



BOARD OF DIRECTORS MEETING

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# MINUTES

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**CLOSED SESSION AND REGULAR MEETING  
TUESDAY, SEPTEMBER 13, 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, Barbara Keegan, Richard Santos, and John L. Varela, Chair Pro Tem presiding, constituting a quorum of the Board.

Director Gary Kremen arrived as noted below.

Director Linda J. LeZotte was excused from attending.

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, R. Blank, J. Bourgeois, J. Codianne, M. Cook, A. Fulcher, R. Gibson, A. Gordon, P. McElroy, T. Ndah, M. Richardson, D. Rocha, K. Struve, D. Taylor, and T. Yoke.

**2. TIME CERTAIN:**

**11:00 AM**

Chair Pro Tem Varela noted that Item 2.1 had been removed from the agenda, and confirmed that the Board would adjourn to Closed Session for consideration of Items 2.2, 2.3, and 2.4.

Director Kremen arrived.

- 2.1. (ITEM REMOVED FROM AGENDA)  
CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION  
Pursuant to Government Code Section 54956.9(d)(4)  
2 Potential Cases
- 2.2. CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Government Code Section 54956.9(d)(1)  
SCVWD v. Jin, et al., (Santa Clara Co. Superior Court, Case No. 22CV397577)
- 2.3. CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Government Code Section 54956.9(d)(1)  
SCVWD v. Jin, et al., (Santa Clara Co. Superior Court, Case No. 19CV35222)
- 2.4. CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Pursuant to Government Code Section 54956.9(d)(1)  
Stop the Pacheco Dam Project Coalition v. SCVWD (Santa Clara Co. Superior Court, Case No. 22CV399384)

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

**1:00 PM**

- 2.5. District Counsel Report on Closed Session.

Carlos Orellana, District Counsel, reported that in regard to Items 2.2, 2.3, and 2.4, the Board met in Closed Session with all members participating, excluding Director LeZotte, and took no reportable action on any item.

- 2.6. Pledge of Allegiance/National Anthem.

Chair Pro Tem Varela led all present in the Pledge of Allegiance.

- 2.7. Orders of the Day.

Chair Pro Tem Varela 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.

Chair Pro Tem Varela declared time open for public comment on any item not on the agenda. There was no one present who wished to speak.

- 2.9. Monthly Drought Emergency Response and Water Supply Update.

Recommendation: Receive an update on water supply conditions in Santa Clara County and staff's drought response efforts and provide direction to staff, as necessary.

Neeta Bijoor, Associate Water Resources Specialist, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Supplemental Attachment 1.

Rebecca Eisenberg, a Los Altos resident, requested information regarding the treated water agreements and how they are implemented and managed with regard to water conservation. Aaron Baker, Chief Operating Officer, recommended that a public records request be submitted in order to work with staff regarding the treated water agreements.

- 2.10. Public Hearing - Consider Adoption of the First Amended and Restated Ordinance 22-02, A First Amended and Restated Ordinance of Santa Clara Valley Water District Adopting Drought Outdoor Water Conservation and Enforcement Measures to Provide Water Retailers Additional Opportunities to Undertake Enforcement Measures that Address Water Waste and to Restrict Irrigation of Commercial, Industrial, and Institutional Non-Functional Turf.

Recommendation:   A. Conduct a Public Hearing to allow members of the public to provide comments on the need to consider adoption of the First Amended and Restated Ordinance 22-02, A FIRST AMENDED AND RESTATED ORDINANCE OF SANTA CLARA VALLEY WATER DISTRICT ADOPTING DROUGHT OUTDOOR WATER CONSERVATION AND ENFORCEMENT MEASURES, to enforce Santa Clara Valley Water District's mandatory water use restrictions;  
B. Close the Public Hearing; and  
C. Adopt the First Amended and Restated Ordinance 22-02, which provides water retailers additional opportunities to undertake enforcement measures that address water waste, and bans irrigation of commercial, industrial, and institutional (CII) non-functional turf.

Chair Pro Tem Varela opened the Public Hearing.

Aaron Baker and Neeta Bijoor reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 3.

Chair Pro Tem Varela declared time open for public comments

Rebecca Eisenberg, Palo Alto Resident, requested that the Board consider using smartphone applications as a way for the constituency to contact Valley Water to assist with the enforcement of the mandatory water use restrictions.

Swanee Edwards, a Morgan Hill resident, requested if there is a set fee structure for fines within Ordinance 22-02. Chair Pro Tem Varela confirmed that there is a set fee structure for fines within the ordinance.

Chair Pro Tem Varela closed the Public Hearing.

Motion: Adopt Amended Ordinance No. 22-02, A FIRST AMENDED AND RESTATED ORDINANCE OF THE SANTA CLARA VALLEY WATER DISTRICT ADOPTING DROUGHT OUTDOOR WATER CONSERVATION AND ENFORCEMENT MEASURES, by roll call vote.

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

**3. CONSENT CALENDAR:**

Chair Pro Tem Varela removed Item 3.4 from the Consent Calendar for individual consideration, and the Board considered Consent Calendar Items 3.1 through 3.3, and 3.5 through 3.10, under one motion.

3.1. Adopt a Resolution declaring September 15 to October 15, 2022, as Chicano/Hispanic/Latino Heritage Month.

Recommendation: Adopt the RESOLUTION DECLARING SEPTEMBER 15 TO OCTOBER 15, 2022, AS CHICANO/HISPANIC/LATINO HERITAGE MONTH.

3.2. Resolution Declaring September 17, 2022, as California Coastal Cleanup Day in Santa Clara County.

Recommendation: Adopt a Resolution DECLARING SEPTEMBER 17, 2022, AS CALIFORNIA COASTAL CLEANUP DAY IN SANTA CLARA COUNTY.

3.3. Adopt a Resolution Proclaiming September 2022 as National Preparedness Month.

Recommendation: Adopt the Resolution NATIONAL PREPAREDNESS MONTH, SEPTEMBER 2022.

3.5. Denial of Claim of Andres Carrasco.

Recommendation: Deny the claim.

3.6. Denial of Claim of Monarch Landscape, LLC, on behalf of Alan Araujo Algandar.

Recommendation: Deny the claim.

3.7. Approve the Standard On-Call Consultant Agreement with Cotton, Shires and Associates, Inc., for On-Call Engineering Geology and Geotechnical Engineering Services in Support of the Penitencia Creek Landslide and Calaveras Fault

Crossing Monitoring Project, Project No. A4666A, PB File VW0041 for a Not-to-Exceed Fee of \$500,000.

Recommendation: Approve the Standard On-Call Consultant Agreement with Cotton, Shires and Associates, Inc., for On-Call Engineering Geology and Geotechnical Engineering services in support of the Penitencia Creek Landslide and Calaveras Fault Crossing Monitoring Project for a not-to-exceed fee of \$500,000.

- 3.8. Approve the Consultant Agreement with Anchor QEA, LLC, to Provide Modeling Services in Support of the Calabazas/San Tomas Aquino Creek-Marsh Connection Project, Project No. A4668A, PlanetBids File No. VW0122, for a Not-to-Exceed Amount of \$500,000 (Sunnyvale, Santa Clara, San Jose) (District 3).

Recommendation: Approve the Consultant Agreement (Agreement) with Anchor QEA, LLC, for modeling services in support for the Calabazas/San Tomas Aquino Creek-Marsh Connection Project (Project), for a Not-to-Exceed amount of \$500,000.

- 3.9. Approve the Board of Directors' Quarterly Expense Report for the Quarter Ending June 30, 2022.

Recommendation: A. Review the Board of Directors' Quarterly Expense Report for the Quarter Ending June 30, 2022; and  
B. Approve the report, if the reimbursements comply with Board Policy.

- 3.10. Accept the CEO Bulletin for the Week of August 19 Through September 8, 2022.

Recommendation: Accept the CEO Bulletin.

Motion: Approve Consent Calendar Items 3.1 through 3.3 and 3.5 through 3.10, under one motion, as follows: adopt Resolution No. 22-75, RESOLUTION DECLARING SEPTEMBER 15 TO OCTOBER 15, 2022, AS CHICANO/HISPANIC/LATINO HERITAGE MONTH, by roll call vote, as contained in Item 3.1; adopt Resolution No. 22-76, DECLARING SEPTEMBER 17, 2022, AS CALIFORNIA COASTAL CLEANUP DAY IN SANTA CLARA COUNTY, by roll call vote, as contained in Item 3.2; adopt Resolution No. 22-77, NATIONAL PREPAREDNESS MONTH, SEPTEMBER 2022, by roll call vote, as contained in Item 3.3; deny the claim of Andres Carrasco, as contained in Item 3.5; deny the Claim of Monarch Landscape, LLC, on behalf of Alan Araujo Algandar, as contained in Item 3.6; approve the standard on-call Consultant Agreement with Cotton, Shires and Associates, Inc., for on-call Engineering Geology and Geotechnical Engineering services in support of the Penitencia Creek Landslide and Calaveras Fault Crossing Monitoring Project for a not-to-exceed fee of \$500,000, as contained in

Item 3.7; approve the Consultant Agreement with Anchor QEA, LLC, for modeling services in support for the Calabazas/San Tomas Aquino Creek-Marsh Connection Project, for a not-to-exceed amount of \$500,000, as contained in Item 3.8; Approve the Board of Directors' Quarterly Expense Report for the Quarter Ending June 30, 2022, as contained in Item 3.9; and accept the CEO Bulletin for the weeks of August 19 through September 8, 2022, as contained in Item 3.10.

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

Chair Pro Tem Varela returned the agenda to Item 3.4.

- 3.4. Adopt Resolutions Expressing Appreciation and Acknowledging and Recognizing the Service of the Outgoing Members of the 2012 Safe, Clean Water and Natural Flood Protection Program's Independent Monitoring Committee.

Recommendation: Adopt RESOLUTIONS EXPRESSING APPRECIATION and Acknowledging and Recognizing the Service of the Outgoing Members of the 2012 Safe, Clean Water and Natural Flood Protection Program's Independent Monitoring Committee.

Chair Pro Tem Varela recognized all members of the 2012 Safe, Clean Water and Natural Flood Protection Program's Independent Monitoring Committee by reading each of their names into the record.

Motion: Adopt Resolution No. 22-78, EXPRESSING APPRECIATION TO FARKHONDEH (SUSAN) KAZEMI; adopt Resolution No. 22-79, EXPRESSING APPRECIATION TO KATHLEEN (KATHY) SUTHERLAND; adopt Resolution No. 22-80, EXPRESSING APPRECIATION TO ROSALINDA (ROSIE) ZEPEDA; adopt Resolution No. 22-81, EXPRESSING APPRECIATION TO ROLANE SANTOS; adopt Resolution No. 22-82, EXPRESSING APPRECIATION TO HUY TRAN; adopt Resolution No. 22-83, EXPRESSING APPRECIATION TO HON. JASON BAKER; adopt Resolution No. 22-84, EXPRESSING APPRECIATION TO HON. JOSEPH (JOE) HEAD; adopt Resolution No. 22-85, EXPRESSING APPRECIATION TO GEORGE FOHNER; adopt Resolution No. 22-86, EXPRESSING APPRECIATION TO WILLIAM (BILL) HOEFFT; adopt

Attachment 3

Resolution No. 22-87, EXPRESSING APPRECIATION TO HON. PATRICK S. KWOK; adopt Resolution No. 22-88, EXPRESSING APPRECIATION TO HON. DAN MCCORQUODALE; adopt Resolution No. 22-89, EXPRESSING APPRECIATION TO TESS BYLER; adopt Resolution No. 22-90, EXPRESSING APPRECIATION TO HON. STEPHEN (STEVE) JORDAN; and adopt Resolution No. 22-91, EXPRESSING APPRECIATION TO HON. ROBERT (BOB) NUNEZ, by roll call vote.

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

Chair Pro Tem Varela moved the agenda to Item 4.1.

#### **REGULAR AGENDA:**

#### **4. BOARD OF DIRECTORS:**

- 4.1. Receive the Audit Report of the Water Utility Enterprise Funds for the Fiscal Year Ended June 30, 2021.

Recommendation: Receive the Audit Report of the Water Utility Enterprise Funds for the Fiscal Year ended June 30, 2021.

Darin Taylor, Chief Financial Officer, 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.

- 4.2. Board Committee Reports.

Director Estremera provided the Board an update on the Investigation Report regarding the Board Ethics and Conduct Committee to respond to Board Chairperson Gary Kremen's March 2, 2022, Statement.

Director Keegan provided the Board with an update regarding the Board Audit Committee August 29, 2022, Special Meeting.

Chair Pro Tem Varela provided the Board with an update regarding the Association of California Water Agencies Board Workshop.

The Board noted the information without formal action.

**5. WATER UTILITY ENTERPRISE:**

None.

**6. WATERSHEDS:**

None.

**7. ASSISTANT CHIEF EXECUTIVE OFFICER:**

None.

**8. EXTERNAL AFFAIRS:**

None.

**9. CHIEF EXECUTIVE OFFICER:**

9.1. CEO and Chiefs' Report.

Aaron Baker, Chief Operating Officer, introduced Emmanuel Aryee to the Board as the new Deputy Operating Officer of the Water Utility Capital Division.

Tina Yoke, Chief Operating Officer, introduced Tony Ndah to the Board as the new Deputy Administrative Officer of the General Services Division.

Rachael Gibson, Chief of External Affairs, reviewed and distributed the attached Office of Communications Activities Summary, identified as Handout 9.1-A. Copies of the Handout were distributed to the Board and made available to the public.

**10. ADMINISTRATION:**

None.

**11. DISTRICT COUNSEL:**

Carlos Orellana, District Counsel, introduced Audrey Beaman to the Board as the new Assistant District Counsel in the Office of District Counsel.

**12. ADJOURN:**

12.1. Board Member Reports/Announcements.

None.

12.2. Proposed Future Board Member Agenda Items.

None.

12.3. Clerk Review and Clarification of Board Requests.

None.

12.4. Adjourn to the Regular Meeting at 1:00 p.m., on September 27, 2022.

Chair Pro Tem Varela adjourned the meeting at 2:00 p.m., to the 1:00 p.m. Regular Meeting on September 27, 2022.

Michele L. King, CMC  
Clerk, Board of Directors

Approved:

Date:

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