



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, AUGUST 27, 2024
11:00 AM**

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER/ROLL CALL:

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 Jim Beall, Barbara F. Keegan, Richard P. Santos, and Nai Hsueh, Chairperson presiding, constituting a quorum of the Board.

Directors Rebecca Eisenberg, Tony Estremera, and John L. Varela 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, A. Baker, M. Bilski, J. Bourgeois, R. Chan, J. Codianne, R. Gibson, V. Gin, C. Hakes, B. Hopper, R. McCarter, P. McElroy, D. Taylor, and T. Yoke.

2. 11:00 AM - CLOSED SESSION:

Chairperson Hsueh confirmed that the Board would adjourn to Closed Session to consider Items 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, and 2.7.

Carlos Orellana, District Counsel, confirmed that in regard to Item 2.2, the existing facts and circumstances that might give rise to litigation are the County of Santa Clara's request for changes to the Anderson Dam Seismic Retrofit project.

Directors Rebecca Eisenberg, Tony Estremera and John L. Varela arrived.

2.1. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL

Conference with Real Property Negotiators

Pursuant to Government Code Section 54956.8

Setting Negotiation Parameters for Price and Terms of Payment for Purchase,

Sale, or Exchange of Property Interest in APNs 728-34-020, 728-34-021,

728-35-001, 729-36-001, 678-02-031, 678-02-034, 725-06-008, 729-46-001,

725-08-001, 725-06-008, 725-05-002, and 725-04-003

Agency Negotiators: Rick Callender, Chris Hakes, Ryan McCarter, John Bourgeois

Negotiating Parties: County of Santa Clara

- 2.2. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant Exposure to Litigation
Pursuant to Government Code Section 54956.9(d)(2)
One Potential Case
- 2.3. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4)
One Potential Case
- 2.4. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(d)(4)
Two Potential Cases
- 2.5. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL
Conference with Real Property Negotiators
Pursuant to Government Code Section 54956.8
Setting Negotiation Parameters for Price and Terms of Payment for Purchase,
Sale, or Exchange of Property Interests in APNs: 835-18-042, 835-18-043 and
835-18-057
Agency Negotiators: Devin Mody and Jennifer Codianne
Negotiating Parties: Qiu Family Trust and Chian-Chung and Miriam Hsu
- 2.6. CLOSED SESSION
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957(b)(1)
Titles: CEO, District Counsel, and Clerk of the Board
- 2.7. CLOSED SESSION
CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6
Agency Designated Representative: Chair Nai Hsueh
Unrepresented Employees: CEO, District Counsel, and Clerk of the Board
- 2.8. District Counsel Report on Closed Session.

Upon return from Closed Session, the same Board members, including Directors Eisenberg, Estremera, Varela and staff were present.

Carlos Orellana, District Counsel, reported that in regard to Items 2.1, 2.2, 2.3, 2.4 and 2.5, the Board met in Closed Session with all members participating, including Directors Eisenberg, Estremera and Varela; with respect to Item 2.1 the Board gave direction to staff; with respect to Items 2.2, 2.3, and 2.4, the Board took no reportable action; with respect to Item 2.5, the Board gave direction to staff.

Nai Hsueh, Chairperson, reported that in regard to Items 2.6 and 2.7, the Board met in Closed Session with all members participating, including Directors Eisenberg, Estremera and Varela and took no reportable action.

3. 1:00 PM - TIME CERTAIN:

3.1. Pledge of Allegiance/National Anthem.

Rachael Gibson, Chief of External Affairs, led all present in reciting the Pledge of Allegiance.

3.2. Orders of the Day.

Chairperson Hsueh confirmed that Item 11.1 would be continued to the September 10, 2024, meeting.

3.3. 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.

Chairperson Hsueh moved the agenda to Item 3.5.

3.5. Receive the Information on the Water Use Projections, Water Demand Elasticity and Customer Affordability Study and Provide Feedback or Direction to Staff.

Recommendation: Receive the information on the Water Use Projections, Water Demand Elasticity and Customer Affordability Study (Study), including the Study scope and objectives, and provide feedback or direction to Staff.

Darin Taylor, Chief Financial Officer, reviewed the information on this Item, per the attached Board Agenda Memo, and the corresponding presentation materials contained in Attachment 1 were reviewed by Raftelis Financial Consultants as follows: Kevin Kostiuk, Project Manager, reviewed Slides 1 through 9 and Slides 15 through 26; Luke Wang, Professional Engineer, reviewed Slides 10 through 14.

Jim Kuhl, San Jose resident, expressed concern regarding the Water Use Projections, Water Demand Elasticity and Customer Affordability Study's necessity, and suggested that the Board consider if the value of the Study is worth the cost.

Peter Van Dyke, Agricultural Water Advisory Committee Chairperson, expressed concern regarding the Water Use Projections, Water Demand Elasticity and Customer Affordability Study's parameters, and suggested that the Board request that the study factor in long-term droughts and other factors that may affect customer affordability.

Chairperson Hsueh acknowledged receipt of the attached public comments, identified as Handout 3.5-A and Handout 3.5-B, respectively. Copies of the Handouts were distributed to the Board and made available to the public.

Chairperson Hsueh returned the agenda to Item 3.4.

3.4. Consider the Youth Commission's Policy Writing Ad-Hoc Committee Recommendation to Review the Proposed Plan to Address the Growing Concerns of Environmental Impacts in Relation to the Unhoused Population in Santa Clara County. (Continued from August 13, 2024).

Recommendation: Consider recommendation from the Youth Commission's Policy Writing Ad-Hoc Committee to:

- A. Review the proposed Plan to address the growing concerns of environmental impacts in relation to the unhoused population in Santa Clara County; and
- B. Provide feedback and recommendations to staff as necessary.

Ricardo Barajas, Program Administrator, reviewed the information on this Item, per the attached Board Agenda Memo, and Daphne Zhu and Grace Liu, Youth Commissioners, reviewed the information contained in Attachment 1.

Motion: Refer this Item to the Environmental Creek Cleanup Committee.

Move to Refer: Tony Estremera
Second: Nai Hsueh
Yeas: Jim Beall, Rebecca Eisenberg, Tony Estremera, Barbara F. Keegan, Richard Santos, John L. Varela, Nai Hsueh
Nays: None
Abstains: None
Recuses: None
Absent: None
Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

The Yeas have it, and the motion passed.

Chairperson Hsueh returned the agenda to the Consent Calendar.

REGULAR AGENDA:

4. CONSENT CALENDAR: (4.1 - 4.3)

The Board considered Consent Calendar Items 4.1 through 4.3 under one motion.

4.1. Approve and Authorize the Chief Executive Officer to Execute Second Amendment to Joint Use Agreement Permanente Creek Trail from San Francisco Bay to Rock Street No. A3402M with City of Mountain View for Bicycle and Pedestrian Path Along Permanente Creek, Project No. 26244001 (Mountain View, District 7).

Recommendation: A. Consider the potential environmental effects of modifications to the Permanente Creek Flood Protection Project, as discussed in the Final Subsequent Environmental Impact Report, certified November 2012, and subsequent addenda (1 through 6) to Final Subsequent Environmental Impact Report prepared by the Santa Clara Valley Water District;

- B. Approve the Second Amendment to the Joint Use Agreement Permanente Creek Trail From San Francisco Bay To Rock Street No. A4302M with City of Mountain View (City) for bicycle and pedestrian path along Permanente Creek;
- C. Authorize the Chief Executive Officer to execute the Second Amendment; and
- D. Authorize the Board Chair to sign the proposed transmittal letter to the City.

4.2. Receive the Semi-Annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities Aimed at Influencing Santa Clara Valley Water District Decisions, in Accordance with Santa Clara Valley Water District Ordinance No. 10-01.

Recommendation: Receive the Semi-Annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities for the period January 1, 2024, through June 30, 2024.

4.3. Accept the CEO Bulletin for the Weeks of August 9 - 22, 2024.

Recommendation: Accept the CEO Bulletin.

Motion: Approve Consent Calendar Items 4.1 through 4.3, under one motion, as follows: consider the potential environmental effects of modifications to the Permanente Creek Flood Protection Project, as discussed in the final subsequent environmental impact report, certified November 2012, and subsequent addenda (1 through 6) to final subsequent environmental impact report prepared by the Santa Clara Valley Water District; approve the second amendment to the Joint Use Agreement Permanente Creek Trail from San Francisco Bay to Rock Street No. A4302M with City of Mountain View for bicycle and pedestrian path along Permanente Creek; authorize the Chief Executive Officer to execute the second amendment; and authorize the Board Chair to sign the proposed transmittal letter to the city, as contained in Item 4.1; receive the semi-annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities for the period January 1, 2024, through June 30, 2024, as contained in Item 4.2; and accept the CEO bulletin, as contained in Item 4.3

Move to Adopt: Richard Santos
 Second: Tony Estremera
 Yeas: Jim Beall, Rebecca Eisenberg, Tony Estremera,
 Barbara F. Keegan, Richard Santos, John L. Varela,
 Nai Hsueh
 Nays: None
 Abstains: None
 Recuses: None
 Absent: None
 Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

The Yeas have it, and the motion passed.

5. BOARD OF DIRECTORS:

Nai Hsueh, Chairperson, reviewed the information on Items 5.1, 5.2 and 5.3, per the attached Board Agenda Memos.

5.1. Adopt a Resolution Providing for the Compensation for the Chief Executive Officer, a Board Appointed Officer of the Santa Clara Valley Water District.

Recommendation: A. Consider and determine compensation adjustments, if any, for the Chief Executive Officer.
 B. Adopt the Resolution PROVIDING FOR THE COMPENSATION FOR THE CHIEF EXECUTIVE OFFICER, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT; and
 C. Approve the Fifth Amendment to the Employment Agreement Between the Santa Clara Valley Water District and Enrico L. Callender, consistent with Board approved compensation adjustments.

Rick Callender, Chief Executive Officer, Carlos Orellana, District Counsel, and Michele King, Clerk of the Board, momentarily stepped out of the meeting and returned, as noted below. Brian Hopper, Senior Assistant District Counsel, sat in as District Counsel during Carlos Orellana's absence.

Motion: Each of the Board Appointed Officer's receive a 3% salary increase effective July 1, 2024, which will result in the following adjusted salaries; for Item 5.1, the Chief Executive Officer, the annual salary will be adjusted to \$512,886.40; for Item 5.2, the Clerk of the Board, the annual salary will be adjusted to \$347,776.00; for Item 5.3, the District Counsel, the annual salary will be adjusted to \$407,555.20; and adopt Resolution No. 24-42 PROVIDING FOR THE COMPENSATION FOR THE CHIEF EXECUTIVE OFFICER, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, by roll call vote.

Move to Adopt: Nai Hsueh
 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.

Director Eisenberg explained that she voted in opposition to the item because she was unable to submit her evaluations of the Board Appointed Officers within the timeframe required to be considered, and therefore could not support an action in which her opinions were not taken into account.

5.2. Adopt a Resolution Providing for the Compensation for the Clerk of the Board, a Board Appointed Officer of the Santa Clara Valley Water District.

Recommendation: A. Consider and determine compensation adjustments, if any, for the Clerk of the Board;
B. Adopt the Resolution PROVIDING FOR THE COMPENSATION FOR THE CLERK OF THE BOARD, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT; and
C. Approve the Seventh Amendment to the Employment Agreement Between the Santa Clara Valley Water District and Michele L. King, consistent with Board approved compensation.

Motion: Each of the Board Appointed Officer's receive a 3% salary increase effective July 1, 2024, which will result in the following adjusted salaries; for Item 5.1, the Chief Executive Officer, the annual salary will be adjusted to \$512,886.40; for Item 5.2, the Clerk of the Board, the annual salary will be adjusted to \$347,776.00; for Item 5.3, the District Counsel, the annual salary will be adjusted to \$407,555.20; and adopt Resolution No. 24-43 PROVIDING FOR THE COMPENSATION FOR THE CLERK OF THE BOARD, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, by roll call vote.

Move to Adopt: Nai Hsueh
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.

Director Eisenberg explained that she voted in opposition to the item because she was unable to submit her evaluations of the Board Appointed Officers within the timeframe required to be considered, and therefore could not support an action in which her opinions were not taken into account.

5.3. Adopt a Resolution Providing for the Compensation for the District Counsel, a Board Appointed Officer of the Santa Clara Valley Water District.

- Recommendation:
- A. Consider and determine compensation adjustments, if any, for the District Counsel;
 - B. Adopt the Resolution PROVIDING FOR THE COMPENSATION FOR THE DISTRICT COUNSEL, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT; and
 - C. Approve the Fourth Amendment to the Employment Agreement Between the Santa Clara Valley Water District and Juan Carlos Orellana, consistent with Board approved compensation.

Motion: Each of the Board Appointed Officer's receive a 3% salary increase effective July 1, 2024, which will result in the following adjusted salaries; for Item 5.1, the Chief Executive Officer, the annual salary will be adjusted to \$512,886.40; for Item 5.2, the Clerk of the Board, the annual salary will be adjusted to \$347,776.00; for Item 5.3, the District Counsel, the annual salary will be adjusted to \$407,555.20; and adopt Resolution No. 24-44 PROVIDING FOR THE COMPENSATION FOR THE DISTRICT COUNSEL, A BOARD APPOINTED OFFICER OF THE SANTA CLARA VALLEY WATER DISTRICT, by roll call vote.

Move to Adopt: Nai Hsueh
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.

Director Eisenberg explained that she voted in opposition to the item because she was unable to submit her evaluations of the Board Appointed Officers within the timeframe required to be considered, and therefore could not support an action in which her opinions were not taken into account.

Rick Callender, Carlos Orellana, and Michele King returned.

5.4. Board Committee Reports.

The Board reviewed the information on the August 6, 2024, Board Audit Committee; August 26, 2024, Water Supply and Demand Management Committee; August 28, 2024, Recycled Water Committee and August 29, 2024, Environmental Creek Cleanup Committee meeting summaries and agendas contained in Handouts 5.4-A through 5.4-D, respectively herein, and noted the information without formal action. Copies of the Handouts were distributed to the Board and made available to the public.

6. WATER UTILITY ENTERPRISE:

None.

7. WATERSHEDS:

7.1. Authorize the Chief Executive Officer to Negotiate and Execute the Agreement for Repairs and Access to Private Property Between Qiu Family Trust and the Santa Clara Valley Water District, for the Property Located at 9655 New Avenue, Gilroy, County of Santa Clara, California, for the Llagas Creek Embankment Repair Project, Project No. 62761027, APN 835-18-042; and Approve the Agreement for Repairs and Access to Private Property between Chian-Chung Hsu and Miriam Lin Hsu and the Santa Clara Valley Water District, for the Property Located at Guibal Avenue, Gilroy, County of Santa Clara, California, for the Llagas Creek Embankment Repair Project, Project No. 62761027, APN 835-18-057 (Gilroy, District 1).

- Recommendation:
- A. Authorize the Chief Executive Officer to negotiate and execute the Agreement for Repairs and Access to Private Property on APN 835-18-042, provided the Qiu Family Trust signs it; and
 - B. Approve the Agreement for Repairs and Access to Private Property on APN 835-18-057, owned by Chian-Chung Hsu and Miriam Lin Hsu, based upon the terms and conditions set forth in the Hsu Agreement.

The Board considered Item 7.1 without a staff presentation.

Move to Approve: John L. Varela
Second: Tony Estremera
Yeas: Jim Beall, Rebecca Eisenberg, Tony Estremera, Barbara F. Keegan, Richard Santos, John L. Varela, Nai Hsueh
Nays: None
Abstains: None
Recuses: None
Absent: None
Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

The Yeas have it, and the motion passed.

8. ASSISTANT CHIEF EXECUTIVE OFFICER:

None.

9. EXTERNAL AFFAIRS:

None.

10. CHIEF EXECUTIVE OFFICER:

10.1. CEO and Chiefs' Reports.

Rick Callender, Chief Executive Officer, reported that the Special District Leadership Foundation issued a District Transparency Certificate of Excellence to Santa Clara Valley Water District on August 6, 2024. Rita Chan, Assistant Chief Executive Officer, reported that the Independent Monitoring Committee (IMC) will tour various project sites in September and Valley Water will be hosting the Federal Energy Regulatory Committee (FERC) on September 17, 2024, at the Anderson Dam project site. Rachael Gibson, Chief of External Affairs, reviewed and distributed the attached Communications Activities, REDI Summary, and Government Relations Summary, identified as Handouts 10.1-A, 10.1-B, AND 10.1-C, respectively herein. Copies of the Handouts were distributed to the Board and made available to the public.

11. ADMINISTRATION:

11.1. Adopt a Resolution Setting Time and Date of Public Hearing on the Engineer's Report and CEQA Exemption Determination for the Security Upgrades and Enhancements Project, for Coyote Pumping Plant (Morgan Hill, District 1), Santa Teresa Water Treatment Plant (San Jose, District 7), Winfield Complex (San Jose, District 4), Headquarters Corporate Yard (San Jose, District 4), and Silicon Valley Advanced Water Purification Center (San Jose, District 3) for Project No. 60204022; and Approve a Budget Adjustment of \$5,000,000 to the Fiscal Year 2025 Budget.

Recommendation: A. Adopt the Resolution SETTING TIME AND DATE OF PUBLIC HEARING ON THE ENGINEER'S REPORT AND CEQA EXEMPTION DETERMINATION FOR THE SECURITY UPGRADES AND ENHANCEMENTS PROJECT, to occur on September 10, 2024, at 1:00 PM, in the Boardroom at Santa Clara Valley Water District, Headquarters Building, 5700 Almaden Expressway, San Jose, California; and
 B. Approve a Fiscal Year 2025 budget adjustment in the amount of \$5,000,000 for the Security Upgrades and Enhancements Project, Project No. 60204022.

The Board continued the item to the September 10, 2024, meeting.

12. DISTRICT COUNSEL:

None.

13. BOARD POLICY PLANNING CALENDAR/PROPOSED FUTURE BOARD AGENDA ITEMS:

13.1. Review the Fiscal Year 2024-2025 Board Policy Planning Calendar.

Recommendation: Review the Fiscal Year 2024-2025 Board Policy Planning Calendar.

Nai Hsueh, Chairperson, 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.

14. BOARD MEMBER REPORTS/ANNOUNCEMENTS:

Director Keegan reported attending a Board Audit Committee (BAC), Water Supply and Demand Management Committee (WSDM), Stream Planning and Operations Committee (SPOC) and Delta Conveyance Design and Construction Joint Powers Authority (DCA) meetings; a San Jose Civic Club special event; and reported participating in various meetings with staff.

Director Varela reported attending the Agricultural Water Advisory Committee meeting.

Director Estremera reported attending the aforementioned SPOC, Delta Conveyance Design and Construction Joint Powers Authority (DCA) meetings; and Capital Improvement Program (CIP) Committee meetings; the Quarterly Environmental Stakeholders meeting; and reported attending Valley Water Night at the San Jose Giant's game.

Director Hsueh reported attending the aforementioned Quarterly Environmental Stakeholders meeting, CIP Committee; Youth Commission (YC), and San Francisquito Creek Joint Powers Authority (SFCJPA) meetings; and reported participating in various meetings with staff.

Director Santos reported attending the aforementioned WSDM Committee, and San Jose Giants Game; a Milpitas Rotary Club meeting; and reported participating in various meetings with staff.

Director Eisenberg reported auditing the aforementioned BAC, SPOC, CIP, YC committees and the SFCJPA meetings.

Director Beall reported attending a Working Partnership USA meeting; the annual National Alliance on Mental Illness (NAMI) Walk; and reported participating in the San Jose Pride Walk with Valley Water staff.

15. CLERK REVIEW AND CLARIFICATION OF BOARD REQUESTS:

Max Overland, Deputy Clerk, Board of Directors, confirmed that there were no new

Board Member Requests.

16. ADJOURN:

16.1 Adjourn to the 11:00 a.m. Closed Session and Regular Meeting on September 10, 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 2:48 p.m., to the 11:00 a.m. Closed Session and 1:00 p.m. Regular Meeting on September 10, 2024, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California, and via Zoom teleconference.

Max Overland, CMC
Deputy Clerk, Board of Directors

Approved:

Date: