletin.

Motion: Approve Consent Calendar Items 3.1 through 3.3, by one motion, as follows: approve the Committee membership appointment nominations to the EWRC and the SCW IMC, as contained in Item 3.1; adopt Resolution No. 20-92, APPROVING AND ADOPTING NOVEMBER 24, 2020 AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN SANTA CLARA VALLEY WATER DISTRICT AND STANLY YAMAMOTO, by roll call vote and approve the amendment to employment agreement of S. Yamamoto, as contained in Item 3.2; and accept the CEO Bulletin, as contained in Item 3.3.

Move to Approve: Richard Santos
Second: Tony Estremera
Yeas: John L. Varela, Tony Estremera, Nai Hsueh, Barbara Keegan, Linda J. LeZotte, Richard Santos
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.

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

4.1 Discuss Establishment of a Board Budget Committee.

Recommendation: Support 2020 Board Chair Hsueh's Recommendation to Not Establish a Board Budget Committee.

Chairperson Hsueh reviewed the information on this item, per the attached Board Agenda Memo.

The Board noted Chairperson Hsueh's recommendation to not establish a Budget Committee, without formal action.

4.2 Discuss Board of Directors Governance Policy Governance Process GP-5.3, Election of Board Chair and Board Vice Chair.

Recommendation: A. Discuss Board of Directors Governance Policy Governance Process GP-5.3, Election Board Chair and Board Vice Chair; and
B. If necessary, make changes as identified.

Director Santos reviewed the information on this item per the attached Board Agenda Memo, and Chairperson Hsueh reviewed the existing parameters set forth in Board Governance Process GP-5.3.

Directors Estremera, Kremen, and Santos expressed support for revising Board Governance Process GP-5.3 to allow flexibility in the nomination and election of Board Chair and Vice Chair; to align the Board's process of electing its Chair and Vice Chair with revisions being made by governing bodies of other local government agencies; and to allow the Board to consider 2- and 3-year Board Chair and Vice Chair terms.

Directors Keegan, LeZotte, and Varela expressed support for maintaining Board Governance Process GP-5.3, as currently written.

Motion: Adopt revisions to Board Governance Process GP-5.3 that specifies that the Board Chair and Vice Chair are nominated and elected annually, by vote of the full Board.

Move to Adopt: Richard Santos

Second: The motion did not receive a second and was lost.

Chairperson Hsueh confirmed that she would review the comments expressed herein, and come back with continued discussion and proposals that address Board concerns.

Chairperson Hsueh reviewed the information on Items 4.3, 4.4, and 4.5, per the attached Board Agenda Memos.

- 4.3 Consider the Board Ethics and Conduct Ad Hoc Committee Recommendations to Approve Amendments to Board of Directors Governance Policies GP-6.11.1 and GP-6.11.2, Complaints by Board Members Against Board Members, and GP-6.19.1 and GP-6.19.2, Complaints from Non-Board Members.

- Recommendation:
- A. Discuss Proposed Amendments to Board of Directors Governance Policies GP 6.11.1 and GP-6.11.2, Complaints by Board Members Against Board Members, and GP-6.19.1 and GP-6.19.2, Complaints from Non-Board Members; and
 - B. Approve the proposed amendments to GP-6.11.1 and GP-6.11.2, and GP-6.19.1 and GP-6.19.2.

Director LeZotte requested clarification on several matters, as follows:

- What is the rationale for authorizing the Committee to terminate an investigation, instead of maintaining that authority at the full Board?
- What criteria would the Committee use to determine when to terminate an investigation?
- Would there be a report out to the community and the Board as to why an investigation was terminated?
- What is the third-party manager who will manage the investigation; what criteria will be used to select that person; and will they have a legal background and investigative knowledge?
- What is the conflict that exists with District Counsel, to warrant authorizing the Committee to terminate an investigation?
- When will the current investigation be returned from its temporarily suspended status?
- When will the Board hear a report on the status of the current investigation?

- Is the matter on the Board's agenda today intended to legitimize actions already taken by the Committee that were outside their authorized purpose?
- Would adoption of the proposed policy revisions be applied to actions taken previously, retroactively?

Chairperson Hsueh acknowledged receipt of, and read into the record, the attached written comments from Ms. Trish Mulvey, Palo Alto resident, identified as Handout 4.3-A Herein; and Director LeZotte acknowledged receipt of the attached memorandum from Mr. Stan Yamamoto, District Counsel, responding to Board Member Request No. R-20-0012, Identified as Handout 4.3-B herein. Copies of the Handouts were distributed to the Board and made available to the public.

Chairperson Hsueh clarified that the Committee had given direction to District Counsel to temporarily suspend the investigation and come back to the full Board requesting authority to terminate investigations, as recommended in the attached Board Agenda Memorandum.

Directors Keegan and Varela expressed concern that because the Board Ethics and Conduct Ad Hoc Committee was a working group, and not subject to the Brown Act, sufficient transparency did not exist to enable authority, as proposed.

Directors Keegan and LeZotte suggested that the Board consider rescinding the Committee's decision to temporarily suspend the investigation, citing that the current Board policy did not authorize the Committee to take such an action; and Director Kremen questioned whether participation in the current policy discussion by Board members named in an investigation created a conflict of interest.

Mr. Yamamoto advised the Board that since consideration of rescinding the Board Ethics and Conduct Ad Hoc Committee's action to temporarily suspend the current investigation was not included on the agenda, the Board should take no such action to do so at this time. He additionally clarified that so long as the Board's discussion remained on the proposed policy revisions, and not on the current investigation, no conflict of interest existed by the participation of Board members named in the investigation.

Mr. Yamamoto confirmed that within current Board policies, the Board Chairperson does have authority to start or suspend investigations, as was done in this matter; and suggested the Board defer the matter back to its Chairperson to work with District Counsel to establish steps to move forward, having heard all Board members comments, questions, and concerns.

The Board continued the item to a future meeting.

4.4 Planning for the Year 2021-22 Board Strategic Planning Meeting.

Recommendation: Discuss and provide input to shape the agenda and process for the Board Strategic Planning Meeting for Fiscal Year 2021-22 (FY22).

The Board noted the information, without formal action.

4.5 Review Fiscal Year 2021 Board Policy Planning Calendar.

Recommendation: Review, discuss, and revise the Fiscal Year 2021 Board Policy Planning Calendar.

Chairperson Hsueh requested that staff revise the Fiscal Year 2021 Board Policy Planning Calendar contained in Attachment 1, on Page 1, Line 1, *Actively Pursue Water Storage Opportunities*, to include a sub-entry for the Pacheco Reservoir Expansion Project, and to add discussion on the roles and responsibilities of Valley Water Board Members who serve as board members of other agencies. She also confirmed that she would work with the Chief Executive Officer to revise the calendar's timelines for various critical items.

The Board noted the information, without formal action.

4.6 Board Committee Reports.

Chairperson Hsueh acknowledged receipt of the attached Board Audit Committee, Water Supply Exploratory Committee, Capital Improvement Program, Recycled Water Committee, Board Policy Planning Committee, Independent Monitoring Committee, and Delta Conveyance Authority meeting agendas and summaries identified as Handouts 4.6-A through 4.6-G herein. Copies of the Handouts were distributed to the Board and made available to the public.

The Board noted the information, without formal action.

4.7 Proposed Future Board Member Agenda Items.

None.

5. WATER UTILITY ENTERPRISE:

5.1 Overview of the FY 2021-22 Groundwater Production Charge Setting Process and Review of 10-Year Water Rate Projection Assumptions.

Recommendation: A. Receive an overview of the Fiscal Year 2021-22 Groundwater Production Charge setting process; and
B. Review and provide feedback on the 10-year Water Rate Projection Assumptions.

Mr. Darin Taylor, Chief Financial Officer, reviewed the information on this item per the attached Board Agenda Memo, and Ms. Carmen Narayanan,

Finance Planning and Revenue Manager, reviewed the attached presentation materials contained in Attachment 1.

Directors Santos and Varela reported having requested that the Chief Executive Officer investigate various alternatives for maintaining the Open Space Credit, and Mr. Rick Callender, Chief Executive Officer, confirmed that staff would come back with discussion on the Open Space Credit early in calendar year 2021.

The Board noted the information, without formal action.

6. WATERSHEDS:

None.

7. ASSISTANT CHIEF EXECUTIVE OFFICER:

None.

8. EXTERNAL AFFAIRS:

8.1 Office of Civic Engagement Annual Board Update 2020.

Recommendation: Receive information and updates on the programs and activities in the Office of Civic Engagement.

Ms. Sherilyn Tran, Civic Engagement Manager, reviewed the information on this item, per the attached Board Agenda Memo.

The Board noted the information, without formal action.

9. CHIEF EXECUTIVE OFFICER:

9.1 CEO and Chiefs' Report.

Ms. Sue Tippetts, Chief Operating Officer, reviewed the attached Stream Maintenance and Storm Reports, identified respectively as Handouts 9.1-C and 9.1-D herein.

Ms. Tina Yoke, Chief Administrative Officer, provided an update on the county's latest orders related to COVID-19, discussed the number of Valley Water employees currently out on COVID-related leave, and confirmed no overall impacts to Valley Water operations. She also advised the Board that the Valley Water Headquarters Campus parking lot had not been selected by the county as a location for mobile COVID testing.

Ms. Rachael Gibson, Chief of External Affairs, reviewed the attached Office of Government Relations Update and Summary of Election Results, identified as Handouts 9.1-A and 9.1-B herein.

Copies of the Handout were distributed to the Board and made available to the public.

10. ADMINISTRATION:

None.

11. DISTRICT COUNSEL:

None.

12. ADJOURN:

12.1 Board Member Reports/Announcements.

Director Varela reported attending the Board's Annual Visit to Washington DC, held virtually this year; Joint Venture Silicon Valley, Youth Commission, and San Luis Delta Mendota Water Authority (SLDMWA) meetings; and a meeting with Assembly Member Robert Rivas.

Director Keegan reported attending the aforementioned virtual Washington DC Annual Board Visit and Youth Commission meeting; virtual meetings with Sacramento lobbyists; Board Audit Committee (BAC), and Board Performance Planning Committee (BPPC) meetings; and various meetings with staff.

Director Santos reported attending the aforementioned virtual Washington DC Annual Board Visit and a Southeast U.S. Army Corps of Engineers meet and greet event.

Director LeZotte reported attending the aforementioned BAC and BPPC meetings; a meeting with the Board's auditor; a Recycled Water Committee (RWC) meeting; Ethics training; and various meetings with staff.

Chairperson Hsueh reported attending the aforementioned virtual Washington DC Annual Board Visit, Youth Commission, BPPC, and RWC meetings; and various meetings with staff.

Director Estremera reported attending the aforementioned virtual Washington DC Annual Board Visit and BPPC meetings; a Green Latinos National Environmental Organization meeting; a Valley Water Town Hall meeting and well owner conference; Delta Conveyance Authority preparatory and Board meetings; and various meetings with staff.

Director Kremen reported attending the aforementioned virtual Washington DC Annual Board Visit, and BAC and SLDMWA meetings; a San Francisquito Creek Joint Powers Authority meeting; and various meetings with staff.

12.2 Clerk Review and Clarification of Board Requests.

None.

12.3 Adjourn to Regular Meeting at 1:00 p.m., on December 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 9:00 p.m., in memory of Mr. Patrick King, husband of Ms. Michele King, Santa Clara Valley Water District Clerk, Board of Directors, and expressed its deepest condolences to Ms. King as she adjusts to her husband's loss.

The next regular meeting of the Santa Clara Valley Water District Board of Directors is scheduled to be held at 1:00 p.m., on December 8, 2020, and will 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: 01/26/2021