



BOARD OF DIRECTORS MEETING

MINUTES

**SPECIAL BOARD MEETING
THURSDAY, MARCH 14, 2024
10:00 AM**

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER/ROLL CALL:

A Special 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 10:00 a.m.

1.1. Roll Call.

Board members in attendance were Jim Beall, Rebecca Eisenberg, Tony Estremera, Barbara F. Keegan, Richard P. Santos, John L. Varela, and Nai Hsueh, Chairperson presiding, constituting a quorum of the Board.

District 2 Director Barbara Keegan has requested to attend today's Board meeting remotely in compliance with AB 2449 due to illness.

During Roll Call Michele King, Clerk, Board of Directors, requested Director Keegan 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 of that individual to the Director.

Director Keegan confirmed there were no individuals over 18 years of age present in the room.

Please note that in compliance with AB 2449, all votes taken at today's meeting will be conducted by roll call vote.

Staff members in attendance were Carlos Orellana, District Counsel; Samantha Zutler, Special Counsel, Burke, Williams & Sorensen, LLP; and Michele King, Clerk, Board of Directors.

2. 10:00 AM - TIME CERTAIN:

2.1. Pledge of Allegiance/National Anthem.

Director Beall led all present in reciting the Pledge of Allegiance

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

Chairperson Hsueh declared time open for public comment on any subject not on the agenda.

Aram James, of undisclosed residency, spoke in opposition to the Pledge of Allegiance at the beginning of the Board meeting due to current Federal Government military policies.

2.3. Review and Approve Process to Determine Whether Censure is Appropriate.

- Recommendation:
- A. Review proposed process to determine whether Censure is appropriate;
 - B. Provide input and make revisions as Board finds necessary; and
 - C. Approve Hearing Process to be used for Items 2.4 and 2.5.

David Duperrault, a Mountain View resident, requested clarification regarding the flow of the proceedings for the Special Board meeting.

7 statements expressing opposition to the Review and Approve the Process to Determine Whether Censure is Appropriate were received from: Peter Drekmeier, a Palo Alto resident; Mark Weiss, a Palo Alto resident; Kitty Moore, a Cupertino resident; and Aram James, Crystal Calhoun, Rishi Kumar, Tina of undisclosed residencies.

Director Keegan requested that on Page 2 of the Board Agenda Memo, under the title PROPOSED PUBLIC HEARING PROCESS, step number 4 be revised to include *"or who have filed a request for censure."*

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

The Yeas have it, and the motion passed.

2.4. Conduct Hearing to Determine Whether to Censure Director Rebecca Eisenberg for Alleged Misconduct Set Forth in the February 2, 2024, Memorandum from Board Chair Nai Hsueh; If Censure Action is Approved, Adopt Resolution of the Santa Clara Valley Water District Providing for the Censure of Director Eisenberg For Actions of January 29, 2024; and Take Any Other Action the Board Deems

Necessary or Appropriate in Response to Director Eisenberg's Alleged Misconduct.

- Recommendation:
- A. Conduct Hearing to Determine Whether to Censure Director Rebecca Eisenberg for Alleged Misconduct Set Forth in the February 2, 2024, Memorandum from Board Chair Nai Hsueh;
 - B. If Censure Action is Approved, Adopt RESOLUTION OF THE SANTA CLARA VALLEY WATER DISTRICT PROVIDING FOR THE CENSURE OF DIRECTOR EISENBERG FOR ACTIONS OF JANUARY 29, 2024; and
 - C. Take Any Other Action the Board Deems Necessary or Appropriate in Response to Director Eisenberg's Alleged Misconduct.

2 statements expressing opposition for the censure action were received from: David Duperrault, a Mountain View resident; and Mark Weiss, a Palo Alto resident.

5 statements expressing support for the censure action were received from: Elizabeth Kamyra, a San Jose resident; Rev. Jethroe Moore, NAACP; Walter Wilson, Aram James, and Tina, of undisclosed residencies.

4 statements requesting clarifying questions regarding this item were received from: Barbara Swenson, a Palo Alto resident; Liz Kniss, a Palo Alto resident; Kitty Moore, a Cupertino resident; Mike Kasperzak, a Mountain View resident; Peter Van Dyke, of undisclosed location.

Motion: The Santa Clara Valley Water District Board of Directors per Board Governance Policy GP-6.10.6. does hereby Censure Director Rebecca Eisenberg for misconduct for the wrongful removal of the Confidential Report from Valley Water offices on January 29, 2024, as documented in the February 2, 2024, Memorandum from CEO Rick Callender, and adopts Resolution No. 24-09 THE SANTA CLARA VALLEY WATER DISTRICT BOARD OF DIRECTORS PROVIDING FOR THE CENSURE OF DIRECTOR REBECCA EISENBERG FOR ACTIONS OF JANUARY 29, 2024, by a two-thirds vote.

Move to Adopt: Tony Estremera
Second: Richard Santos

Director Beall requested the motion be amended to include **(with pay)** after the word "Censure."

Motion: The Board of Directors of the Santa Clara Valley Water District per Board Governance Policy GP-6.10.6. does hereby Censure (with pay) Director Rebecca Eisenberg for misconduct for the wrongful removal of the Confidential Report from Valley Water offices on January 29, 2024, as documented in the February 2, 2024, Memorandum from CEO Rick Callender, and adopt

Resolution No. 24-09 THE SANTA CLARA VALLEY WATER DISTRICT BOARD OF DIRECTORS PROVIDING FOR THE CENSURE OF DIRECTOR REBECCA EISENBERG FOR ACTIONS OF JANUARY 29, 2024, by a two-thirds vote.

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

The Yeas have it, and the motion passed.

District Counsel Carlos Orellana left the meeting. Special Counsel Samantha Zutler then advised the Board.

- 2.5. Conduct Hearing to Determine Whether Censure Is Appropriate for the Misconduct Substantiated in the December 22, 2023, Executive Summary of Investigative Report #2; Approve Appropriate Action to Take, if Any, in Response to Director Rebecca Eisenberg's Misconduct; and if Censure Action is Approved, Adopt Resolution of the Santa Clara Valley Water District Providing for the Censure of Director Rebecca Eisenberg.

Recommendation: A. Conduct Hearing to determine whether Censure of Director Rebecca Eisenberg is appropriate for the misconduct substantiated in the December 22, 2023, Executive Summary (Report #2) of Investigation into Allegations Made by Rick Callender, Carlos Orellana and other Employees against Director Rebecca Eisenberg;
B. Determine appropriate action, if any, in response to misconduct (Admonition, Sanction and Censure), if Censure action is approved, adopt RESOLUTION OF THE SANTA CLARA VALLEY WATER DISTRICT PROVIDING FOR THE CENSURE OF DIRECTOR REBECCA EISENBERG; and
C. Determine whether additional actions are appropriate.

5 statements expressing opposition to censure action were received from: David Duperrault, a Mountain View resident; Bruce Swenson, a Palo Alto resident; Deborah Goldeen, Palo Alto; Forrest Peterson, a Palo Alto resident; and Mark Weiss, a Palo Alto resident.

14 statements expressing support for censure action were received from: Constance Newman, a San Jose resident; Elizabeth Kamya, a San Jose resident; Sean Allen, a San Jose resident; Winter Gaye, a Palo Alto resident; Crystal Calhoun, a San Jose resident; Debbie Butler, a San Jose resident; Jeff

Shore, a Palo Alto resident; Douglas Lee Peterson, a San Jose resident; Danny Garza, a San Jose resident; Rev. Jethroe Moore, NAACP; Walter Wilson, Aram James, Sam Ho, and Tina, of undisclosed residencies.

3 statements requesting clarifying questions regarding this item were received from: Liz Kniss, a Palo Alto resident; Kitty Moore, a Cupertino resident; Mike Kasperzak, a Mountain View resident.

Motion: The Board of Directors of the Santa Clara Valley Water District, per Board Governance Policy Governance Process (GP)-6.11 through GP-6.15, does hereby Censure Director Rebecca Eisenberg for misconduct and adopts Resolution No. 24-10, THE SANTA CLARA VALLEY WATER DISTRICT BOARD OF DIRECTORS PROVIDING FOR THE CENSURE OF DIRECTOR REBECCA EISENBERG, by a two-thirds vote.

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

Motion: Approve the following actions, pursuant to Board Governance Policy GP-6.3, Remove Director Rebecca Eisenberg from all roles and responsibilities representing the Board and District, including participating on any Board Committees; Director Rebecca Eisenberg must attend and participate in appropriate anti-discrimination training, and behavior management training within two months; Director Rebecca Eisenberg should not be allowed to meet with any employees who object to meeting with her; Director Rebecca Eisenberg should not be allowed to request any information directly from employees and must make any such request from a Board Appointed Officer; Director Eisenberg to return the confidential report to the Clerk of the Board.

Move to Approve: Tony Estremera
Second: Richard Santos
Yeas: Jim Beall, Tony Estremera, Richard Santos, John L. Varela, Nai Hsueh
Nays: Rebecca Eisenberg, Barbara F. Keegan
Abstains: None
Recuses: None
Absent: None
Summary: 5 Yeas; 2 Nays; 0 Abstains; 0 Absent.

The Yeas have it, and the motion passed.

3. CLERK REVIEW AND CLARIFICATION OF BOARD REQUESTS:

Michele King confirmed that there were no new Board Member Requests.

4. ADJOURN:

- 4.1 Adjourn to the 1:00 p.m. Regular meeting on March 26, 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 2:38 p.m., to the 1:00 p.m. Regular meeting on March 26, 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: