



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, SEPTEMBER 27, 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 Nai Hsueh, Barbara Keegan, Richard Santos, and John L. Varela, Chair Pro Tem presiding, constituting a quorum of the Board.

Directors Tony Estremera, Gary Kremen, and Linda J. LeZotte arrived as noted below.

Staff members in attendance were R. Callender, Chief Executive Officer (CEO), C. Orellana, District Counsel, J. Aranda, E. Aryee, A. Baker, L. Bankosh, S. Bogale, J. Bourgeois representing R. Blank, R. Chan, J. Codianne, M. Cook, A. Fulcher, R. Gibson, V. Gin, C. Hakes, B. Hopper, M. Lugo, P. McElroy, M. Richardson, D. Taylor, G. Williams, B. Yerrapotu, and T. Yoke.

2. TIME CERTAIN:

Carlos Orellana, District Counsel, confirmed that written claims or communications relating to Closed Session Item 2.2, are available for public inspection upon request as required by the Brown Act.

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

Directors Estremera and Kremen joined the meeting.

11:00 AM

- 2.1. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Scott R. Yeaman v. Santa Clara Valley Water District, et al., (Santa Clara County Superior Court Case No. 20CV369378)
- 2.2. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant Exposure to Litigation
Pursuant to Government Code Section 54956.9(d)(2)
1 potential case

1:00 PM

Director LeZotte joined the meeting.

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

- 2.3. District Counsel Report on Closed Session.

Carlos Orellana reported that in regard to Items 2.1 and 2.2, the Board met in Closed Session with all members participating, excluding Director LeZotte, and took no reportable action on either item.

- 2.4. Pledge of Allegiance/National Anthem.

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

- 2.5. Orders of the Day.

None.

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

None.

- 2.7. Receive Information on the Anderson Dam Seismic Retrofit Project Status.

Recommendation: Receive information on the Anderson Dam Seismic Retrofit Project.

Chris Hakes, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Supplemental Attachment 1.

The Board noted the information, without formal action.

3. CONSENT CALENDAR:

The Board considered Consent Calendar Items 3.1 through 3.9 under one motion.

- 3.1. Adopt a Resolution Declaring October 2022 as Filipino American History Month.

Recommendation: Adopt the RESOLUTION DECLARING OCTOBER 2022 AS FILIPINO AMERICAN HISTORY MONTH.

- 3.2. Adopt a Resolution Declaring October 2022 as National Disability Employment Awareness Month, and Recognizing the 32nd Anniversary of the Americans with Disabilities Act.

Recommendation: Adopt the RESOLUTION DECLARING OCTOBER 2022 AS NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH, AND RECOGNIZING THE 32ND ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT.

- 3.3. Adopt a Resolution Declaring October 2022 as Polish American Heritage Month.

Recommendation: Adopt the RESOLUTION DECLARING OCTOBER 2022 AS POLISH AMERICAN HERITAGE MONTH.

- 3.4. Adopt a Resolution Declaring October 2022 as German American Heritage Month.

Recommendation: Adopt the RESOLUTION DECLARING OCTOBER 2022 AS GERMAN AMERICAN HERITAGE MONTH.

- 3.5. Adopt a Resolution Declaring October 2022 as Italian American Heritage Month.

Recommendation: Adopt the RESOLUTION DECLARING OCTOBER 2022 AS ITALIAN AMERICAN HERITAGE MONTH.

- 3.6. Consider and Approve the Membership Nominations for New Two-Year Term Committee Appointments to the Environmental and Water Resources Committee.

Recommendation: Consider and Approve the Membership Nominations for New Two-Year Term Committee Appointment to the Environmental and Water Resources Committee (EWRC).

- 3.7. Consider and Approve the Membership Nomination for New Two-Year Term Committee Appointment to the Santa Clara Valley Water Youth Commission.

Recommendation: Consider and Approve the Membership Nomination for New Two-Year Term Committee Appointment to the Santa Clara Valley Water Youth Commission.

- 3.8. Accept the CEO Bulletin for the Weeks of September 9-22, 2022.

Recommendation: Accept the CEO Bulletin.

3.9. Approval of Minutes.

Recommendation: Approve the minutes.

Motion: Approve Consent Calendar Items 3.1 through 3.9, under one motion, as follows: adopt Resolution No. 22-92 RESOLUTION DECLARING OCTOBER 2022 AS FILIPINO AMERICAN HISTORY MONTH, by roll call vote, as contained in Item 3.1; adopt Resolution No. 22-93, RESOLUTION DECLARING OCTOBER 2022 AS NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH, AND RECOGNIZING THE 32ND ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT, by roll call vote, as contained in Item 3.2; adopt Resolution No. 22-94, RESOLUTION DECLARING OCTOBER 2022 AS POLISH AMERICAN HERITAGE MONTH, by roll call vote, as contained in Item 3.3; adopt Resolution No. 22-95, RESOLUTION DECLARING OCTOBER 2022 AS GERMAN AMERICAN HERITAGE MONTH, by roll call vote, as contained in Item 3.4; adopt Resolution No. 22-96, RESOLUTION DECLARING OCTOBER 2022 AS ITALIAN AMERICAN HERITAGE MONTH, by roll call vote, as contained in Item 3.5; consider and approve the membership nominations for new two-year term committee appointments to the Environmental and Water Resources Committee, as contained in Item 3.6; consider and approve the membership nomination for new two-year term committee appointment to the Santa Clara Valley Water Youth Commission, as contained in Item 3.7; accept the CEO Bulletin for the weeks of September 9-22, 2022, as contained in Item 3.8; and approve the minutes, as contained in Item 3.9.

Move to Approve: Richard Santos
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.

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

4.1. Review the Fiscal Year 2023 Board Policy Planning Calendar.

Recommendation: Review the Fiscal Year 2023 Board Policy Planning Calendar.

Max Overland, Acting Clerk of the Board, 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.

Director Hsueh requested that the Board Calendar include a work study session for the annual water supply master assessment program (MAP) under the Drought Response and Water Supply Update, Item 3.

- 4.2. Consider and Approve the September 1, 2022 Recommendation from the Board Policy and Planning Committee to Approve Proposed Changes to Board Governance Policies - Executive Limitations (EL) 4 - Financial Management and Related Board Appointed Officer (BAO) Interpretations.

Recommendation: Approve proposed changes to Board Governance Policies - Executive Limitations (EL) 4 - Financial Management and Related BAO Interpretations.

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

Move to Approve: Richard Santos
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.

- 4.3. Receive Update on Impacts of a Potential Recession and Recent High Inflation Trends on Santa Clara Valley Water District's Finances.

Recommendation: A. Receive information on impacts of a potential recession as well as recent high inflation trends on Santa Clara Valley Water District's finances; and
B. Provide feedback and direction to staff as necessary.

Chair Pro Tem Varela stepped out of the meeting and returned as noted below. During their absence, the meeting was facilitated by Vice Chairperson Pro Tem Keegan.

Darin Taylor reviewed the information on this item, per the attached Board Agenda Memo, and the corresponding presentation materials contained in Attachment 1 were reviewed by staff as follows: Darin Taylor reviewed Slides 1 through 11; Jessica Collins, Watersheds Business Planning and Analyst Manager, reviewed Slides 12 through 16; and Darin Taylor, reviewed Slides 16 through 18.

Chair Pro Tem Varela returned and resumed the facilitation of the meeting.

Director Santos requested a discussion with water retailers be added to the Capital Improvement Program Agenda.

Chair Pro Tem Varela requested a workshop on key Capital Improvement Program areas to determine what can be done proactively to address inflation concerns.

4.4. Board Committee Reports.

Director LeZotte requested a placeholder for the investigative report concerning Director Kremen be added to the October 11, 2022 Agenda.

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.

Chair Pro Tem Varela provided the Board with an update regarding the Association of California Water Agencies (ACWA) Board meeting where a new foundation was created called Diversity and Inclusion and was unanimously passed by the ACWA Board.

The Board noted the information, without formal action.

Director Kremen left the meeting and did not return.

5. WATER UTILITY ENTERPRISE:

- 5.1. Approve the Agreement with Hazen and Sawyer for On-Call Mechanical Engineering and Support Services, PlanetBids File No. VW0043, for a Not-to-Exceed Fee of \$2,000,000.

Recommendation: Approve the Agreement with Hazen & Sawyer for On-Call Mechanical Engineering and Support Services for a not-to-exceed fee of \$2,000,000.

Greg Williams, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo.

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

- 5.2. Receive Report of Bids and Reject All Bids for the Construction of 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).

- Recommendation: A. Ratify Addenda Nos. 1, 2, and 3 to the Contract Documents for the Silicon Valley Advanced Water Purification Center Storage Building Project; and
B. Reject all bids.

The Board considered Item 5.2 without a staff presentation.

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

6. WATERSHEDS:

- 6.1. Authorize Acquisition of a Real Property Interest from Edward G. Ruder and Elizabeth M. Ruder, for the Coyote Creek Flood Management Measures Project, Anderson Dam Federal Energy Regulatory Commission Order Compliance Project No. 91864007, APN 467-29-026, Real Estate File No. 4021-287 (San Jose) (District 2).

- Recommendation: A. Authorize the Chief Executive Officer to execute a Right of Way Agreement between Edward G. Ruder and Elizabeth M. Ruder and the Santa Clara Valley Water District, for acquisition of APN 467-29-026, located at 150 Arroyo Way, San Jose, CA, based upon the terms and conditions as set forth in the Agreement; and
B. Authorize the Chief Executive Officer to accept the Grant Deed from Edward G. Ruder and Elizabeth M. Ruder.

Bhavani Yerrapotu, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo.

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

7. ASSISTANT CHIEF EXECUTIVE OFFICER:

- 7.1. (ITEM REMOVED FROM AGENDA) Approve the Budget Adjustment, Receive Report of Bids, and Award the Construction Contract for the Coyote Creek Stream Augmentation Fish Protection Measure Chillers Plant Project, Anderson Dam Federal Energy Regulatory Commission Order Compliance Project No. 91864008, Contract No. C0684 in the Sum of \$5,167,000 (Morgan Hill) (Santa Clara County) (District 1).

8. EXTERNAL AFFAIRS:

None.

9. CHIEF EXECUTIVE OFFICER:

- 9.1. CEO and Chiefs' Report.

Melanie Richardson, Assistant Chief Operating Officer, introduced Ryan McCarter to the Board as the new Assistant Officer of the Dam Safety and Capital Delivery Division.

John Bourgeois, Acting Chief Operating Officer, reviewed and distributed the attached Watershed Operations and Maintenance Report, identified as Handout 9.1-C. Copies of the Handout were distributed to the Board and made available to the public.

Rachael Gibson, Chief of External Affairs, reviewed and distributed the attached Government Relations Activity Report and Civic Engagement Monthly Update, identified as Handouts 9.1-A and 9.1-B, herein. Copies of the Handouts 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 Keegan reported attending Delta Conveyance Authority (DCA) and a Green Foothills meeting; a Stream Planning and Operations Committee (SPOC) and a Board Audit Committee Meeting, meetings with Chair Pro Tem Varela and CEO Rick Callender; and a meet and greet with San Jose City Council Member Rosemary Kamei.

Director Santos reported attending a San Luis-Delta Mendota Water Authority (SLDMWA) meeting; the Coastal Cleanup special event; a meeting with CEO Rick Callender, and various meetings with staff.

Director LeZotte reported attending the aforementioned SPOC meeting; Capital Improvement Program (CIP) and Financial Committee meetings; attended a Green Business Recognition Event; and various meetings with staff.

Director Hsueh reported attending the aforementioned CIP meeting, Board Policy and Planning (BPPC), and Ethics Committee meetings; met with San Jose Vice Mayor Chappie Jones; participated in a meeting with CEO Rick Callender and various meetings with staff.

Director Estremera reported attending the aforementioned DCA meeting and Coastal Cleanup event; a Redevelopment Dissolution Countywide Oversight Board of Santa Clara County meeting; and the Santa Clara River Parkway celebration.

Chair Pro Tem Varela reported attending the aforementioned SLDMWA and Ethics Committee meetings; Morgan Hill Economic Development Committee meetings; Joint Venture Silicon Valley and River Watershed Flood Prevention meetings; the 2022 Santa Clara County Emergency Preparedness Fair; and reported participating in an interview with The Wall Street Journal.

12.2 Proposed Future Board Member Agenda Items.

None.

12.3. Clerk Review and Clarification of Board Requests.

Max Overland, Acting Clerk, Board of Directors, read the new Board Member Requests into the record.

12.4. Adjourn to Regular Meeting at 1:00 p.m., on October 11, 2022.

Chair Pro Tem Varela adjourned the meeting at 2:43 p.m., to the 1:00 p.m. Regular Meeting on October 11, 2022.

Max Overland
Acting Clerk, Board of Directors

Approved:

Date:

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