



BOARD OF DIRECTORS MEETING

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# MINUTES

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**CLOSED SESSION AND REGULAR MEETING  
TUESDAY, JANUARY 24, 2023  
11:00 AM**

(Paragraph numbers coincide with agenda item numbers)

**1. CALL TO ORDER:**

1.1. Roll Call.

Board members in attendance were J. Beall, T. Estremera, N. Hsueh, B. Keegan, R. Santos, and J. Varela, Chairperson presiding, constituting a quorum of the Board.

Director Eisenberg arrived as noted below.

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, B. Broome, J. Codianne, M. Cook, R. Gibson, A. Gordon, C. Hakes, B. Hopper, M. Lugo, P. McElroy, T. Ndah, L. Orta, L. Penilla, M. Richardson, D. Rocha, K. Struve, D. Taylor, G. Williams, B. Yerrapotu, and T. Yoke.

**2. TIME CERTAIN:**

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

Director Eisenberg arrived.

**11:00 AM**

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

- 2.1. **CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION**  
Pursuant to Government Code Section 54956.9(d)(1)  
San Francisco Baykeeper v. Santa Clara Valley Water District Santa Clara  
County Superior Court Case Number 22CV403523

- 2.2. CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL INITIATION OF LITIGATION  
Pursuant to Government Code Section 54956.9(d)(4)  
One Potential Case

**1:00 PM**

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

- 2.3. District Counsel Report on Closed Session.

Carlos Orellana, District Counsel, reported that in regard to Items 2.1 through 2.2, the Board met in Closed Session with all members participating, including Director Eisenberg, and took no reportable action.

- 2.4. Pledge of Allegiance/National Anthem.

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

- 2.5. Orders of the Day.

Chairperson 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.

Charles Taylor, a resident of Alviso, expressed gratitude regarding Valley Water's projects to help mitigate flooding in this community.

- 2.7. Receive Santa Clara Valley Water District's 2022 Government Relations Program Report and 2023 Legislative Outlook.

- Recommendation:
- A. Receive information on the 2022 Valley Water government relations advocacy and stakeholder engagement program;
  - B. Receive 2023 legislative outlook from federal and state consultants; and
  - C. Provide input on current and future challenges, goals, and accomplishments since the last presentation to the Board of Directors.

Marta Lugo, Assistant Officer, and Bart Broome, Assistant Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Steve Hansen, Lighthouse Public Affairs, LLC, updated the Board on the 2023 state legislative outlook.

Ben Miller, Kadish and Associates, LLC, updated the Board on the 2023 federal legislative outlook.

The Board noted the information without formal action.

2.8. Conduct a Public Hearing on Proposed Modifications to Projects under Priorities D and E of the Renewed Safe, Clean Water and Natural Flood Protection Program.

- Recommendation:
- A. Open and conduct the public hearing to receive comments on the renewed Safe, Clean Water and Natural Flood Protection Program's following projects:
    - i. D3: Sediment Reuse to Support Shoreline Restoration;
    - ii. D4: Fish Habitat and Passage Improvement;
    - iii. D6: Restoration of Natural Creek Functions;
    - iv. E2: Sunnyvale East and Sunnyvale West Channels Flood Protection; and
    - v. E4: Upper Penitencia Creek Flood Protection Project;
  - B. Close the public hearing;
  - C. Review and Approve the Proposed Text Adjustments to D3: Sediment Reuse to Support Shoreline Restoration;
  - D. Adopt the resolution APPROVING THE MODIFICATION TO D3: SEDIMENT REUSE TO SUPPORT SHORELINE RESTORATION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
  - E. Adopt the resolution APPROVING THE MODIFICATION TO PROJECT D4: FISH HABITAT AND PASSAGE IMPROVEMENT PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
  - F. Adopt the resolution APPROVING THE MODIFICATION TO D6: RESTORATION OF NATURAL CREEK FUNCTIONS PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM;
  - G. Adopt the resolution APPROVING THE MODIFICATION TO E2: SUNNYVALE EAST AND SUNNYVALE WEST CHANNELS FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM; and
  - H. Adopt the resolution APPROVING THE MODIFICATION TO E4: UPPER PENITENCIA CREEK FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM.

Chairperson Varela opened the Public Hearing.

Chairperson Varela declared time open for public comments.

Jessica Collins, Watersheds Business Planning and Analysis Manager, reviewed the information on this item, per the attached Board Agenda Memo.

Jeffrey Hare, Independent Monitoring Committee Chair, requested from the Board a breakdown of the \$162M increased costs to Project E1: Coyote Creek Flood Protection (Coyote Creek Project).

Chairperson Varela closed the Public Hearing.

Motion: Adopt Resolution Nos. 23-03, APPROVING THE MODIFICATION TO THE SEDIMENT REUSE TO SUPPORT SHORELINE RESTORATION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM, 23-04, APPROVING THE MODIFICATION TO THE FISH HABITAT AND PASSAGE IMPROVEMENT PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM, 23-05, APPROVING THE MODIFICATION TO THE RESTORATION OF NATURAL CREEK FUNCTIONS PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM, 23-06, APPROVING THE MODIFICATION TO THE SUNNYVALE EAST AND WEST CHANNELS FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM, and 23-07, APPROVING THE MODIFICATION TO THE UPPER PENITENCIA CREEK FLOOD PROTECTION PROJECT OF THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM, by roll call vote.

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

2.9. Conduct a Public Hearing to Consider Adopting a Resolution of Necessity Relating to Acquisition of a Real Property Interest from an Unknown Owner, Necessary to Construct the Coyote Creek Flood Management Measures Project (Project No. 91864007), Valley Water File 4021-305 (San Jose, District 3).

- Recommendation:
- A. Open and conduct the Public Hearing to consider adoption of a Resolution of Necessity (RON) relating to the acquisition of a real property interest from Unknown Owner, necessary to complete the Coyote Creek Flood Management Measures Project;
  - B. Close the Public Hearing; and
  - C. Adopt the Resolution DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN FOR THE COYOTE CREEK FLOOD MANAGEMENT MEASURES PROJECT, PROJECT NO. 91864007, by two-thirds vote (5 out of 7).

Chairperson Varela opened the Public Hearing.

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

Chairperson Varela declared time open for public comments and, seeing no one present who wished to speak, closed the Public Hearing.

Motion: Adopt Resolution No. 23-08 DETERMINING AND DECLARING THE PUBLIC NECESSITY FOR THE ACQUISITION OF CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN FOR THE COYOTE CREEK FLOOD MANAGEMENT MEASURES PROJECT, PROJECT NO. 91864007, by a two-thirds roll call vote (5 out of 7).

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

### 3. CONSENT CALENDAR:

Chair Varela acknowledged Item 3.2 was moved to Item 4.4 and Item 3.5 was moved to 8.1 on the Agenda, and the Board considered Consent Calendar Items 3.1, 3.3 through 3.4, and 3.6 through 3.7, under one motion.

- 3.1. Adopt Plans and Specifications and Authorize Advertisement for Bids for the Federal Energy Regulatory Commission (FERC) Order Compliance Project Coyote Percolation Dam Replacement Project, Project No. 91864009, Contract No. C0693 (San Jose) (District 1).

Recommendation:   A.    Adopt Plans and Specifications and Authorize Advertisement for Bids for the FERC Order Compliance Project (FOCP) Coyote Percolation Dam Replacement Project, per the Notice to Bidders; and  
                          B.    Authorize the Designated Engineer to issue addenda, as necessary, during the bidding process.

- 3.2. (MOVED TO ITEM 4.4) Santa Clara Valley Water District Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022, and other Independent Auditor's Reports.

- 3.3. Adopt a Resolution Declaring February 2023 as National Black History Month.

Recommendation:   Adopt the RESOLUTION DECLARING FEBRUARY 1 TO FEBRUARY 28, 2023, AS NATIONAL BLACK HISTORY MONTH.

- 3.4. Declaration of November 8, 2022, General Election and Official Results for Board of Directors Districts 6 and 7 and Appointment of Directors to Represent Districts 1 and 4.

Recommendation:   A.    Accept the County of Santa Clara Registrar of Voters' Certificates of Election Results and Statement of Votes for District 6 and District 7, declaring the totals to be the final results of the election, and declaring elected the person having received the highest number of votes for this office; and  
                          B.    Accept the Santa Clara County Registrar of Voters' Certificate of Election Facts and Request to Fill Elective Office by Appointment for District 1 and District 4.

- 3.5. (MOVED TO ITEM 8.1) Approve Amendments to the 2023 Legislative Policy Proposals and Guiding Principles.

3.6. Accept the CEO Bulletin for the Weeks of January 6-19, 2023.

Recommendation: Accept the CEO Bulletin.

3.7. Approval of Minutes.

Recommendation: Approve the minutes.

Motion: Approve Consent Calendar Items 3.1, 3.3. through 3.4, and 3.6 through 3.7, under one motion, as follows: adopt Plans and Specifications and authorize advertisement for bids for Federal Energy Regulatory Commission Order Compliance Project Coyote Percolation Dam Replacement Project per Notice to Bidders and authorize the designated engineer to issue addenda as necessary during the bidding process, as contained in Item 3.1; adopt Resolution No. 23-09, RESOLUTION DECLARING FEBRUARY 1 TO FEBRUARY 28, 2023, AS NATIONAL BLACK HISTORY MONTH, by roll call vote, as contained in Item 3.3; accept the County of Santa Clara Registrar of Voters' Certificates of Election Results and Statement of Votes for District 6 and District 7, declaring the totals to be the final results of the election, and declaring elected the person having received the highest number of votes for this office, and accept the Santa Clara County Registrar of Voters' Certificate of Election Facts and request to fill elective office by appointment for District 1 and District 4, as contained in Item 3.4, accept the CEO Bulletin, as contained in Item 3.6, and approve the minutes, as contained in Item 3.7.

Move to Approve: Richard Santos

Second: Nai Hsueh

Yeas: John L. Varela, Jim Beall, Rebecca Eisenberg, Tony Estremera, Nai Hsueh, Barbara F. Keegan, Richard Santos

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.

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.

The Board noted the information without formal action.

4.2. Review of 2023 Board Committee Appointments.

Recommendation: A. Review, revise if necessary, and approve individual Board Committee purpose descriptions;  
B. Create or disband Board Committee(s), as necessary;  
C. Review and approve the proposed 2023 Board Committee appointments as submitted by 2023 Board Chair; and  
D. Appoint new Board Committee Representatives, as necessary.

Chairperson Varela reviewed this item per the attached Board Agenda Memo.

Margaret, of undisclosed location, expressed support in removing the CIP from consideration at today's Board meeting and returning this to the Board for further consideration at a future Board meeting.

Katja Irvin, a San Jose resident, expressed opposition to disbanding the Climate Sustainability Committee and encouraged the Board to continue strong efforts to promote women and to make an extra effort given historic inequality.

Motion: Delay the approval of committee appointments to the next Board meeting.

Move to Approve: Rebecca Eisenberg

Second: The motion did not receive a second and was lost.

Motion: Remove the Capital Improvement Plan (CIP) Committee from the Board Committee Appointments and bring this back to the Board, at a future meeting, for further consideration and to appoint four members to the CIP Committee and to change Board Policy to reflect this change.

Move to Approve: Rebecca Eisenberg



Second: Barbara F. Keegan  
Yeas: Rebecca Eisenberg, Barbara F. Keegan  
Nays: John L. Varela, Jim Beall, Tony Estremera, Nai Hsueh, Richard Santos  
Abstains: None  
Recuses: None  
Absent: None  
Summary: 2 Yeas; 5 Nays; 0 Abstains; 0 Absent.

The motion failed for lack of votes.

Motion: Board Chair Committee Recommendations as listed in Handout 4.2-A with the following changes:

- Add Director Eisenberg to the Diversity and Inclusion Ad Hoc Committee and remove Chairperson Varela;
- Add Director Keegan to the Delta Conveyance Authority Workgroup and remove Director Eisenberg; and
- Add Director Keegan to the Stream Planning and Operations Committee and remove Director Hsueh.

Move to Approve: Richard Santos  
Second: Nai Hsueh  
Yeas: John L. Varela, Jim Beall, Tony Estremera, Nai Hsueh, Barbara F. Keegan, Richard Santos  
Nays: Rebecca Eisenberg  
Abstains: None  
Recuses: None  
Absent: None  
Summary: 6 Yeas; 1 Nays; 0 Abstains; 0 Absent.

#### 4.3. Board Committee Reports.

None.

#### 4.4. Santa Clara Valley Water District Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022, and other Independent Auditor's Reports. (PREVIOUSLY LISTED AS ITEM 3.2)

Recommendation: Accept the Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022, and other Independent Auditor's Reports.

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

Move to Accept: Tony Estremera  
Second: Richard Santos

Yeas: John L. Varela, Jim Beall, Tony Estremera, Nai Hsueh, Barbara F. Keegan, Richard Santos  
Nays: None  
Abstains: Rebecca Eisenberg  
Recuses: None  
Absent: None  
Summary: 6 Yeas; 0 Nays; 1 Abstains; 0 Absent.

**5. WATER UTILITY ENTERPRISE:**

None.

**6. WATERSHEDS:**

6.1. Approve Amendment No. 2 to Agreement No. A4325G, with Horizon Water and Environment, LLC, for Environmental Planning and Permitting Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, Increasing the Not-to-Exceed Fee by \$2,730,094 for a Total Not-to-Exceed Fee of \$10,198,324 (Morgan Hill) (District 1).

Recommendation: Approve Amendment No. 2 to Agreement No. A4325G with Horizon Water and Environment, LLC for Environmental Planning and Permitting Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, increasing the not-to-exceed Fee by \$2,730,094, for a total not-to-exceed Fee of \$10,198,324.

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

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

**7. ASSISTANT CHIEF EXECUTIVE OFFICER:**

None.

**8. EXTERNAL AFFAIRS:**

Director Estremera left the meeting and returned as noted below.

8.1. Approve Amendments to the 2023 Legislative Policy Proposals and Guiding Principles. (PREVIOUSLY LISTED AS ITEM 3.5)

Recommendation: Review and approve amendments to the 2023 Legislative Policy Proposals and Guiding Principles.

Bart Broome reviewed the information on this item, per the attached Board Agenda Memo.

Move to Approve: Richard Santos  
Second: Jim Beall  
Yeas: John L. Varela, Jim Beall, Nai Hsueh, Barbara F. Keegan, Richard Santos  
Nays: Rebecca Eisenberg  
Abstains: None  
Recuses: None  
Absent: Tony Estremera  
Summary: 5 Yeas; 1 Nays; 0 Abstains; 1 Absent.

**9. CHIEF EXECUTIVE OFFICER:**

Director Estremera returned.

9.1. Receive and Discuss the Overview of the Santa Clara Valley Water District's Fiscal Year 2023-24 First Pass Biennial Budget.

Recommendation: Receive and discuss the overview of the Santa Clara Valley Water District's Fiscal Year 2023-24 First Pass Biennial Budget.

Enrique De Anda, Budget Manager, 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 and took no formal action.

Katja Irvin expressed interest in the Board providing more time for the public to provide input during the biennial budget review.

Chairperson Varela moved the agenda to Item 10.1.

**10. ADMINISTRATION:**

10.1. Update on the Countywide Flood Emergency and Determination that the Countywide Flood Emergency Conditions Continue to Constitute an Emergency.

Recommendation:   A.    Receive an update on the Flood Emergency; and  
                          B.    Determine by a four-fifths vote of the Board that there is a need to continue the emergency action declared by the Chief Executive Officer (CEO) on January 4, 2023, pursuant to California Public Contract Code §22050 to address the countywide flood emergency.

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

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

Chairperson Varela returned the agenda to Item 9.2.

9.2. CEO and Chiefs' Report.

Rick Callender, Chief Executive Officer, reviewed the attached Office of Civic Engagement, Office of Government Relations, Watersheds Operations and Maintenance, and Storm Reports, identified as Handouts 9.2-A, 9.2-B, 9.2-C, and 9.2-D, respectively. Copies of the Handouts were distributed to the Board and made available to the public.

**11. DISTRICT COUNSEL:**

None.

**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 Regular Meeting at 1:00 p.m., on February 14, 2023.

Chairperson Varela adjourned the meeting in honor of Holocaust Remembrance Day, January 27, 2023, at 4:10 p.m., to the 1:00 p.m. Regular meeting on February 14, 2023.

Michele L. King, CMC  
Clerk/Board of Directors

Approved:

Date: February 28, 2023

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