



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, AUGUST 11, 2020
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, at 11:00 a.m.

1.1 Roll Call.

Board members in attendance were Nai Hsueh and Richard Santos. Board members participating by teleconference were Barbara Keegan, Linda LeZotte, and John L. Varela, constituting a quorum of the Board.

Director Tony Estremera arrived, and Director Gary Kremen joined the meeting by teleconference, as indicated below.

Staff in attendance was M. King, Clerk, Board of Directors. Staff participating by teleconference were R. Callender, Chief Executive Officer, S. Yamamoto, District Counsel, A. Baker, A. Fulcher, R. Gibson, A. Gschwind, G. Hall, B. Hopper, H. McMahon, M. Richardson, D. Rocha, D. Taylor, S. Tippets, and T. Yoke.

2. TIME CERTAIN:

11:00 AM

Chairperson Hsueh confirmed that the Board would adjourn to Closed Session for consideration of Items 2.1 and 2.2.

During Closed Session, Director Estremera arrived.

Upon return to Open Session, Director Kremen joined the meeting by teleconference and the same Board members and staff, including Directors Estremera and Kremen, were present.

- 2.1 CLOSURE SESSION
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code §54956.9(d)(1);
Great Oaks v. SCVWD
Master Complaint, {Inverse Condemnation; Declaratory Relief; Writ of Mandate;
Claim for Refund}
Case No. 2011-1-CV-205462, and related cases.
- 2.2 CLOSURE SESSION
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
POTENTIAL Litigation
(one potential case)
Pursuant to Government Code Section 54956.9(d)(4).

1:00 PM

- 2.3 District Counsel Report on Closed Session.

Mr. Stan Yamamoto, District Counsel, reported that in regard to Item 2.1, the Board met in Closed Session with all members present, excluding Director Kremen, and gave direction to staff; and Mr. Andrew Gschwind, Assistant District Counsel, reported that in regard to Item 2.2, the Board met in Closed Session with all members present, excluding Director Kremen, and gave direction to staff.

- 2.4 Pledge of Allegiance/National Anthem.

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

- 2.5 Orders of the Day.

Chairperson Hsueh 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.

Three statements expressing concern with delays, and requesting Board action to expedite the settlement of claims associated with the 2017 President's Day Weekend Flooding Event were received from Ms. Jolene Noelle and Sania Ellis, and a speaker identified by first name only as Teresa, San Jose residents.

- 2.7 California Proposition 15, Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative Presentation by Santa Clara County Assessor Larry Stone.

Recommendation: Receive information on California Proposition 15, Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative presentation by Santa Clara County Assessor Larry Stone.

Mr. Donald Rocha, Acting Deputy Administrative Officer, reviewed the information on this item, per the attached Board Agenda Memo, and advised the Board that staff would come back with analysis and a recommended position on Proposition 15 during the September 22, 2020 regular meeting.

Mr. Larry Stone, Santa Clara County Tax Assessor, expressed opposition to the 2020 ballot Proposition 15, requested that the Board consider adopting a position of “Oppose” on the item as well, and listed the following ambiguities and challenges associated with the item: the Proposition does not provide for a reasonable, phased-in approach to implementation; the Proposition’s indicators for small businesses that may be eligible for exclusion are not defined in a manner that will realistically allow small businesses to qualify; a high number of appeals are anticipated to be filed, creating backlogs in processing and unpredictability budget planning processes for special districts such as Valley Water arising from granted appeals.

Eight statements expressing support for Proposition 15 were received from: Mr. Brian Wheatley, Board Member, San Jose Unified School District; Ms. Nancy Shepherd, President, Palo Alto League of Women Voters; Ms. Dilza Gonzalez, and Mr. Bob Brownstein, of undisclosed agency affiliation or residency; Mr. Michael Duffy, President, Professional Managers Association; Mr. Brian Dane, American Federation of State, County and Municipal Employees, Local 101; Ms. Emily Cagape, Community Organizer, Evolve California; Mr. Stanley Young and Ms. Kathy Tran, International Federation of Professional and Technical Engineers, Local 21, and Ms. Flor De Leon, Community Organizer, Somos Mayfair.

Two statements expressing opposition to Proposition 15 were received from: Mr. Matthew Peralta, Executive Director, Building Owners and Managers Association of Silicon Valley, and Mr. Dan Kostenbauder, Vice-President for Tax Policy, Silicon Valley Leadership Group.

The Board noted the information without formal action.

2.8 Receive and Discuss Information Regarding Pension Liability and the Potential Use of Pension Obligation Bonds (Continued from July 28, 2020).

Recommendation: Receive and discuss information regarding pension liability and the potential use of pension obligation bonds and provide staff with further direction as necessary.

Mr. Darin Taylor, Chief Financial Officer, reviewed the information on this item, per the attached Board Agenda Memo and per the corresponding presentation materials contained in Attachment 1.

Director Santos suggested that another update be brought back to the Board in January or February 2021.

Mr. Duffy expressed appreciation for Board efforts to proactively protect pension benefits for Valley Water employees.

The Board noted the information, without formal action.

The Board considered Items 2.9 and 2.10 without staff presentations.

2.9 Approve the Revised Fiscal Year 2020-2021 Santa Clara Valley Water District Investment Policy and Approve an Update Executive Limitations Policy EL-4.7, Financial Management (Continued from July 28, 2020).

Recommendation: A. Approve the Revised Fiscal Year 2020-2021 Santa Clara Valley Water District Investment Policy;
B. Approve an update to Executive Limitation Policy EL-4.7, Financial Management; and
C. Provide additional direction to staff as necessary.

Move to Approve: John L. Varela
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.

2.10 Receive Information and Authorize Staff to Proceed with Negotiation of Bank Line(s) of Credit with Aggregate Stated Amount Not-to-Exceed \$200 Million (Continued from July 28, 2020).

Recommendation: A. Receive information regarding bank line(s) of credit solicitation; and
B. Authorize Staff to Proceed with Negotiation of Bank Line(s) of Credit with Aggregate Stated Amount Not-to-Exceed \$200 Million, and return to the Board for approval for execution of the related agreements.

Move to Authorize: Gary Kremen
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.

3. CONSENT CALENDAR:

The Board considered Consent Calendar Items 3.1 through 3.5 under one motion.

3.1 Adopt Plans and Specifications and Authorize Advertisement for Bids for the Central and Parallel East Pipelines Inspection and Rehabilitation Project, Project No. 95084002, Contract No. C0661 (San Jose and Unincorporated Santa Clara County), (Districts 1, 2, 4, 6, and 7).

Recommendation: A. Find that the Central and Parallel East Pipelines Inspection and Rehabilitation Project is substantially complex and requires a construction contract retention of 10 percent;
B. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the Central and Parallel East Pipelines Inspection and Rehabilitation Project per the Notice to Bidders; and

C. Authorize the Designated Engineer to issue addenda, as necessary, during the bidding process.

3.2 Approve Amendment No. 2 to Agreement A4139F with Governmental Advocates, Inc., for State Lobbying Services, to Increase the Fee by \$109,200 for a Total Revised Fee Not-to-Exceed \$336,700 and Extend the Agreement Term to September 30, 2021.

Recommendation: Approve Amendment No. 2 to Agreement A4139F with Governmental Advocates, Inc., for State Lobbying Services, to increase the fee by \$109,200 for a total revised Fee Not-to-Exceed \$336,700, and extend the Agreement term to September 30, 2021.

3.3 Notice of Completion of Contract and Acceptance of Work for the Vasona Pump Station Fence and Gate Replacement Project Phase 1, AAA Fence Company, Inc., Contractor, Project No. 92764009, Contract No. 0654 (Los Gatos) (District 7).

Recommendation: A. Accept the work as complete for Vasona Pump Station Fence and Gate Replacement Project Phase 1, Project No. 92764009, Contract No. C0654; and
B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work and submit for recording to the County of Santa Clara Office of the Clerk-Recorder.

3.4 Receive Semi-Annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities Aimed at Influencing District Decisions, in Accordance With District Ordinance No. 10-01.

Recommendation: Receive the Semi-Annual Lobbyist Report of Individuals Engaged in Compensated Lobbying Activities for the period January 1, 2020 through June 30, 2020.

3.5 Accept the CEO Bulletin for the Weeks of July 17-30, 2020.

Recommendation: Accept the CEO Bulletin.

Motion: Approve Consent Calendar Items 3.1 through 3.5, under one motion, as follows: find that the Central and Parallel East Pipelines Inspection and Rehabilitation Project is substantially complex and requires a 10 percent construction contract retention, adopt Plans and Specifications and authorize advertisement for bids for construction, and authorize the Designated Engineer to issue addenda, as contained in Item 3.1; approve Amendment No. 2 to Agreement A4139F with Governmental Advocates, Inc., for State Lobbying Services, to increase the fee by \$109,200 for a total revised Fee Not-to-Exceed \$336,700, and extend the Agreement term to September 30, 2021, as contained in Item 3.2; accept the work as complete and authorize the Clerk to sign and file the Notice of Completion of Contract and Acceptance of Work for the Vasona Pump Station

Fence and Gate Replacement Project Phase 1, as contained in Item 3.3; receive the Semi-Annual Lobbyist Report for the period January 1, 2020 through June 30, 2020, as contained in Item 3.4; and accept the CEO Bulletin, as contained in Item 3.5.

Move to Approve: John L. Varela
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.

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

- 4.1 Receive Overview of Valley Water's Current Budget Processes and Consider the Benefits and Drawbacks Associated with Biennial Budgeting.

Recommendation: A. Review Valley Water's current annual budget process in relation to a biennial budget process in order to identify the benefits and drawbacks associated with each; and
B. Direct staff to implement a rolling biennial budget process to be updated annually after implementation of, and demonstrated stability of, the Infor Enterprise Resource Planning system.

Mr. Taylor reviewed the information on this item, per the attached Board Agenda Memo, and the presentation materials contained in Attachment 1 were reviewed by staff as follows: Mr. Enrique De Anda, Budget Manager, reviewed Slides 1 through 5, and 9 through 12; and Ms. Kristie Resendez, Management Analyst II, reviewed Slides 6 through 8.

Motion: Authorize staff to implement a rolling biennial budget process to be updated annually after implementation of, and demonstrated stability of, the Infor Enterprise Resource Planning system.

Move to Authorize: Richard Santos
Second: John L. Varela
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.

Motion: Refer to staff to develop the scope and purpose of a Board Budget Committee, and come back to the Board for consideration of enactment.

Move to Refer
to Staff: 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.

Director Kremen concluded his participation in the meeting by teleconference, and did not rejoin.

- 4.2 Approve Amendment No. 3 to Agreement No. A4071A with TAP International, Inc. for Board Independent Auditing Services Increasing the Not-to-Exceed Fee by \$250,000, for a Total Revised Fee of \$1,255,000.

Recommendation: Approve Amendment No. 3 to Agreement No. A4071A with TAP International, Inc. for Board Independent Auditing Services, increasing the not-to-exceed Fee by \$250,000, for a revised total fee of \$1,255,000.

The Board considered Item 4.2 without a staff presentation.

Move to Approve: Tony Estremera
Second: Richard Santos
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.

Ms. Michele King, Clerk, Board of Directors, reviewed the information on Items 4.3 and 4.4, per the attached Board Agenda Memos.

- 4.3 Approve Fiscal Year 2020-2021 Board Work Plan.

Recommendation: A. Review and approve the Fiscal Year 2020-2021 Board Work Plan; and
B. Discuss outreach plans, and provide additional direction, if necessary, to staff on how the Plan should be distributed.

Move to Approve: Tony Estremera
Second: Richard Santos
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.

4.4 Fiscal Year 2021 Board Policy Planning Calendar.

Recommendation: Review and approve the Fiscal Year 2021 Board Policy Planning Calendar.

Move to Approve: 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.

4.5 Proposed Future Board Member Agenda Items.

None.

5. WATER UTILITY ENTERPRISE:

Mr. Aaron Baker, Deputy Operating Officer, reviewed the information on Items 5.1 and 5.2, per the attached Board Agenda Memos.

5.1 Update on 2020 Water Supply Conditions and Initial 2021 Outlook Scenarios.

Recommendation: Receive, review, and discuss information on water supply conditions.

Mr. Bassam Kassab, Water Supply Operations Manager, reviewed the attached presentation materials for this item, contained in Attachment 1.

The Board expressed interest in receiving an updated assessment of water supply conditions in Spring of 2021, and requested that staff continue to come back with general information and updates to the Board on water supply conditions and outlooks regularly.

The Board noted the information, without formal action.

5.2 Update on Per- and Polyfluoroalkyl Substances (PFAS).

Recommendation: Receive information on Per- and Polyfluoroalkyl Substances (PFAS).

Mr. George Cook, Senior Water Resources Specialist Manager, reviewed the attached presentation materials for this item, contained in Attachment 3.

The Board noted the information, without formal action.

6. WATERSHEDS:

None.

7. EXTERNAL AFFAIRS:

None.

8. CHIEF EXECUTIVE OFFICER:

8.1 Update on COVID-19 Response.

Mr. Alexander Gordon, Emergency and Security Manager, advised the Board that as of current, a total of eight Valley Water regular, contract, consultant, temporary, and intern employees had reported receiving positive COVID-19 test results. He discussed the measures in place to protect Valley Water from the spread of COVID-19 within the workplace and expressed confidence that, with these measures, no impact was expected to Valley Water's ability to continue providing critical services and infrastructure to Santa Clara County.

8.2 CEO and Chiefs' Report.

Ms. Tina Yoke, Chief Operating Officer, Administration and Information Technology, reported on efforts to update Valley Water's Teleworking Policy.

Ms. Sue Tippets, Acting Chief Operating Officer, Watersheds, reviewed the information contained in the attached Stream Maintenance report, identified as Handout 8.2-C herein.

Ms. Rachael Gibson, Acting Chief of External Affairs, reviewed the information contained in the attached Office of Civic Engagement and Office of Communications reports, identified respectively as Handouts 8.2-A and 8.2-B herein.

Copies of the Handouts were distributed to the Board and made available to the public.

9. ADMINISTRATION:

None.

10. DISTRICT COUNSEL:

None.

11. ADJOURN:

11.1 Board Member Reports/Announcements.

Director Varela reported attending the Association of California Water Agencies (ACWA) Region 5 conference, the Valley Water Association of Black Employees (ABE) Employee Resource Group (ERG) celebration of newly-appointed CEO Rick Callender, and various other virtual internal and external committee meetings, and virtual meetings with staff.

Director Keegan reported attending the aforementioned ABE ERG celebration, a virtual Recycled Water Committee (RWC) meeting, and various other virtual committee meetings and meetings with staff.

Director Santos reported attending the aforementioned ABE ERG celebration, observing the aforementioned RWC meeting, and attending a virtual Landscape Committee meeting.

Director LeZotte reported attending the aforementioned ACWA conference, ABE ERG celebration, and Landscape Committee meeting, the Silicon Valley Leadership Group Virtual Summit, and virtual Local Agency Formation Commission and Capital Improvement Program (CIP) Committee meetings.

Chairperson Hsueh reported attending a virtual Project Labor Agreement (PLA) Board Working Group meeting.

Director Estremera reported attending the aforementioned RWC, CIP, and PLA Working Group meetings, and a virtual meeting with staff.

11.2 Clerk Review and Clarification of Board Requests.

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

11.3 Adjourn to Special Meeting at 9:00 a.m., on Friday, August 14, 2020, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.

Chairperson Hsueh adjourned the meeting at 5:00 p.m. to the Adjourn to Special Closed Session Meeting at 9:00 a.m., on Friday, August 14, 2020, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.

Michele L. King, CMC
Clerk, Board of Directors

Approved:

Date: