



BOARD OF DIRECTORS MEETING

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# MINUTES

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**CLOSED SESSION AND REGULAR MEETING  
TUESDAY, JUNE 28, 2022  
11:00 AM**

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

1.1. Roll Call.

Board members in attendance were Tony Estremera, Nai Hsueh, Linda J. LeZotte, Richard Santos, and John L. Varela, Chair Pro Tem presiding, constituting a quorum of the Board.

Directors Barbara Keegan and Gary Kremen arrived as noted below.

Staff members in attendance were R. Callender, Chief Executive Officer, C. Orellana, District Counsel, M. King, Clerk, Board of Directors, J. Aranda, E. Aryee, A. Baker, R. Blank, J. Bourgeois, B. Broome, V. Gin, A. Gordon, B. Hopper, C. Kwok-Smith, M. Lugo, P. McElroy, M. Richardson, D. Rocha, D. Taylor, and T. Yoke.

**2. TIME CERTAIN:**

Chair Pro Tem Varela confirmed that the Board would adjourn to Closed Session for consideration of Items 2.1 and 2.2.

Director Kremen arrived.

**11:00 AM**

- 2.1. CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Government Code Section 54956.9(d)(1)  
Foster v. Santa Clara Valley Water District (WCAB Nos. ADJ13871656,  
ADJ15493906)

2.2. CLOSED SESSION  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Pursuant to Government Code Section 54957(b)(1)  
Titles: CEO, District Counsel and Clerk of the Board

**1:00 PM**

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

2.3. District Counsel Report on Closed Session.

Mr. Carlos Orellana, District Counsel, reported that in regard to Item 2.1, the Board met in Closed Session with all members participating and took no reportable action.

Chair Pro Tem Varela reported that in regard to Item 2.2, the Board met in Closed Session with all members participating and continued the Item to July 12, 2022.

2.4. Pledge of Allegiance/National Anthem.

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

2.5. Orders of the Day.

Chair Pro Tem Varela 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.

Chair Pro Tem Varela declared time open for public comment on any subject not on the agenda.

Mr. Dean Stanford, of undisclosed residency, expressed an interest in retaining a 9-mile trail around Pond 18, within Alviso Marina County Park, as part of the Southbay Shoreline Project. He requested that Valley Water consider renegotiating the purchase of Pond 18, create an easement with the City of San Jose around the levy, build habitat islands within the pond, and retain the 9-mile trail that currently exists. He requested the plan be amended to include said provisions, a post opposition report, and an amended Environmental Impact Report to save the trail.

The Board requested that staff follow up with Mr. Stanford.

### 3. CONSENT CALENDAR:

The Board considered Consent Calendar Item 3.1 under one motion.

3.1. Adopt Recommended Positions on Federal Legislation: S. 4136 (Carper) / H.R. 7776 (DeFazio) - Water Resources Development Act of 2022; S. 4279 (Padilla) / H.R. 7847 (McNerney) - Water Efficiency, Conservation, and Sustainability Act of 2022; H.R. 3112 (McNerney) - Western Water Recycling and Drought Relief Act of 2021; H.R. 1352 (Lawrence) / S. 916 (Sanders) - Water Affordability, Transparency, Equity, and Reliability Act of 2021; and Other Legislation That May Require Urgent Consideration for a Position by the Board.

Recommendation:   A.    Adopt a position of "Support and Amend" on S. 4136 (Carper) / H.R. 7776 (DeFazio) - Water Resources Development Act of 2022;  
                          B.    Adopt a position of "Support" on S. 4279 (Padilla) / H.R. 7847 (McNerney) - Water Efficiency, Conservation, and Sustainability Act of 2022;  
                          C.    Adopt a position of "Support and Amend" on H.R. 3112 (McNerney) - Western Water Recycling and Drought Relief Act of 2021; and  
                          D.    Adopt a position of "Support" on H.R. 1352 (Lawrence) / S. 916 (Sanders) - Water Affordability, Transparency, Equity, and Reliability Act of 2021.

Motion:                               Approve Consent Calendar Item 3.1 under one motion, as follows: Adopt a position of "Support and Amend" on S. 4136 (Carper) / H.R. 7776 (DeFazio) - Water Resources Development Act of 2022; Adopt a position of "Support" on S. 4279 (Padilla) / H.R. 7847 (McNerney) - Water Efficiency, Conservation, and Sustainability Act of 2022; Adopt a position of "Support and Amend" on H.R. 3112 (McNerney) - Western Water Recycling and Drought Relief Act of 2021; and Adopt a position of "Support" on H.R. 1352 (Lawrence) / S. 916 (Sanders) - Water Affordability, Transparency, Equity, and Reliability Act of 2021, as contained in Item 3.1.

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

**REGULAR AGENDA:**

**4. BOARD OF DIRECTORS:**

4.1. Approve Fiscal Year 2022-23 Board Policy Planning Calendar.

Recommendation: Approve the Fiscal Year 2022-23 Board Policy Planning Calendar.

Ms. Michele King, Clerk, Board of Directors, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 1.

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

Director Keegan arrived.

4.2. Consider the May 11, 2022, Recommendation from the Board Policy and Planning Committee to Adopt an Ordinance of Santa Clara Valley Water District Specifying Rules of Decorum in the Participation of Board and Committee Meetings. (Continued from June 14, 2022)

Recommendation: Adopt the Ordinance, AN ORDINANCE OF SANTA CLARA VALLEY WATER DISTRICT SPECIFYING RULES OF DECORUM IN THE PARTICIPATION OF BOARD AND COMMITTEE MEETINGS.

Mr. Alex Gordon, Assistant Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Director Estremera requested the language on Page 2, Section 6, to be changed from, "All persons entering the Board Room, Committee Room(s) and designated Meeting room(s) and their effects, including but not limited to their bags, purses, briefcases, and similar belongings **will be** subject to search", to, "All persons entering the Board Room, Committee Room(s) and designated Meeting room(s) and their effects, including but not limited to their bags, purses, briefcases, and similar belongings **may be** subject to search."

Motion: Adopt Ordinance No. 22-03, AN ORDINANCE OF SANTA CLARA VALLEY WATER DISTRICT SPECIFYING RULES OF DECORUM IN THE PARTICIPATION OF BOARD AND COMMITTEE MEETINGS, and the language on Page 2, Section 6, to be changed from, "All persons entering the Board Room, Committee Room(s) and designated Meeting room(s) and their effects, including but not limited to their bags, purses, briefcases, and similar belongings **will be** subject to search", to, "All persons entering the Board Room, Committee Room(s) and designated Meeting room(s) and their effects, including but not limited to their bags, purses, briefcases, and similar belongings **may be** subject to search, by roll call vote.

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.

4.3. Consider the June 17, 2022, Recommendation from the Water Storage Exploratory Committee to Authorize the Chief Executive Officer to Send a Letter Expressing Valley Water's Potential Interest in Increasing Participation Level in the Planning Phase of the Sites Reservoir Project if Space in the Project Becomes Available and is Supported by Future Analysis.

Recommendation: A. Receive and Discuss Update on the Sites Reservoir Project; and  
B. Consider the June 17, 2022, recommendation from the Water Storage Exploratory Committee to authorize the Chief Executive Officer to send a letter expressing Valley Water's potential interest in increasing participation level in the planning phase of the Sites Reservoir Project if space in the project becomes available and is supported by future analysis.

Mr. Vince Gin, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Motion: Authorize the Chief Executive Officer to send a letter expressing Valley Water's potential interest in increasing participation level in the planning phase of the Sites Reservoir Project if space in the project becomes available and revise the last sentence of the first paragraph of the draft letter to state that staff is committed

to returning to the Board of Directors for future decision on participation level, subject to future analysis that indicates an increase is not advisable.

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

#### 4.4. Board Committee Reports.

Director Estremera, on behalf of the Board Ethics and Conduct Committee, in regard to the current investigation, reported that interviews were still being conducted by the Investigator and a report should be available by September.

The Board noted the information, without formal action.

### 5. WATER UTILITY ENTERPRISE:

5.1. Approve the Standard On-Call Consultant Agreement with OCMI, Inc. to Provide Independent Cost Estimating and Constructability Review Services, Agreement No. A4619A, PB File No. VW0019, for a Not-to-Exceed Aggregate Fee of \$5,000,000, and Consider Proceeding with the Multiple Award of this On-Call Consultant Agreement.

Recommendation: A. Approve the Standard On-Call Consultant Agreement with OCMI, Inc. for Independent Cost Estimating and Constructability Review Services for a not-to-exceed aggregate fee of \$5,000,000; and  
B. Approve that Staff Proceed with Negotiations for the Potential Multiple Award of this On-Call Consultant Agreement for Independent Cost Estimating and Constructability Review Services.

Ms. Tina Yoke, Chief Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Move to Approve: Nai Hsueh  
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.

- 5.2. (ITEM REMOVED FROM THE AGENDA) Receive Report of Bids and Award the Construction Contract to Calstate Construction, Inc. for the Silicon Valley Advanced Water Purification Center Storage Building Project, under the Small Capital Improvements, Water Treatment, Project No. 93764004, Contract No. C0686 (San Jose) (District No.3).
- 5.3. Receive Report of Bids and Award the Construction Contract to Con-Quest Contractors, Inc. for the Santa Clara Conduit Rehabilitation and Pacheco Sectionalizing Valve Replacement Project, as part of the 10-Year Pipeline Inspection and Rehabilitation Project, Project No. 95084002, Contract No. C0673 (Gilroy, San Benito County, Unincorporated Santa Clara County) (District 1).

- Recommendation:
- A. Ratify Addenda No. 1 to the Contract Documents for the Santa Clara Conduit Rehabilitation and Pacheco Conduit Sectionalizing Valve Replacement Project;
  - B. Award the Contract to Con-Quest Contractors, Inc., located in San Francisco, CA, in the sum of \$9,677,100; and
  - C. Approve a contingency sum of \$1,451,565 and authorize the Chief Executive Officer or designee to approve individual change orders up to the designated amount.

The Board considered this Item without a staff presentation.

Motion: Approve staff's Recommendations A, B, and approve Recommendation C with a contingency sum of \$967,710 (10%) and authorize the Chief Executive Officer or designee to approve individual change orders up to the designated amount.

Move to Approve: Barbara Keegan  
 Second: Nai Hsueh  
 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.

**6. WATERSHEDS:**

None.

**7. ASSISTANT CHIEF EXECUTIVE OFFICER:**

7.1. Approve Fiscal Year 2022 Schedule Adjustments to Projects in the Renewed Safe, Clean Water and Natural Flood Protection Program.

Recommendation: Approve Fiscal Year 2022 Safe, Clean Water Project Schedule Adjustments.

The Board considered this Item without a staff presentation.

Move to Approve: Tony Estremera  
Second: Nai Hsueh  
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:**

None.

**9. CHIEF EXECUTIVE OFFICER:**

9.1. Adopt a Resolution Establishing Appropriations Limit for Fiscal Year 2022-23.

Recommendation: A. Select the cost-of-living factor to establish the Santa Clara Valley Water District's Appropriations Limit; and  
B. Adopt the Resolution ESTABLISHING APPROPRIATIONS LIMIT FOR FISCAL YEAR 2022-23.

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

Motion: Adopt Resolution No. 22-42 ESTABLISHING APPROPRIATIONS LIMIT FOR FISCAL YEAR 2022-23, by roll call vote.

Move to Adopt: Tony Estremera  
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.

9.2. CEO and Chiefs' Report.

Ms. Rachael Gibson, Chief of External Affairs, reviewed the Office of Civic Engagement Activities and Office of Government Relations Activities, identified as Handouts 9.2-A, and 9.2-B, respectively. Copies of the Handouts were distributed to the Board and made available to the public.

**10. ADMINISTRATION:**

The Board considered Items 10.1, and 10.2, without a staff presentation.

10.1. Adopt Resolution Adopting Employee Salary Schedule for Fiscal Year 2023.

Recommendation: Adopt Resolution ADOPTING EMPLOYEE SALARY SCHEDULE - EFFECTIVE THE BEGINNING OF PAY PERIOD 14 OF CALENDAR YEAR 2022.

Motion: Adopt Resolution No. 22-57 ADOPTING EMPLOYEE SALARY SCHEDULE – EFFECTIVE THE BEGINNING OF PAY PERIOD 14 OF CALENDAR YEAR 2022, by roll call vote.

Move to Adopt: Nai Hsueh  
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.

10.2 Adopt Resolution Approving Third Amended Compensation Plan for Unrepresented Employees in the Executive Service of the Santa Clara Valley Water District.

Recommendation: Adopt Resolution APPROVING THIRD AMENDED COMPENSATION PLAN FOR UNREPRESENTED EMPLOYEES IN THE EXECUTIVE SERVICE (January 1, 2022, through December 31, 2025).

Motion: Adopt Resolution No. 22-63, APPROVING THIRD AMENDED COMPENSATION PLAN FOR UNREPRESENTED EMPLOYEES IN THE EXECUTIVE SERVICE (January 1, 2022, through December 31, 2025), by roll call vote.

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.

**11. DISTRICT COUNSEL:**

None.

**12. ADJOURN:**

12.1. Board Member Reports/Announcements.

Director Santos reported attending a Shoreline Tour with Michael Connor, Assistant Secretary of the Army, at the Don Edwards Refuge Center.

Director Estremera reported attending Recycled Water (RWC) and Capital Improvement Program (CIP) Committee meetings; a Shoreline Tour with Representative Ro Khanna, a Tour of Silicon Valley Advanced Water Purification Center (SVAWPC) with League of CA Cities; participated in a Memorial Service for Norman Y. Mineta; and various meetings with staff.

Chair Pro Tem Varela reported attending an Anderson Dam Tunnel Project meeting and the United States Bureau of Reclamation (USBR) Bernice Frederic (B. F.) Sisk Dam Celebration Event.

Director Hsueh reported attending Financial Sustainability Working Group and Water Conservation and Demand Management (WCaDM) Committee Meetings; the All District Employee and West Valley Mayors and Managers Meetings; participated in a Delta Conveyance Project Presentation; and various meetings with Staff.

Director Kremen reported attending the aforementioned USBR B. F. Sisk Dam Celebration Event; a San Francisquito Creek Joint Powers Authority (SFCJPA) Committee meeting; an Update on Well Exemption Status meeting, participated in a Purified Water presentation to Campbell City Council; and various meetings with Staff.

Director LeZotte reported attending the aforementioned Financial Sustainability Working Group, CIP meetings and Purified Water presentation to Campbell City Council; a Finance Committee meeting for the Los Vaqueros Reservoir Joint Powers Authority (LVJPA) Committee, and the LVJPA Committee meeting; a Local Agency Formation Commission (LAFCO), LVJPA/Valley Water Directors Briefing, and Valley Water Board

meetings; the Campbell Chamber of Commerce Monthly Luncheon; met with a District 4 Constituent; and various meetings with staff.

12.2 Proposed Future Board Member Agenda Items.

Director Estremera requested that staff schedule an agenda item on a future Board agenda that allows discussion and planning for a potential recession and prospective solutions to economic conflicts.

12.3. Clerk Review and Clarification of Board Requests.

Ms. Michele King, Clerk, Board of Directors, read the new Board Member Request into the record.

12.4. Adjourn to the 11:00 a.m. Closed Session and 1:00 p.m. Regular Meeting on July, 12, 2022.

Chair Pro Tem Varela adjourned the meeting in memory of the Honorable Norman Mineta, at 2:00 p.m., to the 11:00 a.m. Closed Session and 1:00 p.m. Regular meeting on July 12, 2022.

Michele L. King, CMC  
Clerk/Board of Directors

Approved:

Date: