



Santa Clara Valley Water District Board of Directors Meeting

Teleconference Zoom Meeting

SPECIAL MEETING AGENDA

**Tuesday, September 28, 2021
3:00 PM**

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

DISTRICT BOARD OF DIRECTORS
Tony Estremera, Chair - District 6
Gary Kremen, Vice Chair - District 7
John Varela - District 1
Barbara Keegan - District 2
Richard P. Santos - District 3
Linda J. LeZotte - District 4
Nai Hsueh - District 5

During the COVID-19 restrictions, all public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body, will be available to the public through the legislative body agenda web page at the same time that the public records are distributed or made available to the legislative body, or through a link in the Zoom Chat Section during the respective meeting. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to participate in the legislative body's meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

RICK L. CALLENDER, ESQ.
Chief Executive Officer

MICHELE L KING, CMC
Clerk of the Board
(408) 265-2600
Fax (408) 266-0271
www.valleywater.org

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.

Santa Clara Valley Water District
Board of Directors
SPECIAL MEETING
AGENDA

Tuesday, September 28, 2021

3:00 PM

Teleconference Zoom Meeting

IMPORTANT NOTICES

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-08-21 issued on June 11, 2021 that allows attendance by members of the Board of Directors, District staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

In accordance with the requirements of Gov. Code Section 54954.3(a), members of the public wishing to address the Board/Committee at a video conferenced meeting, during public comment or on any item listed on the agenda, should use the "Raise Hand" tool located in Zoom meeting link listed on the agenda, at the time the item is call. Speakers will be acknowledged by the Board Chair in the order requests are received and granted speaking access to address the Board.

Santa Clara Valley Water District (District), in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access and/or participate in District Board meetings to please contact the Clerk of the Board's office at (408) 630-2711, at least 3 business days before the scheduled District Board meeting to ensure that the District may assist you.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Sections 54950 et. seq. and has not been prepared with a view to informing an investment decision in any of Valley Water's bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of Valley Water's bonds, notes or other obligations and investors and potential investors should rely only on information filed by the District on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures and Valley Water's Investor Relations website, maintained on the World Wide Web at <https://emma.msrb.org/> and <https://www.valleywater.org/how-we-operate/financebudget/investor-relations>, respectively.

Under the Brown Act, members of the public are not required to provide identifying information in order to attend public meetings. Through the link below, the Zoom webinar program requests entry of a name and email address, and Valley Water is unable to modify this requirement. Members of the public not wishing to provide such identifying information are encouraged to enter "Anonymous" or some other reference under name and to enter a fictional email address (e.g., attendee@valleywater.org) in lieu of their actual address. Inputting such values will not impact your ability to access the meeting through Zoom.

Join Zoom Meeting:

<https://valleywater.zoom.us/j/88549986572>

Meeting ID: 885 499 86572

Join by Phone:

1 (669) 900-9128, 88549986572#

1. CALL TO ORDER:

1.1. Roll Call.

1.2. Pledge of Allegiance/National Anthem.

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

Notice to the public: Members of the public who wish to address the Board on any item not listed on the agenda should access the "Raise Hand" tool located in Zoom meeting link listed on the agenda. Speakers will be acknowledged by the Board Chair in order requests are received and granted speaking access to address the Board. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Board action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board may take action on any item of business appearing on the posted agenda.

2. TIME CERTAIN:

- 2.1. Consider Adopting a Resolution Proclaiming a Local Emergency, [21-1032](#)
Acknowledging the Proclamation of a State of Emergency by Governor's
Order No. N-23-20 Dated March 4, 2020, and Authorizing Remote
Teleconference Meetings of the Legislative Bodies of the Santa Clara
Valley Water District for 30 Days Pursuant to Brown Act Provisions.

Recommendation: Consider adopting a RESOLUTION PROCLAIMING A LOCAL
EMERGENCY, ACKNOWLEDGING THE PROCLAMATION OF
A STATE OF EMERGENCY BY GOVERNOR'S ORDER NO.
N-23-20 DATED MARCH 4, 2020, AND AUTHORIZING
REMOTE TELECONFERENCE MEETINGS OF THE
LEGISLATIVE BODIES OF THE SANTA CLARA VALLEY
WATER DISTRICT FOR 30 DAYS, PURSUANT TO BROWN
ACT PROVISIONS.

Manager: Michele King, (408) 630-2711

Attachments: [Attachment 1: Resolution](#)

Est. Staff Time: 5 Minutes

3. **ADJOURN:**

- 3.1. Adjourn to 4:00 p.m. Closed Session and 6:00 p.m. Regular Meeting, on
September 28, 2021.



Santa Clara Valley Water District

File No.: 21-1032

Agenda Date: 9/28/2021

Item No.: 2.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Consider Adopting a Resolution Proclaiming a Local Emergency, Acknowledging the Proclamation of a State of Emergency by Governor's Order No. N-23-20 Dated March 4, 2020, and Authorizing Remote Teleconference Meetings of the Legislative Bodies of the Santa Clara Valley Water District for 30 Days Pursuant to Brown Act Provisions.

RECOMMENDATION:

Consider adopting a RESOLUTION PROCLAIMING A LOCAL EMERGENCY, ACKNOWLEDGING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR'S ORDER NO. N-23-20 DATED MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE SANTA CLARA VALLEY WATER DISTRICT FOR 30 DAYS, PURSUANT TO BROWN ACT PROVISIONS.

SUMMARY:

On September 16, 2021, the Governor signed into law Assembly Bill 361 (Rivas) (AB 361), which incorporates into California state law some features of the teleconferencing rules applied by Executive Orders (N-25-20, N-29-20, N-35-20) to local public agencies during the COVID-19 pandemic. These provisions of the executive orders are scheduled to sunset on September 30, 2021. Among other things, AB 361 allows legislative bodies to continue to hold remote meetings during the pandemic. More explicitly, this legislation allows local agencies to use teleconferencing without having to comply with the standard requirements of the Brown Act, provided that there is a "proclaimed state of emergency," as there is currently in the Governor's State of Emergency Declaration, issued on March 4, 2020, the state of emergency has not been lifted, and the legislative body meets "other requirements" (as described in greater detail below) in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.
3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the

emergency, meeting in person would present imminent risks to the health and safety of attendees.

In addition, if a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without having to comply with the standard provisions of the Brown Act, the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to (1), (2) or (3) above, and every thirty (30) days thereafter, make the following findings by majority vote:

- The legislative body has reconsidered the circumstances of the state of emergency.
- Any of the following circumstances exists:
 - The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - State or local officials continue to impose or recommend measures to promote social distancing.

Such conditions now exist within Valley Water’s boundaries. Specifically:

- A state of emergency has been proclaimed under Governor Gavin Newsom’s Executive Order N-23-20 dated March 4, 2020 related to the COVID-19 pandemic;
- On August 25, 2020, Valley Water’s Board of Directors adopted Resolution 20-20 continuing an existing emergency declaration as a result of the COVID-19 pandemic;
- The Santa Clara County Public Health Officer issued an order dated August 2, 2021 “made in light of the recent significant increase in COVID-19 cases and hospitalizations in Santa Clara County, due primarily to the Delta variant of SARS-CoV-2, the virus that causes COVID-19” that, among other things, mandates the use of face coverings indoors in public and non-public settings and outdoors in crowded settings, and recommends that businesses and governmental entities move operations and activities outdoors where possible “where there is significantly less risk of COVID-19 transmission”; and
- The Center for Disease Control reports that for the period September 13 - September 19, 2021, Santa Clara County had a “substantial” level of community transmission of COVID-19.

Other Requirements

Should a legislative body meet under any of the preceding circumstances, it shall do all the following:

- Meet all posting requirements as required by the Brown Act.
- Provide an opportunity for members of the public to address the legislative body directly and give notice of the ways members of the public may access the meeting and offer public comment via a call-in option or an internet-based service option.
- The legislative body shall conduct teleconferenced meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.
- In the event of a disruption which prevents the public agency from broadcasting the meeting to the public using the call-in option or the internet-based service option, or in the event of a

disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or the internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting has been restored.

- The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body in real time.
- An individual desiring to provide public comment through the use of a third-party internet website or online platform not under the control of the local agency may be required to register as required by the third-party internet website or online platform to participate.
- Other provisions related to timed public comment or public comment related to specific agenda items that is consistent with current practices.

AB 361 will remain in effect until January 1, 2024, at which time the Brown Act will revert to its original language.

Features

Several of the features of operating Board and Committee meetings under AB 361 during the COVID-19 pandemic, as opposed to under the current Brown Act law, include the following:

- Agendas need not be posted at all teleconference locations;
- Each teleconference location need not be identified in the notice and agenda of the meeting, therefore not inviting the general public into the homes of Board and/or Committee members and possibly spreading COVID-19.
- A quorum of the members of the legislative body do not need to participate in the meeting from locations within the boundaries of the territory over which the public agency exercises jurisdiction, allowing each to participate from a location where they are not susceptible to the exposure or spread of COVID-19.
- The Board and its committees can continue to conduct meetings in a safe meeting environment while allowing greater public participation in the legislative process and access to meetings.

Staff is recommending that the Board consider adopting the resolution authorizing the Board and Board Committees to continue to meet remotely for 30 days in accordance with requirements outlined in the resolution (Attachment 1).

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

File No.: 21-1032

Agenda Date: 9/28/2021
Item No.: 2.1.

ATTACHMENTS:

Attachment 1: Resolution

UNCLASSIFIED MANAGER:

Michele King, (408) 630-2711

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 21-

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY
WATER DISTRICT PROCLAIMING A LOCAL EMERGENCY, ACKNOWLEDGING THE
PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR'S ORDER NO. N-23-20
DATED MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS
OF THE LEGISLATIVE BODIES OF THE SANTA CLARA VALLEY WATER DISTRICT FOR
30 DAYS PURSUANT TO BROWN ACT PROVISIONS**

WHEREAS, the Santa Clara Valley Water District (Valley Water) is committed to preserving and nurturing public access and participation in meetings of the Board of Directors and Board Committees; and

WHEREAS, all meetings of Valley Water's legislative bodies are open and public, as required by the Ralph M. Brown Act (Brown Act) (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch Valley Water's legislative bodies conduct their business; and

WHEREAS, under the Brown Act, Government Code section 54953(e) makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within Valley Water's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, qualifying circumstances under Government Code section 54953(e) include situations in which state or local officials have imposed or recommended measures to promote social distancing or the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist within Valley Water's boundaries; specifically, a state of emergency has been proclaimed under Governor Gavin Newsom's Executive Order N-23-20 dated March 4, 2020, related to the COVID-19 pandemic; and

WHEREAS, on August 25, 2020, Valley Water's Board of Directors adopted Resolution 20-20 continuing an existing emergency declaration as a result of the COVID-19 pandemic; and

WHEREAS, the Santa Clara County Public Health Officer issued an order dated August 2, 2021, "made in light of the recent significant increase in COVID-19 cases and hospitalizations in Santa Clara County, due primarily to the Delta variant of SARS-CoV-2, the virus that causes COVID-19" that, among other things, mandates the use of face coverings indoors in public and non-public settings and outdoors in crowded settings, and recommends that businesses and

A Resolution of the Board of Directors of the Santa Clara Valley Water District Proclaiming a Local Emergency, Acknowledging the Proclamation of a State of Emergency by Governor's Order No. N-23-20 Dated March 4, 2020, and Authorizing Remote Teleconference Meetings of the Legislative Bodies of the Santa Clara Valley Water District for 30 Days Pursuant to Brown Act Provisions

Resolution No. 21-

governmental entities move operations and activities outdoors where possible “where there is significantly less risk of COVID-19 transmission”; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) reports that for the period September 13 – September 19, 2021, Santa Clara County had a “substantial” level of community transmission of COVID-19; and

WHEREAS, the Valley Water Board of Directors does hereby find that the state of emergency related to the COVID-19 pandemic continues to exist, state and local authorities have made recommendations promoting social distancing, and the continued spread of SARS-CoV-2 has caused and will continue to cause, conditions of peril to the safety of persons within the boundaries of Valley Water that are likely to be beyond the control of services, personnel, equipment, and facilities of Valley Water, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency, the Valley Water Board of Directors does hereby find that the legislative bodies of Valley Water may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies must comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, Valley Water has and, as allowed or required by law, will continue to post its legislative bodies' agendas online and use videoconferencing tools that allow the public to observe and participate in its legislative bodies' meetings.

NOW, THEREFORE, the Board of Directors (Board) of the Santa Clara Valley Water District (Valley Water) does hereby resolve as follows:

Section 1. Recitals. The Board finds that the Recitals set forth above are true and correct and they are incorporated into this Resolution by this reference.

Section 2. Proclamation of Local Emergency. The Board hereby finds and proclaims that a local emergency continues to exist throughout the boundaries of Valley Water, that the County of Santa Clara recommends measures to promote social distancing, and, that given the sustained rate of community transmission and the inability to meaningfully determine whether attendees are fully vaccinated against SARS-CoV-2 or have received a recent negative test for the virus, meeting in person would present imminent risks to the health and safety of attendees.

Section 3. Acknowledgement of and Reliance on Governor's Proclamation of a State of Emergency. The Board hereby acknowledges and expressly relies on the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020, related to the COVID-19 pandemic.

Section 4. Remote Teleconference Meetings. The staff and legislative bodies of Valley Water (including all standing, advisory, and oversight committees) are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including

A Resolution of the Board of Directors of the Santa Clara Valley Water District Proclaiming a Local Emergency, Acknowledging the Proclamation of a State of Emergency by Governor's Order No. N-23-20 Dated March 4, 2020, and Authorizing Remote Teleconference Meetings of the Legislative Bodies of the Santa Clara Valley Water District for 30 Days Pursuant to Brown Act Provisions

Resolution No. 21-

conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution will take effect at 12:01 a.m. Pacific time on October 1, 2021, and will be effective until the earlier of (i) 12:01 a.m. Pacific time on October 31, 2021, or such time as the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of Santa Clara Valley Water District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

Section 6. Severability. If any finding or operative portion of this Resolution is deemed by a court of competent jurisdiction to be invalid or inoperative for any reason then the remainder of this Resolution will remain in full force and effect.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District, this 28th day of September, 2021, by the following vote:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

TONY ESTREMER
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk, Board of Directors

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