



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, APRIL 12, 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, conducted by Zoom Teleconference, 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 participating by teleconference were Barbara Keegan, Gary Kremen, Linda J. LeZotte, and John L. Varela, with Tony Estremera, Nai Hsueh, and Richard Santos being present in the Boardroom, constituting a quorum of the Board.

Staff in attendance was M. King, Clerk, Board of Directors. Staff participating by teleconference were R. Callender, Chief Executive Officer, C. Orellana, District Counsel, J. Aranda, E. Aryee, A. Baker, L. Bankosh, R. Blank, J. Bourgeois, R. Chan, J. Codianne, M. Cook, A. Fulcher, V. Gin, A. Gschwind, C. Hakes, C. Kwok-Smith, M. Lugo, L. Orta, M. Richardson, D. Rocha, K. Struve, D. Taylor, B. Yerrapotu, and T. Yoke.

2. TIME CERTAIN:

11:00 AM

Chair Pro Tem Varela confirmed that the Board would adjourn to Closed Session for consideration of Items 2.1 through 2.5

Mr. Carlos Orellana, District Counsel, informed the Board that in regards to Item 2.2, the written claims or communications giving rise to this procession are available for public inspection on request as provided by the Brown Act.

- 2.1. CLOSED SESSION
THREAT TO PUBLIC SERVICES OR FACILITIES
Pursuant to Government Code Section 54957(a)
Consultation with Alex Gordon, Assistant Officer
- 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 - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
White, et al. v. SCVWD, et al.
(Santa Clara Co. Superior Court, No. 18CV321600 (Lead))
- 2.4. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Pacific Gas and Electric Co., a California Corporation v. SCVWD
(Santa Clara Co. Superior Court, No. 20CV371349)
- 2.5. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
San Jose Unified School District v. SCVWD
(Santa Clara Co. Superior Court, No. 18CV330233)

1:00 PM

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

- 2.6. District Counsel Report on Closed Session.

Mr. Orellana reported that in regard to Items 2.1 through 2.5, the Board met in Closed Session with all members present and took no reportable action.

- 2.7. Pledge of Allegiance/National Anthem.

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

- 2.8. Orders of the Day.

Chair Pro Tem Varela confirmed that there were no changes to the Orders of the Day.

2.9. Time Open for Public Comment on any Item not on the agenda.

Chair Pro Tem Varela declared time open for public comment on any subject not on the agenda.

Mr. Peter Drekmeier, Tuolumne River Trust, expressed interest that Valley Water participate in a shared water purchase savings program with California Irrigation Districts who purchase water from the State Water Project and Central Valley Project.

Chair Pro Tem Varela requested that staff respond to Mr. Drekmeier's public comment regarding participating in a shared water purchase savings program (Board Member Request No. R-22-0004).

Ms. Margaret, of undisclosed residency, requested from the Board how Valley Water is managing Northern Santa Clara County requests for new wells in neighborhoods already served by Valley Water.

Chair Pro Tem Varela requested that staff respond to Ms. Margaret on how Valley Water is managing Northern Santa Clara County requests for new wells in neighborhoods already served by Valley Water (Board Member Request No. R-22-0005).

Dr. Steven White, of undisclosed residency, informed the Board of various advanced water technology systems that are available for water purification.

Director Estremera requested that staff agendaize Dr. White's issues raised here for the next Recycled Water Committee meeting, and that staff invite Dr. White to that meeting.

2.10. Public Hearing to Consider the Santa Clara Valley Water District's Draft Fiscal Years 2023-27 Five-Year Capital Improvement Program.

- Recommendation:
- A. Open the public hearing to receive public comments and Board feedback regarding the Santa Clara Valley Water District's Fiscal Years 2023-27 Five-Year Capital Improvement Program; and
 - B. Continue the public hearing to the Board Meeting scheduled for April 26, 2022, and the Board's Budget Work Study Session currently set for April 27, 2022, and if needed, April 28, 2022, and conclude at the regularly scheduled Board meeting on May 10, 2022.

Chair Pro Tem Varela opened the Public Hearing.

Chair Pro Tem Varela declared time open for public comments.

Mr. James Crowder, of undisclosed residency, expressed concern with Valley Water's continuation to fund the Pacheco Reservoir Expansion Project and

requested that Valley Water consider other cost-effective options than to continue with this project.

Chair Pro Tem Varela continued this Item to the April 26, 2022, Board meeting.

- 2.11. Conduct Public Hearing on the February 2022 Annual Report on the Protection and Augmentation of Water Supplies and Recommended Increases in Groundwater Production Charges, Surface Water Charges, and Recycled Water Charges for Fiscal Year 2022-23.

- Recommendation:
- A. Conduct a public hearing pursuant to Section 26.6 of the District Act to consider Valley Water's Fiscal Year (FY) 2022-23 Annual Report on the Protection and Augmentation of Water Supplies and recommended increases to groundwater production charges (between 5.2% to 15%), surface water charges (between 5.9% to 15%) and recycled water charges (between 4.4% to 5.3%);
 - B. Hear public comments from groundwater producers and any interested persons regarding the Report and recommendations;
 - C. Consider any written protests to proposed surface water rate increases;
 - D. Direct staff to review such Report with, and solicit comments from, Valley Water's advisory committees; and
 - E. Continue the public hearing regarding this Report to the April 14, 2022 special meeting, at 7:00 pm.

Chair Pro Tem Varela opened the Public Hearing.

Mr. Aaron Baker, Chief Operating Officer, provided opening remarks, and introduced Ms. Carmen Narayanan who reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 2.

Chair Pro Tem Varela declared time open for public comments.

Dr. White requested that the links to the reports in the presentation be provided to the public.

Chair Pro Tem Varela continued the Public Hearing to the April 14, 2022, Special Board meeting at 7:00 p.m.

- 2.12. Monthly Drought Emergency Response and Water Supply Update.

- Recommendation:
- A. *Receive an update on water supply conditions in Santa Clara County and staff's drought response efforts; and
 - B. *Adopt the RESOLUTION AMENDING RESOLUTION NO. 21-68 RESCINDING

RESOLUTION 17-43, DECLARING A WATER SHORTAGE EMERGENCY CONDITION CALLING FOR WATER USE RESTRICTIONS, AND URGING THE COUNTY OF SANTA CLARA TO PROCLAIM A LOCAL EMERGENCY which includes restricting outdoor watering of lawns and ornamental landscape with potable water to no more than two days.

Mr. Baker provided opening remarks and introduced Ms. Neeta Bijoor, Senior Water Resource Specialist, who reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 1.

Dr. White requested that Valley Water expand public information regarding water rebate programs and the landscape rebate programs including the opportunity to inform commercial properties, and county properties about these water conservation programs.

Two Statements expressing support for this Resolution were received from: Ms. Deniz Bolbol, and Ms. Cheriell Jensen, both of undisclosed residency.

Motion: Adopt Resolution No. 22-20 RESOLUTION AMENDING RESOLUTION NO. 21-68 RESCINDING RESOLUTION 17-43, DECLARING A WATER SHORTAGE EMERGENCY CONDITION CALLING FOR WATER USE RESTRICTIONS, AND URGING THE COUNTY OF SANTA CLARA TO PROCLAIM A LOCAL EMERGENCY which includes restricting outdoor watering of lawns and ornamental landscape with potable water to no more than two days a calendar week, and shall not irrigate any outdoor landscape between the hours of 9:00 a.m. and 6:00 p.m., by roll call vote.

Move to Adopt: Richard Santos
Second: Tony Estremera
Yeas: Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela, Tony Estremera
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 3.6, under one motion.

3.1. Resolution Recognizing Friday, April 22, 2022 as Earth Day.

Recommendation: Adopt the Resolution RECOGNIZING APRIL 22, 2022 AS EARTH DAY.

3.2. Provide Notice of Time and Place of Public Hearing Regarding Flood Control Benefit Assessments for Fiscal Year 2022-23 (FY 2022-23).

Recommendation: Set a time and place for the public hearing on Flood Control Benefit Assessments for FY 2022-23 at 1:00 p.m. on May 10, 2022, by Teleconference Zoom Board Meeting.

3.3. Report of No Bids Received and Authorize Re-Advertisement for Bids for the Construction of the Silicon Valley Advanced Water Purification Center Storage Building Project, as part of the Small Capital Improvements, Water Treatment Project No. 93764004, Contract No. C0686 (San Jose, District No.3).

Recommendation: A. Adopt the plans and specifications and authorize re-advertisement for bids for construction of the Silicon Valley Advanced Water Purification Center Storage Building Project; and
B. Authorize the Designated Engineer to issue addenda, as necessary during bidding.

3.4. Accept the Work as Complete and Direct the Clerk to File the Notice of Completion of Contract and Acceptance of Work for the Cunningham Flood Detention Facility Certification Project (Planting Establishment and Maintenance Phase Stage 2 - Milestones 2 and 3), Gordon N. Ball, Contractor, Project No. 40264011, Contract No. C0641 (San Jose) (District 1).

Recommendation: A. Accept the work on the Cunningham Flood Detention Facility Certification Project (Planting Establishment and Maintenance Phase Stage 2 - Milestones 2 and 3), Gordon N. Ball, Contractor, Project No. 40264011, Contract No. C0641 as complete; 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 Clerk-Recorder.

- 3.5. Approve Second Amendment to Agreement for Possession and Use by and Between Santa Clara Valley Water District and the County of Santa Clara for Anderson Dam Tunnel Project, Coyote Percolation Dam Replacement Project, and Cross Valley Pipeline Extension Project as Parts of the Federal Energy Regulatory Commission Order Compliance Project, Under the Anderson Dam Seismic Retrofit Project No. 91864005, APN: 728-34-020, 729-36-001, 678-02-031 & -034, and 725-06-008; Real Estate File Nos. 9186-35, 9186-39, 9188-17, and 9232-52, Providing a No-Cost Time Extension to the Agreement (Unincorporated Santa Clara County) (District 1).

Recommendation: Approve Second Amendment to Agreement for Possession and Use by and Between Santa Clara Valley Water District and the County of Santa Clara for Anderson Dam Tunnel Project, Coyote Percolation Dam Replacement Project, and Cross Valley Pipeline Extension Project Providing a No-Cost Time Extension to the Agreement.

- 3.6. Accept the CEO Bulletin for the Weeks of March 18 - April 7, 2022.

Recommendation: Accept the CEO Bulletin.

Motion: Approve Consent Calendar Items 3.1 through 3.6, under one motion, as follows: Adopt Resolution No. 22-21, RECOGNIZING APRIL 22, 2022 AS EARTH DAY, by roll call vote, as contained in Item 3.1; set a time and place for the public hearing on Flood Control Benefit Assessments for FY 2022-23 at 1:00 p.m. on May 10, 2022, by Teleconference Zoom Board Meeting, as contained in Item 3.2; adopt the plans and specifications and authorize re-advertisement for bids for construction of the Silicon Valley Advanced Water Purification Center Storage Building Project, as contained in Item 3.3; accept the work as complete and direct the Clerk to file the Notice of Completion of Contract and Acceptance of Work for the Cunningham Flood Detention Facility Certification Project, as contained in Item 3.4; approve second amendment to agreement for Possession and Use by and Between Santa Clara Valley Water District and the County of Santa Clara for Anderson Dam Tunnel Project, Coyote Percolation Dam Replacement Project, and Cross Valley Pipeline Extension Project, as contained in Item 3.5; and accept the CEO Bulletin, as contained in Item 3.6.

Move to Accept:	Richard Santos
Second:	Tony Estremera
Yeas:	Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela, Tony Estremera
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. Board Committee Reports.

Director Estremera reported that the Board Ethics and Conduct Ad Hoc Committee has secured an investigator who is reviewing documentation to determine an appropriate scope and timeline to complete the investigation of Director Kremen's March 2, 2022, statement.

The Board noted the information without formal action.

5. WATER UTILITY ENTERPRISE:

5.1. Adopt a Resolution Approving Santa Clara Valley Water District Funding of Preliminary Planning and Design Costs for Delta Conveyance Project for Calendar Years 2023 and 2024 in an Amount Not-To-Exceed \$6,972,348.

Recommendation: Adopt the Resolution APPROVING ADDITIONAL FUNDING FOR PRELIMINARY PLANNING AND DESIGN COSTS INCURRED IN CALENDAR YEARS 2023 AND 2024 RELATED TO A POTENTIAL DELTA CONVEYANCE PROJECT in an amount not-to-exceed \$6,972,348.

Mr. Vincent Gin, Deputy Operating Officer, provided opening remarks and introduced Ms. Cindy Kao, Imported Water Manager, who reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 5.

Chair Pro Tem Varela acknowledged receipt of, and read into the record, the attached comments from Ms. Lillian Miller, Sierra club, including 720 constituent's names regarding Stop Funding the Delta Project Form Letter, identified as Handout 5.1-A. Copies of the Handout were distributed to the Board and made available to the public.

Nine Statements expressing opposition for additional funding for the preliminary planning and design costs related to a potential Delta Conveyance project were received from: Ms. Karen Jaques, Ms. Margaret, Ms. Bolbol, Mr. John Armstrong, Dr. White, of undisclosed residency; Ms. Dierdre Des Jardin,

California Water Research; Ms. Molly Culton, and Ms. Carol Steinfeld, Sierra Club; and Mr. Steven Farrell, Southern California Water District.

Four Statements expressing support for additional funding for the preliminary planning and design costs related to a potential Delta Conveyance project were received from: Ms. Krista De La Torre, South Bay Labor Counsel; Mr. Dennis Murphy, Sustainable Silicon Valley; Mr. David Bini, Santa Clara and San Benito Counties Building and Construction Trades Council; and Mr. Paul Seger, Diablo Water District.

Motion: Adopt the Resolution No. 22-22 APPROVING
ADDITIONAL FUNDING FOR PRELIMINARY PLANNING
AND DESIGN COSTS INCURRED IN CALENDAR YEARS
2023 AND 2024 RELATED TO A POTENTIAL DELTA
CONVEYANCE PROJECT in an amount not-to-exceed
\$6,972,348.

Move to Adopt: Tony Estremera
Second: Nai Hsueh
Yeas: Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J.
LeZotte, Richard Santos, John L. Varela, Tony Estremera
Nays: None
Abstains: None
Recuses: None
Absent: None
Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

6. WATERSHEDS:

The Board considered Items 6.1, and 6.2 without a staff presentation.

- 6.1. Approve Amendment No. 1 to Agreement A4278A with Stillwater Sciences, Inc. for On-Call Biological Services, Increasing Not-to-Exceed Amount by \$500,000 and Extending Term Two Years; and Approve Amendment No. 1 to Agreement A4279A with H.T. Harvey & Associates for On-Call Biological Services, Increasing Not-to-Exceed Amount by \$500,000 and Extending Term Two Years.

Recommendation: A. Approve Amendment No. 1 to Agreement A4278A with Stillwater Sciences, Inc. for On-Call Biological Services, to increase the not-to-exceed fee by \$500,000, resulting in a revised not-to-exceed total of \$2,000,000 and extend the term two years; and
B. Approve Amendment No. 1 to Agreement A4279A with H.T. Harvey & Associates for On-Call Biological Services, to increase the not-to-exceed fee by \$500,000, resulting in a revised not-to-exceed total of \$2,000,000 and extend the term two years.

Move to Approve: Richard Santos
 Second: Nai Hsueh
 Yeas: Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela, Tony Estremera
 Nays: None
 Abstains: None
 Recuses: None
 Absent: None
 Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

6.2. Increase Construction Contingency by \$1,299,635 for the Lower Calera Creek Flood Protection Project, Part of the Lower Berryessa Creek Flood Protection Project Phase 2, Project No. 40174005 (Milpitas) (District 3).

Recommendation: Approve an increase of \$1,299,635 to the construction contingency fund for Contract No. C0666-1 with Granite Construction Company.

Move to Approve: Richard Santos
 Second: Tony Estremera
 Yeas: Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte, Richard Santos, John L. Varela, Tony Estremera
 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:

None.

9. CHIEF EXECUTIVE OFFICER:

9.1. CEO and Chiefs' Report.

CEO Callender reviewed and distributed the attached Office of Civic Engagement, and Office of Government Relations Updates, identified as Handouts 9.1-A and 9.1-B herein, respectively. Copies of the Handouts were distributed to the Board and made available to the public.

10. ADMINISTRATION:

- 10.1. (ITEM REMOVED FROM AGENDA) Adopt an Ordinance of Santa Clara Valley Water District Specifying Rules of Decorum in the Participation of Board and Committee Meetings. (Continued from March 22, 2022)

11. DISTRICT COUNSEL:

None.

12. ADJOURN:

- 12.1. Board Member Reports/Announcements.

Director Estremera reported attending a Delta Conveyance Authority (DCA) Board meeting, and various meetings with staff.

Director Hsueh reported attending an Anderson Dam Seismic Retrofit Project Quarterly Meeting Update with Congresswoman Zoe Lofgren; a Sunnyvale Unhoused Collaborative Meeting; an Agricultural Water Advisory (AWAC), and Board Policy and Planning (BPPC) Committee meetings; and various meetings with staff.

Director Keegan reported attending the aforementioned BPPC meeting; a Recycled Water (RWC), and preparation for Climate Adaptation Committee (CAC) meetings; a Board Audit Committee (BAC) Preparation meeting; and various meetings with staff.

Director Keegan requested that staff provide information on the last two years of polling, what we polled for, and what the costs were for those polls. (Board Member Request No. R-22-0003).

Director Santos reported attending a Pajaro River Watershed Flood Prevention Authority Board meeting; a Landscape Committee meeting; and a Santa Clara County (SCC) Farm Bureau Board meeting.

Director LeZotte reported attending the aforementioned BPPC, and preparation for CAC meetings; a Capital Improvement Program (CIP), and Water Conservation and Demand Management (WCaDM) Committee meetings; a Los Vaqueros Joint Powers Authority (JPA) Briefing, Santa Clara Local Agency Formation Commission, Santa Clara Valley Habitat Agency Joint Governing and Implementation Board, Financial Sustainability Working Group, and Washington D. C. Virtual meetings; and various meetings with staff.

Director Kremen reported attending the aforementioned preparation for CAC meeting; a Mountain View and Palo Alto Recycled Water, Lexington Reservoir Intake Feasibility Study, San Luis and Delta-Mendota Water Authority (SLDMWA) Board, and Pacheco Water Infrastructure Finance and Innovation Act (WIFIA) Strategy meetings; and various meetings with staff.

Chair Pro Tem Varela reported attending the aforementioned SLDMWA, and SCC Farm Bureau Board meetings; and a Morgan Hill Chamber Education Committee meeting.

12.2 Proposed Future Board Member Agenda Items.

None.

12.3. Clerk Review and Clarification of Board Requests.

Ms. Michele King, Clerk, Board of Directors, read the Board member requests into the record.

12.4. Adjourn to Special Meeting at 7:00 p.m., on April 14, 2022.

Chair Pro Tem Varela adjourned the meeting at 3:55 p.m., to the 7:00 p.m. Special Meeting, South County Public Hearing on April 14, 2022.

Michele L. King, CMC
Clerk/Board of Directors

Approved:

Date: 06/14/2022