



BOARD OF DIRECTORS MEETING

MINUTES

CLOSED SESSION & REGULAR MEETING

TUESDAY, FEBRUARY 28, 2017

5:00 PM

(Paragraph numbers coincide with agenda item numbers)

A Closed Session and Regular Meeting of the Santa Clara Valley Water District Board of Directors was called to order at 5:00 p.m. on February 28, 2017, in the District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

1. CALL TO ORDER:

1.1. Roll Call.

Board members in attendance were Tony Estremera, Gary Kremen, Barbara Keegan, Richard Santos, John L. Varela, and Nai Hsueh, constituting a quorum of the Board.

Director LeZotte arrived as noted below.

Staff members in attendance were N. Camacho, Interim Chief Executive Officer (CEO), S. Yamamoto, District Counsel, M. King, Clerk/Board of Directors, R. Callender, R. Chan, A. Cheung, A. Comelo, J. Fiedler, A. Fulcher, V. Gin, G. Hall, B. Hopper, L. Orta, M. Richardson, E. Soderlund, S. Stanton, D. Taylor, and S. Tikekar.

2. TIME CERTAIN:

Chairperson Varela announced that the Board would adjourn to Closed Session for consideration of Item 2.1.

5:00 PM

2.1. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL

Initiation of Litigation

Pursuant to Government Code Section 54956.9(4)(d)

One Potential Case

Director LeZotte arrived during Closed Session.

6:00 PM

Upon return to open session, the same Board members, including Director LeZotte, and staff were present.

2.2. District Counsel Report.

Mr. Stan Yamamoto, District Counsel, reported that the Board met in Closed Session with all members present, including Director LeZotte, and gave direction to staff.

2.3. Pledge of Allegiance/National Anthem.

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

Chairperson Varela read into the record the attached statement expressing sympathy for community members who suffered as a result of the flood, identified as Handout 2.5-C, herein. Copies of the Handout were distributed to the Board and made available to the public.

Chairperson Varela expressed support for obtaining federal assistance for residents along Coyote Creek, for purposes of health and safety.

2.4. Orders of the Day.

Chairperson Varela declared that Item 7.3 would be considered after Item 2.5, and that Item 6.1 would be considered after Item 8.1.

Director Estremera referred to a letter dated February 24, 2017, from San Jose Mayor Sam Liccardo, and inquired whether it could be placed on the agenda for Board discussion.

Mr. Yamamoto confirmed that the subject matter contained in the letter qualified as an emergency, in accordance with Government Code Section 54956.5(a)(1): *includes crippling activity or other activity that severely impairs public health, safety, or both*, and could be placed on the agenda by a majority vote of the Board.

Motion: Approve placing as Item 6.2 on the agenda, discussion of the letter dated February 24, 2017, from San Jose Mayor Sam Liccardo.

Move to Approve: Tony Estremera

Second: Gary Kremen

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

Nays: None

Abstains: None

Recuses: None

Absent: None

Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

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

Ms. Arlene Goetze, No Toxins for Children, distributed the attached article, identified as Handout 2.5-A, herein. Copies of the Handout were distributed to the Board and made available to the public. She inquired whether the fluoride used to treat drinking water originated in China.

Director Estremera requested that staff respond to Ms. Goetze's inquiry and make that response available to the public.

Ms. Mackenzie Mossing, San Jose resident, expressed concern that flooding and drought were results of climate change; expressed concern that dams and levies damage ecosystems; and urged the Board to invest in solutions that support nature.

Ms. Katja Irwin, Brookwood Terrace resident, expressed dissatisfaction with the District's response to the Presidents Day Coyote Creek flood event and alleged that the District gave preferential treatment to other areas.

Chairperson Varela moved the Agenda to Item 6.2.

6.2 Item Added to the Agenda in Accordance with Government Code Section 54956.5(a)(1).

In accordance with Government Code Section 54656.5(a)(1), emergency which includes a crippling activity or other activity that severely impairs public health, safety, or both, as determined by two-thirds of the members of the legislative body, the Board unanimously voted to add to the agenda, the 2/24/17 letter from San Jose Mayor Sam Liccardo requesting that the District repurpose \$100,000, of the San Jose Conservation Corp's contract to help residents address public health, safety, or both efforts in the flooded area.

Motion:	Approve repurposing \$100,000 of the District's contract with San Jose Conservation Corp's, and authorize the Interim Chief Executive Officer to work with the San Jose City Manager to identify work that can be performed by San Jose Conservation Corp, and to determine if any additional funds are needed to address public health, safety, or both efforts, in the flooded area.
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Move to Approve :	Tony Estremera
Second:	Richard Santos
Yeas:	Tony Estremera, Gary Kremen, Linda J. LeZotte, Barbara Keegan, Richard Santos, John L. Varela, Nai Hsueh
Nays:	None
Abstains:	None
Recuses:	None
Absent:	None
Summary:	7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

Chairperson Varela declared time open for public comment.

Mr. Doug Muirhead, Morgan Hill resident, expressed discomfort with the Board's action and described granting Mayor Liccardo's request for \$100,000 as impulsive.

Chairperson Varela moved the agenda to Item 7.3.

7.3. Chief Executive Officer Report.

Mr. Dale Jacques, Emergency and Security Manager, reviewed the information in the attached Storm Report, identified as Handout 7.3-A, herein. Copies of the Handout were distributed to the Board and made available to the public.

Director Santos requested that staff provide the Board with Anderson Dam release data, collected since 1983, and identify if any release data is comparable to releases over the February 21, 2017 storm event (Board Member Request R-17-0006).

Mr. Rick Callender, Deputy Administrative Officer, discussed social media and press outreach in response to the Presidents Day flood event. He confirmed that bladder dams were not a viable solution, as they would have induced flooding elsewhere; and confirmed that staff was scheduling news interviews to correct misinformation.

Mr. Jim Fiedler, Chief Operating Officer, Water Utility, discussed design flexibility in future dam retrofit projects to determine if flood protection functions could be included, and the possibility of including them in the Anderson Dam Seismic Retrofit Project.

Chairperson Varela advised the Board of a March 16, 2017, City of Morgan Hill community meeting on the Anderson Dam Seismic Retrofit Project.

Ms. Camacho advised the Board that the City of San Jose scheduled a meeting on March 9, 2017, for the community to give their input on the Presidents Day flood.

She reported to the Board that Mr. Marc Klemencic, retired Chief Operating Officer, Watersheds, had been retained as a consultant to assist in a post event review of responses and to identify opportunities for improvement.

Ms. Angela Cheung, Deputy Operating Officer, reported on the March 7, 2017 Rinconada Water Treatment Plant shutdown, the March 12, 2017 inspection of the Santa Clara Tunnel; and recent power outages at the Rinconada and Santa Teresa Water Treatment Plants, and the Silicon Valley Advanced Water Purification Center.

Mr. Garth Hall, Deputy Operating Officer, reported on state and federal water projects allocations; and on Coyote Reservoir spillway inspection and repair efforts.

Chairperson Varela returned the agenda to Item 2.6.

2.6. Chief Executive Officer and General Manager Search Update.

Recommendation: Receive Stakeholder and Community Input and Direct the Consultant as Appropriate.

Ms. Shelley Fust, Korn Ferry, reviewed the information on this item, per the attached Board Agenda Memo and the presentation materials contained in Attachment 1.

Mr. Muirhead expressed dissatisfaction with efforts to obtain community input.

The Board requested that Korn Ferry plan opportunities to collect community input, and bring the item back to the Board at a future date.

2.7 Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's Third Annual Report for Fiscal Year 2015-2016.

Recommendation: A. Receive the Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's Third Annual Report for Fiscal Year 2015-2016; and
B. Provide direction to staff as appropriate.

Ms. Kathleen Sutherland, Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee Chairperson, reviewed the information on this item, per the attached Board Agenda Memo.

The Board noted the information without formal action.

3. CONSENT CALENDAR:

The Board considered Consent Calendar Items 3.1 through 3.3 under one motion.

3.1. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the Permanente Creek Flood Protection Project - Permanente Creek Channel Improvements, Project No. 26244001, Contract No. C0625 (Mountain View, Los Altos) (District 5).

Recommendation: A. Adopt the plans and specifications and authorize advertisement for bids for the construction of the Permanente Creek Flood Protection Project - Permanente Creek Channel Improvements (Project) per the Notice to Bidders; and
B. Authorize the Designated Engineer to issue addenda, as necessary, during bidding.

3.2. Claim of Donald Bean.

Recommendation: Deny the claim of Donald Bean.

3.3. CEO Bulletins for the Week of February 10-16, and 17-23, 2017.

Recommendation: Accept the CEO Bulletins.

Motion: Approve Consent Calendar Item 3.1 through 3.3 under one motion, as follows: Adopt the plans and specifications and advertisement for bids, and authorize the Designated Engineer to issue addendum, as contained in Item 3.1; Deny the claim of Donald Bean, as contained in Item 3.2; and accept the CEO Bulletins, as contained in Item 3.3.

Move to Approve: Nai Hsueh
Second: Tony Estremera

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

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's Annual Self-Assessment of its Performance for 2016.

Recommendation: A. Conduct a Board self-assessment based on 2016 performance results; and
B. Share 2016 Annual Board Performance Report broadly with stakeholders, such as, customers, Board Committees, community groups, and employees, among others.

The Board noted the information without formal action.

4.2. Fiscal Year 2017 Board Policy Planning and Performance Monitoring Calendar.

Recommendation: Review and revise the Fiscal Year 2017 Board Policy Planning and Performance Monitoring Calendar.

Ms. Michele King, Clerk/Board of Directors, reviewed the information on this item, per the attached Board Agenda Memo.

The Board noted the information without formal action.

4.3. Board Committee Reports.

Director Kremen reported that he, Chairperson Varela and Director Santos attended a Pacheco Exploratory Ad Hoc Committee Meeting with the San Benito Water District and the Pacheco Pass Water District and there was an inquiry as to whether action could be taken on an agreement between the District, San Benito Water District and Pacheco Pass Water District.

Mr. Yamamoto instructed the Board that it could be discussed when the item is placed on a future agenda.

Director Hsueh reported that the Capital Improvement Program (CIP) Ad Hoc Committee would return to the Board in March with recommendations to change the Committee's status from an ad hoc to a standing committee, and to expand its purpose statement.

5. WATER UTILITY ENTERPRISE:

- 5.1. Amendment No. 2 to Agreement No. A3675A with GEI Consultants, Inc., for Planning and Environmental Consultant Services for a Not-To-Exceed Fee of \$1,316,011, Resulting in a Total Not-To-Exceed Fee of \$6,219,841, and Extend the Agreement Term for Calero and Guadalupe Dams Seismic Retrofits Project, Project No. 91084020 (San Jose) (District 1).

Recommendation: Approve Amendment No. 2 to Agreement No. A3675A with GEI Consultants, Inc., for Planning and Environmental Consultant Services for Calero and Guadalupe Dams Seismic Retrofits Project, for a not-to-exceed fee of \$1,316,011, resulting in a total not-to-exceed fee of \$6,219,841, and extend the Agreement term.

Mr. Bal Ganjoo, Senior Project Manager, reviewed the information on this item, per the attached Board Agenda Memo.

Director Keegan requested that staff include consideration of flood management measures in the Anderson Dam Seismic Retrofit Project and in future dam retrofit projects, along with a benefits analysis (Board Member Request R-17-0008).

The Board directed the CIP Ad Hoc Committee to review recent capital project consultant agreements against the independent audit or report provided by Navigant on March 10, 2015, to determine if the recommendations had been implemented.

- 5.2. Budget Adjustment in the amount of \$750,000 to the Fiscal Year 2017 Anderson Dam Seismic Retrofit Project, Project No. 91864005; Amendment No. 6 to Consultant Agreement No. A3555A with Black & Veatch for Project Management Services for a not-to-exceed fee of \$7,539,795; and Amendment No. 3 to Consultant Agreement No. A3578A with HDR, Inc. for Planning/Environmental Services for a not-to-exceed fee of \$561,000 (Morgan Hill) (District 1).

- Recommendation:
- A. Approve a Budget Adjustment of \$750,000 from the Pacheco/Santa Clara Conduit Right of Way Acquisition Project (Project No. 92144001) to the Anderson Dam Seismic Retrofit Project (Project No. 91864005) to fund expenditures for Fiscal Year 2017 (FY17) Project budget;
 - B. Approve Amendment No. 6 to Agreement No. A3555A with Black & Veatch Corporation for Project Management Services for a not-to-exceed fee of \$7,539,795, resulting in a total not-to-exceed fee of \$16,558,637, and retroactively extend the Agreement term; and
 - C. Approve Amendment No. 3 to Agreement No. A3578A with HDR, Inc. for Planning/Environmental Services for a not-to-exceed fee of \$561,000, resulting in a total not-to-exceed fee of \$5,557,091, and retroactively extend the Agreement term.

Mr. Hemang Desai, Dam Safety Program Manager, reviewed the information on this item, per the attached Board Agenda Memo.

The Board requested that staff thoroughly review the consultant agreement amendment process, with assistance from the CIP Ad Hoc Committee, and bring recommendations back to the Board for further consideration.

Director Kremen requested that staff review contracts in the past 12 months and come back with a report that identifies where staff had authorized work on expired contracts or agreements (Board Member Request R-17-0007).

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

5.3. Consultant Contract to Stantec Consulting Services, Inc. for Pacheco Reservoir Proposition 1 Application Study.

- Recommendation:
- A. Discuss the outcomes of the February 23, 2017 meeting of the Pacheco Reservoir Exploratory Ad Hoc Committee with board members of San Benito County Water District and Pacheco Pass Water District; and
 - B. Authorize the Interim CEO to execute a single source agreement for up to \$900,000 with Stantec Consulting Services, Inc. to prepare a Proposition 1 funding application for Pacheco Reservoir expansion.

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

7. CHIEF EXECUTIVE OFFICER:

7.1. Annual Diversity and Inclusion Program Report.

Recommendation: Receive information about programs, events and initiatives that support and develop a diverse and inclusive work environment at the District.

Ms. Susan Stanton, Chief Operating Officer, Administrative Services, and Ms. Salem Baqleh, Program Administrator, reviewed the information on this item, per the attached Board Agenda Memo.

Mr. Bassam Kassab, Senior Water Resources Specialist, and Ms. Liz Bettencourt, Employee Association President, expressed appreciation for Board and executive level support of the Diversity and Inclusion Program.

The Board accepted the report and directed staff to come back with regular diversity and inclusion reports.

7.2. Recommended Position on Federal Legislation: HR 448 (Huffman) Water Conservation Rebate Tax Parity Act.

Recommendation: Adopt a position of "Support" on: HR 448 (Huffman) Water Conservation Rebate Tax Parity Act.?

Mr. Callender reviewed the information on this item, per the attached Board Agenda Memo.

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

8. ADMINISTRATION:

8.1. Reporting Structure of the Office of Ethics and Corporate Governance.

- Recommendation:
- A. Receive the Ethics Office Evaluation Benchmarking Report (Ethics Report) and the summary of recommendations; and
 - B. Receive information regarding proposed changes to the Ethics Office structure.

Mr. Anil Comelo, Deputy Administrative Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Ms. Bettencourt expressed support for monitoring and tracking Form 700's; identifying those who must file; having the Form 700 function report to District Counsel's office; hiring an independent consultant to audit and investigate complaints; and having an administrative policy for Board review.

The Board accepted the report and directed staff to establish a Form 700 monitoring process to make sure that work is not being assigned to those who have a conflict of interest and come back to the Board with periodic updates.

Chairperson Varela returned the agenda to Item 6.1.

6. WATERSHEDS:

6.1. Review and Authorize Distribution of the District's Draft Fiscal Years 2018-22 Capital Improvement Program (CIP).

- Recommendation:
- Review the Draft Fiscal Years 2018-22 CIP and authorize release of the document to all cities in Santa Clara County (SCC) and the County of Santa Clara for review as to its consistency with their General Plans.

Mr. Ngoc Nguyen, Interim Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Chairperson Varela directed staff to obtain federal assistance for, and ensure that Coyote Creek flood protection projects are included in the CIP.

- Motion:
- Authorize release of the document to all cities in Santa Clara County (SCC) and the County of Santa Clara for review as to its consistency with their General Plans and gave direction to staff and the CIP Ad Hoc Committee to pursue federal assistance for Coyote Creek residents.

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

9. DISTRICT COUNSEL:

None.

10. ADJOURN:

10.1. Board Member Reports/Announcements.

Director Keegan reported visiting the Williams Street Park area, and participated in a flood cleanup event.

Director LeZotte reported attending various staff meetings, a CIP Ad Hoc Committee Meeting, and a Santa Clara County Recycling and Waste Reduction Commission Meeting.

Director Santos reported attending a La Raza Roundtable Meeting, a Water Conservation and Demand Management Committee Meeting, the Pacheco Reservoir Exploratory Ad Hoc Committee Meeting with San Benito County and Pacheco Pass Water Districts, and the Santa Clara County Emergency Operations Council Session - Elected Official's Role in Disasters.

Chairperson Varela reported attending the aforementioned Santa Clara County Emergency Operations Council Session - Elected Official's Role in Disasters, and Pacheco Reservoir Exploratory Ad Hoc Committee Meeting with San Benito County and Pacheco Pass Water Districts; the Celebrate Morgan Hill Chambers of Commerce event, and a Coyote Creek flood site visit with San Jose Conservation Corps.

Director Estremera reported attending various staff meetings, a Successor Agency to the City of San Jose Redevelopment Agency Meeting, and the aforementioned La Raza Roundtable and CIP Ad Hoc Committee meetings.

Director Hsueh reported attending the aforementioned CIP Ad Hoc Committee and Water Conservation and Demand Management Committee meetings; and a Rinconada Reliability Improvement Project Public Meeting.

Director Kremen reported attending a briefing for San Luis Delta Mendota Water Authority, a Mountain View Community Meeting, various staff meetings, and the aforementioned Pacheco Reservoir Exploratory Ad Hoc Committee Meeting with San Benito County and Pacheco Pass Water Districts.

10.2. Clerk Review and Clarification of Board Requests.

Ms. King read the new Board Member Requests into the record.

10.3. Adjourn to 12:00 p.m. Closed Session and 1:00 p.m. Regular Meeting, on March 14, 2017, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

The Board noted that since publication of the agenda, a Special Closed Session Meeting, at 1:30 p.m. on March 1, 2017, had been scheduled.

Chairperson Varela adjourned the meeting at 10:00 p.m. to the Special Closed Session Meeting at 1:30 p.m., on March 1, 2017 at District Headquarters Building Boardroom, 5700 Almaden Expressway, San Joe, California.

Michele L. King, CMC
Clerk/Board of Directors

Approved:

Date: