



BOARD OF DIRECTORS MEETING

# MINUTES

**CLOSED SESSION & REGULAR MEETING  
TUESDAY, JANUARY 9, 2018  
10:30 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 Board of Directors was called to order in the District Headquarters Building Boardroom at 5700 Almaden Expressway, San Jose, California, at 10:30 a.m.

**1.1. Roll Call.**

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

Directors Keegan and LeZotte arrived as noted below.

Staff members in attendance were N. Camacho, Chief Executive Officer (CEO), S. Yamamoto, District Counsel, M. King, Clerk/Board of Directors, K. Arends, M. Baratz, R. Callender, A. Cheung, A. Comelo, V. Gin, C. Hakes, G. Hall, N. Hawk, B. Hopper, C. Kwok-Smith, N. Nguyen, K. Oven, M. Richardson, D. Taylor, S. Tikekar, and S. Tippets.

Chairperson Varela confirmed that the Board would adjourn to Closed Session for consideration of Items 2.1 and 2.2 and declared time open for public comment on Item 2.1.

Ms. Ingrid Bella, American Federation of State, County, & Municipal Employees Local 101 Employees Association, reported that the Bargaining Unit's vote to apply for strike sanctions was a prudent practice, and not intended to be interpreted as discontinued communications between the union and management in finalizing a Memorandum of Understanding.

## **2. TIME CERTAIN:**

### **10:30 AM**

During Closed Session, Director Keegan arrived.

- 2.1. CLOSED SESSION  
CONFERENCE WITH LABOR NEGOTIATORS  
Pursuant to Government Code Section 54957.6(a) Agency Designated  
Representatives: Norma Camacho, Anil Comelo, Michael Baratz, Laura Harbert,  
Dania Torres Wong, Esq.  
Employee Organizations: Employees Association, Engineers Society,  
Professional Managers Association
- 2.2. CLOSED SESSION  
CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Pursuant to Government Code Section 54956.8: Setting Negotiation Parameters  
Regarding Price and Terms of Payment for Acquiring Property Interest at  
444 West Alma St., San Jose, CA  
Negotiators: Norma J. Camacho, Melanie Richardson, Sue Turner, Bill Magleby,  
Ngoc Nguyen, Karl Neuman

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

### **1:00 PM**

Director LeZotte arrived.

- 2.3. District Counsel Report.  
  
Mr. Brian Hopper, Senior Assistant District Counsel, reported that in regards to Items 2.1 and 2.2, the Board met in Closed Session with all members present, excluding Director LeZotte, and gave direction to staff.  
  
Chairperson Varela moved the agenda to Item 2.5.
- 2.5. Orders of the Day.  
  
Chairperson Varela announced that Item 5.2 would be considered before Item 5.1 and returned the agenda to Item 2.4.
- 2.4. Pledge of Allegiance/National Anthem.  
  
Ms. Michele King, Clerk/Board of Directors, led all present in reciting the Pledge of Allegiance.
- 2.6. Time Open for Public Comment on any Item not on the Agenda.

Chairperson Varela declared time open for public comment on any item not on the agenda.

Mr. Andrew Galvan, Ohlone Indian Tribe, reported on the removal of human remains from the Berryessa and Permanente Creek projects, and expressed concern with the credentials of the archeological firm retained for the project, as well as their distance from the project sites.

Mr. James Crowley, Utility Maintenance Engineering Unit Manager, expressed concern for the status of the labor negotiations, the District's Classification and Compensation Study, and the perceived lack of support for staff.

The Board requested that staff work with Mr. Galvan to address his concerns (Board Member Request No. 18-0001).

2.7. Election of Board Chair and Vice Chair for Year 2018.

Recommendation: Nominate and elect a new Chairperson and Vice Chairperson for the calendar year 2018.

Motion: Nominate and elect District 3 Director Richard P. Santos as Board Chairperson, and nominate and elect District 4 Director Linda J. LeZotte as Board Vice Chairperson, for the 2018 calendar year.

Move to Approve: Tony Estremera

Second: Nai Hsueh

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

Nays: None

Abstains: None

Recuses: None

Absent: None

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

2.8. Recognition of Outgoing Chair.

Ms. Norma Camacho, Chief Executive Officer (CEO), presented outgoing Chairperson Varela with a memento of appreciation, and reviewed his accomplishments as Chairperson during 2017.

The remaining Board members individually and collectively expressed appreciation to outgoing Chairperson Varela.

Ms. Bella expressed appreciation for outgoing Chairperson Varela's cooperation and open communications with the Employees Association Bargaining Unit, and welcomed the newly appointed Board Chairperson Santos.

Ms. Swanee Edwards, Sierra Club Loma Prieta Chapter, expressed appreciation for outgoing Chairperson Varela's leadership and contributions to the Board.

2.9. Presentation and Discussion of Joint Efforts Between San Francisco Estuary Institute-Aquatic Science Center (SFEI) and Santa Clara Valley Water District.

Recommendation: A. Receive and discuss information about the past and current joint efforts between SFEI and the District; and  
B. Authorize the CEO to continue to support the Resilient by Design Challenge through partnership with SFEI.

Ms. Melanie Richardson, Interim Chief Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo; and Mr. Scott Dusterhoff and Mr. Robin Grossinger, SFEI Aquatic Science Center, reviewed the presentation materials contained in Attachment 1.

Move to Authorize: Tony Estremera  
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.

**3. CONSENT CALENDAR:**

Chairperson Santos removed Item 3.2 from the Consent Calendar for individual consideration, and the Board considered Consent Calendar Items 3.1, 3.3 and 3.4, under one motion.

3.1. Reduction of Construction Contract Retention for the Penitencia Delivery Main and Penitencia Force Main Seismic Retrofit Project, Ranger Pipelines, Inc., Contractor, Project No. 94384002 and 92224001, Contract No. C0611 (San Jose) (District 3).

Recommendation: Authorize reducing the current construction contract retention of ten percent (10%) to five percent (5%), consistent with the minimum amount required by the California Public Contract Code.

3.3. CEO Bulletins for the Weeks of December 15–21, 22–28, and December 29, 2017–January 4, 2018.

Recommendation: Accept the CEO Bulletins.

The Board noted the information, without formal action.

3.4. Approval of Minutes.

Recommendation: Approve the minutes.

Motion: Approve Consent Calendar Items 3.1, 3.3, and 3.4 under one motion, as follows: authorize reducing the current construction contract retention with Ranger Pipeline, Inc., for the Penitencia Delivery Main and Penitencia Force Main Seismic Retrofit Project, as contained in Item 3.1; accept the CEO Bulletins, as contained in Item 3.3; and approve the minutes, as contained in Item 3.4.

Move to Approve: Linda J. LeZotte

Second: John L. Varela

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

Nays: None

Abstains: None

Recuses: None

Absent: None

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

Chairperson Santos returned the agenda to Item 3.2.

3.2. Determination that the Condition of the Almaden Valley Pipeline Inspection and Rehabilitation Project (San Jose, Los Gatos, Unincorporated Santa Clara County) (Districts 4 and 7) Continues to Constitute an Emergency.

Recommendation: 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 December 5, 2017, pursuant to California Public Contract Code ?22050, to repair the Almaden Valley Pipeline (San Jose, Los Gatos, Unincorporated Santa Clara County) (Districts 4 and 7).

Mr. Chris Hakes, Assistant Officer, reviewed the information on this item, per the attached Board Agenda Memo.

The Board requested that the Capital Improvement Program (CIP) Committee review the Pipeline Inspections and Rehabilitation Program and report findings and recommendations back to the Board (Board Member Request No. 18-0002).

Move to Approve: Tony Estremera

Second: Gary Kremen

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

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. Environmental and Water Resources Committee's Recommendations and Associated Staff Analysis from the Committee's July 17, 2017, Meeting.**

Recommendation: Consider and act on the recommendations by the Environmental and Water Resources Committee to:  
A. Take action on a moratorium on fracking policy; and  
B. Request that the Santa Clara County Board of Supervisors support the fracking policy and enact a county-wide ban on new or increased fracking within the County of Santa Clara.

Ms. Vanessa DeLa Piedra, Groundwater Management Manager, reviewed the information on this item, per the attached Board Agenda Memo.

Three statements expressing support for banning fracking and urging the District to influence the Santa Clara County Board of Supervisors to support regulations that protect health, safety, and the environment were received from: Ms. Ester Nigenda, Palo Alto resident; Ms. Judy Plaska, Mountain View resident; and Ms. Edwards.

Mr. Ash Pirayou, Rutan & Tucker, LLP, identified himself as a registered lobbyist representing Patriot Resources, LLC, expressed opposition to staff's recommendation to take action on a moratorium on fracking policy, and urged the Board that if a policy level action is contemplated, to consider the pros and cons.

The Board requested that staff come back at a future meeting with discussion on a Board ordinance or policy on fracking, consistent with any action or consideration taken by the Santa Clara County Board of Supervisors.

#### **4.2. Discussion of Constituent Concerns Regarding the Management of District Property.**

Recommendation: Receive information and provide direction to staff.

Ms. Sue Tippets, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Ms. Edwards encouraged the use of volunteers to assist in management of District property, and gave as a successful example, the "Trash Bash" cleanup in

San Martin.

The Board noted the information, without formal action, and requested that staff provide the Board with a quarterly monitoring report on the management of District properties (Board Member Request No. 18-0003).

4.3. Time and Place of Regular Meetings of the Santa Clara Valley Water District Board of Directors.

- Recommendation:
- A. Consider the schedule for the regular meetings of the Board, currently held on the second and fourth Tuesday of each month, beginning at 1:00 p.m. and 6:00 p.m., respectively, or as designated by the Clerk of the Board to accommodate closed session subject matter;
  - B. Discuss and identify, if necessary, 2018 Board meeting recess dates; and
  - C. If a new regular Board meeting schedule is approved, adopt the Resolution SETTING TIME AND PLACE OF MEETINGS OF THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY WATER DISTRICT AND RESCINDING RESOLUTION NO. 17-55.

Motion: Approve making no changes to the 2018 Board meetings schedule.

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

4.4. Board Committee Reports.

There were no Board Committee Reports.

Chairperson Santos moved the agenda to Item 5.2.

**5. WATER UTILITY ENTERPRISE:**

5.2. Work Study Session and Board Consideration to Approve the District's Fiscal Years 2019-2023 Preliminary Capital Improvement Program (CIP).

- Recommendation:   A. Review and approve the Fiscal Years 2019-2023 (FY 2019-23) Preliminary CIP; and  
                          B. Approve adding the Westside Retailer Intertie Project to the FY 2018-22 CIP.

Mr. Hakes reviewed the information on this item, per the attached Board Agenda Memo. The presentation materials contained in Attachment 4 were reviewed by staff as follows: Mr. Hakes reviewed Slides 1 through 14 and 21-30; and Mr. Ngoc Nguyen, Assistant Officer, reviewed Slides 15 through 20.

Move to Approve:   Tony Estremera  
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.

Chairperson Santos returned the agenda to Item 5.1.

5.1.   Preliminary Fiscal Year (FY) 2018-19 Groundwater Production Charges Analysis.

Recommendation:   Discuss and provide direction on the preliminary  
                          FY 2018–19 Groundwater Production Charge analysis  
                          prepared by staff.

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

Mr. Doug Muirhead, Morgan Hill resident, expressed opposition to proposed agricultural water charge increases contained in Attachment 1, Slide 23.

Director Kremen requested that staff prepare a more detailed report on Public-Private Partnership (P3) cost projections for the next Recycled Water Committee meeting; and the Board requested that staff schedule a special meeting of the Agricultural Water Advisory Committee in February 2018, to discuss the Open Space Credit.

**6.    WATERSHEDS:**

Director Kremen left the meeting and returned as noted below.

- 6.1.   Adopt a Resolution Adopting the Final Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program, and Project Approval for the Cunningham Flood Detention Facility Certification Project, Project No. 40264011 (San Jose) (District 1).



- Recommendation:
- A. Consider the environmental effects of the Cunningham Flood Detention Facility Certification Project (Project) as discussed in the Final Initial Study/Mitigated Negative Declaration (IS/MND);
  - B. Adopt a RESOLUTION ADOPTING THE FINAL IS/MND AND MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) for the Project; and
  - C. Approve the Project.

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

Motion: Adopt Resolution No. 18-01, ADOPTING THE FINAL INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM FOR THE CUNNINGHAM FLOOD DETENTION FACILITY CERTIFICATION PROJECT, by roll call vote, and approve the project.

Move to Adopt: Nai Hsueh  
Second: Tony Estremera  
Yeas: Tony Estremera, Nai Hsueh, Barbara Keegan, Linda J. LeZotte, Richard Santos, John L. Varela  
Nays: None  
Abstains: None  
Recuses: None  
Absent: Gary Kremen  
Summary: 6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

**7. EXTERNAL AFFAIRS:**

None.

**8. CHIEF EXECUTIVE OFFICER:**

**8.1. Board Confirmation of the Chief Operating Officer of Watersheds**

Recommendation: Confirm the appointment of the Chief Operating Officer (COO) of Watersheds for the Santa Clara Valley Water District.

Ms. Camacho reviewed the information on this item, per the attached Board Agenda Memo.

Ms. Bella expressed support for confirmation of Ms. Richardson's appointment.

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

Nays:	None
Abstains:	None
Recuses:	None
Absent:	Gary Kremen
Summary:	6 Yeas; 0 Nays; 0 Abstains; 1 Absent.

Ms. Richardson expressed appreciation for the Board's confirmation of her appointment as COO.

8.2. Chief Executive Officer Report.

Director Kremen returned.

Ms. Melanie Richardson, Interim Chief Operating Officer, reported that the Safe, Clean Water Independent Monitoring Committee had begun discussing its next annual report.

Mr. Nguyen reported that the Natural Resources Conservation Service informed the District that it qualifies for a \$4.2 million grant to offset construction costs on the Lake Cunningham Project. He also reported that staff would continue to work with Mr. Galvan to address and recover the cultural resources at the Rancho San Antonio Flood Protection Project site of the Permanente Creek Flood Protection Project, and would update the Board on progress.

Mr. Rick Callender, Chief of External Affairs, reported on legislative activities in progress.

**9. ADMINISTRATION:**

None.

**10. DISTRICT COUNSEL:**

None.

**11. ADJOURN:**

11.1. Board Member Reports/Announcements.

There were no Board Member reports or announcements.

11.2. Clerk Review and Clarification of Board Requests.

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

- 11.3. Adjourn to Special Meeting at 1:00 p.m., on January 17, 2018, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Chairperson Santos adjourned the meeting at 4:00 p.m. in memory of Ms. Linda Callon, former Mayor of the City of Saratoga, and former City Attorney for the City of Gilroy, to the 1:00 p.m. Special Meeting on January 17, 2018, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Michele L. King, CMC  
Clerk/Board of Directors

Approved:

Date: