



SAN MATEO, SANTA CLARA & SAN BENITO COUNTIES

November 7, 2022

To: Valley Water Board of Directors

Sent via e-mail: board@valleywater.org and clerkoftheboard@valleywater.org

Re: Investigation Report concerning Santa Clara Valley Water District Director Gary Kremen

In March 2022, the Valley Water Board of Directors initiated an investigation to determine “[w]hether Director Kremen ... violated any Valley Board Governance Policies with respect to interaction with Valley Water staff ... [or] with respect to his treatment of members of the public at Valley Water meetings.” The Sierra Club together with Restore the Delta had filed a complaint highlighting “disrespectful treatment from Director Gary Kremen towards environmental advocates.”

On October 25, 2022 Valley Water released an Executive Summary of the investigation of complaints about Director Kremen’s actions as a Director on Valley Water’s board. The report concluded that, in six situations with staff, Director Kremen violated Governance Policy 6.3.1 which states that “Board members shall refrain from abusive conduct, personal charges, or verbal assaults upon the character or motives of ... staff and the public.” The report also concluded that Director Kremen violated Governance Policy 6.3 which states that “Board members may not attempt to exercise individual authority over the organization.” **There must be consequences for these violations. We encourage the Board to consider appropriate sanctions against Director Kremen.**

However, the report did not find “that Kremen made any ‘personal charge(s)’ or ‘verbal assault(s)’ upon any Sierra Club member’s ‘character or motives’” (per GP-6.3.1). This determination was justified because “Kremen’s comments about the Sierra Club were not aimed at any particular Sierra Club members, but at the organization as a whole” and “were not made in direct response to the comments made by any of the members at the meeting.” Furthermore, the report did not find “that Kremen’s conduct was ‘abusive’ (i.e., extremely offensive or cruel) as understood in [the] report” (per GP-6.3.1).

Nonetheless, the report stated the following regarding disrespectful and disparaging comments by Director Kremen aimed at the Sierra Club and other environmental organizations during board meetings:

- Kremen’s comment stating the Sierra Club is “well known for its...white privilege position” left investigators “troubled by the use of a racially charged statement from the dais,” and investigators “acknowledge[d] that Kremen’s statements may have been rude, counterproductive, unprofessional, and inconsistent with GP-7, the District’s Values Statement, or GP-11, the Inclusion, Equal Employment Opportunity, Discrimination/Harassment Prevention, and Diversity policy.”
- Kremen’s comment stating “This kind of shameful conduct that appears over and over again by a couple of small members of the Sierra Club: ‘Oh I don’t want X so people can have 10 times the price of water especially disadvantaged communities’ [– i]t’s shameful to me this lack of social justice and putting plants over people” in response to comments on CEQA compliance, “may have been rude, counterproductive, unprofessional, and inconsistent with GP-7, the

District's Values Statement, or GP-11, the Inclusion, Equal Employment Opportunity, Discrimination/Harassment Prevention, and Diversity policy."

Director Kremen responded to San Jose Spotlight's request for comment as follows:

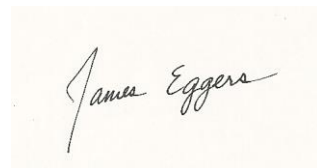
"As a fighter for the interests of taxpayers and water ratepayers, it is within my duties to not only question whether the mission, policies and procedures of the district are being fulfilled but to insist that the direction of the board be followed[.]" "In a few instances, my defense of taxpayers, ratepayers and constituents was too ardent, and I apologize. To that end, I appreciate any constructive criticism I can take from this report to be a better advocate for the people I serve."

Director Kremen has not apologized to the Sierra Club for his inappropriate comments. Therefore, environmental advocates continue to be wary about participating in Board meetings to avoid inappropriate disparaging and offensive comments from Director Kremen.

The Sierra Club complaint requested that the Ordinance of Santa Clara Valley Water District Specifying Rules of Decorum in the Participation of Board and Committee Meetings "be equally applicable to the Board as to participating members of the public." The purpose of the Ordinance includes "enhancing civility and decorum" and avoiding "an atmosphere in Meetings that: is uncivil, threatening, and disrespectful; stifles public participation and debate; threatens the quality of decision making; or otherwise undermines the democratic process."

In response to the investigation report, we urge Valley Water to update the Decorum Ordinance, revisit Governance Policies as appropriate to encourage more civil interaction with the public, and institute annual training for the Board of Directors on appropriate demeanor and interaction with staff and the public.

Sincerely,

A handwritten signature in cursive script that reads "James Eggers". The signature is written in dark ink on a light-colored, slightly textured background.

James Eggers
Executive Director
Sierra Club Loma Prieta Chapter

Cc: Charles Schafer
Chapter Chair
Sierra Club Loma Prieta Chapter

Katja Irvin
Water Committee Co-Chair
Sierra Club Loma Prieta Chapter

Michele King

Subject: FW: BPPC proposed decourm ordinance discussion 4/5/22

From: Trish Mulvey <mulvey@ix.netcom.com>

Sent: Monday, April 04, 2022 8:01 PM

To: Clerk of the Board <clerkoftheboard@valleywater.org>; Michele King <MKing@valleywater.org>

Subject: BPPC proposed decourm ordinance discussion 4/5/22

Please provide a copy of this note to the committee members and appropriate staff re agenda item 4.2, decorum ordinance, on April 5, 2022

Thanks for holding this special BPPC meeting prior to Board consideration of the proposed decorum ordinance.

The purpose of this note is to request that the BPPC also determine and initiate the best approach to implement Director LeZotte's suggestion that the Valley Water Board of Directors also needs decorum guidelines for interactions with each other, with staff, and with the public at Board and Committee meetings. My assumption is that such guidelines are probably best documented in Board Policy rather than in the proposed ordinance.

Thanks for considering this suggestion.

Trish Mulvey

(650) 326-0252 or mulvey@ix.netcom.com

cc: interested parties

Agenda Item 4.2
Committee Work Plan
November 7, 2022

TO: Board Policy & Planning Committee
CC: Michele King and Interested Parties
FR: Trish Mulvey
ON: November 4, 2022
RE: Governance Policies of the Board

In crafting Board Governance Policy updates that might be appropriate based on the recent RPLG investigation and what could be called “lessons learned,” I hope this Committee will consider the following questions:

- Should “rude, counterproductive or unprofessional” behavior be proscribed?
- Should arrogant behavior be proscribed?
- Should an expectation about behaving in the “spirit” of Board Governance Policy be stated?
- When considering harassment, in addition to “sexual,” should “gender” be specified?

Additionally, would this Committee recommend that the “Board Ethics and Conduct Ad Hoc Committee” be listed on the Valley Water list of Board Committees and public notice be provided when that Ad Hoc Committee meets? My hope is that opportunity for public comment prior to Committee closed sessions can be provided. In my view, the Brown Act has appropriate provisions for allowing closed sessions as well urgent meeting scheduling and noticing while still offering “sunshine and transparency” around dealing with sensitive ethics and conduct issues.

Thanks for considering these inquiries.

Michele King

Subject: FW: Sierra Club Loma Prieta Chapter comment letter regarding the Investigation Report concerning Santa Clara Valley Water District Director Gary Kremen
Attachments: Sierra Club comment on Kremen investigation Executive Summary 11.7.22.pdf

From: Barbara Kelsey <barbara.kelsey@sierraclub.org>
Sent: Monday, November 7, 2022 5:43 PM
To: Clerk of the Board <clerkoftheboard@valleywater.org>; Board of Directors <board@valleywater.org>
Cc: James Eggers <james.eggers@sierraclub.org>; Charles Schafer <c_g_schafer@yahoo.com>; Katja <katja.irvin@sbcglobal.net>; Gladwyn d'Souza <goodsouza@mac.com>; Mike Ferreira <MichaelJFerreira@gmail.com>
Subject: Sierra Club Loma Prieta Chapter comment letter regarding the Investigation Report concerning Santa Clara Valley Water District Director Gary Kremen

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Please find our full comment letter attached.

Sincerely,

James Eggers
Executive Director
Sierra Club Loma Prieta Chapter

Cc: Charles Schafer
Chapter Chair
Sierra Club Loma Prieta Chapter

Katja Irvin

Water Committee Co-Chair
Sierra Club Loma Prieta Chapter

Sent by:

Barbara Kelsey

she/her/hers

Chapter Coordinator

Sierra Club, Loma Prieta Chapter

3921 E. Bayshore Rd, Suite 204

Palo Alto, CA 94303

barbara.kelsey@sierraclub.org

We are still working remotely
most of the time, so email is
the best contact method.