



BOARD OF DIRECTORS MEETING

# MINUTES

**CLOSED SESSION AND REGULAR MEETING  
TUESDAY, MARCH 27, 2018  
4:00 PM**

(Paragraph numbers coincide with agenda item numbers)

**1. CALL TO ORDER:**

A 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 4:00 p.m.

**1.1. Roll Call.**

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

Director Estremera was excused from attending.

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

**2. TIME CERTAIN:**

Chairperson Santos confirmed that the Board would adjourn to Closed Session for consideration of Item 2.1 through 2.3.

**4:00 PM**

- 2.1. CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION**  
Pursuant to Government Code §54956.9(d)(1);  
Santa Clara County Creeks Coalition v. SCVWD - Water Rights Complaint before the State Water Resources Control Board.

- 2.2. CLOSED SESSION  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Pursuant to Government Code Section 54957(b)(1)  
Title: District Counsel
- 2.3. CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL- PENDING LITIGATION  
Pursuant to Government Code Section 54956.9(d)(1)  
Allagas, et al v. BP Solar International, Inc.

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

**6:00 PM**

- 2.4. District Counsel Report.

Mr. Stan Yamamoto, District Counsel, reported that in regards to Items 2.1, 2.2 and 2.3, the Board met in Closed Session with all members present, excluding Director Estremera, and gave direction to staff.

- 2.5. Pledge of Allegiance/National Anthem.

Mr. Rick Callender, Chief of External Affairs, led all present in reciting the Pledge of Allegiance.

- 2.6. Orders of the Day.

Chairperson Santos confirmed that there were no changes to the Orders of the Day.

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

Chairperson Santos declared time open for public comment on any subject not on the agenda.

Mr. Dave Poeschel, Sierra Club Loma Prieta Chapter, informed the Board that the Loma Prieta Chapter had joined the Santa Clara County Creeks Coalition water rights complaint to prevent further harm to fish, wildlife and public trust resources in the Guadalupe and Alamitos Creeks.

- 2.8. Presentation of 2017 Board Committee Accomplishment Reports by 2017 Board Advisory Committee Chairs/Vice Chairs.

Recommendation: Accept the 2017 Board Committee Accomplishment Reports, as presented by the 2017 Board Advisory Committee Chairs/Vice Chairs.

Ms. Glenna Brambill, Management Analyst II, reviewed the information on this item, per the attached Board Agenda Memo; and the corresponding materials contained in Attachments 1 through 3 were reviewed as follows: Mr. Loren

Lewis, Environmental and Water Resources Committee, reviewed Attachment 2, and Ms. Brambill reviewed Attachments 1 and 3.

The Board noted the information, without formal action.

2.9. Ogier Ponds Feasibility Study Evaluation Project (District 1).

- Recommendation:
- A. Receive the results of the feasibility study evaluating hydraulic separation of the Ogier Ponds from Coyote Creek considering District interests in stream stewardship, flood protection and water supply and County interests in recreation and stream stewardship; and
  - B. Provide direction to staff relative to continuing discussions with Santa Clara County for their concurrence and support, as the land owner, to move the Ogier Ponds-Creek Separation Project into the planning phase; and
  - C. Provide additional direction to staff regarding further exploration of separating Ogier Ponds from Coyote Creek.

Chairperson Santos acknowledged receipt of the attached correspondence from the Santa Clara County Creek Coalition, identified as Handout 2.9-A, herein. Copies of the Handout were distributed to the Board and made available to the public.

Mr. Nguyen, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 3; and acknowledged the following project team members for their collaborative efforts in preparing the feasibility study: Mr. Don Rocha, Santa Clara County Parks and his staff; Ms. Melissa Moore, Senior Water Resources Specialist; Mr. Jack Xu, Associate Civil Engineer; Mr. James Manidakos, Associate Water Resources Specialist; and Mr. Steve Rottenborn, Harvey & Associates Ecological Consultants.

In response to Directors Keegan and LeZotte, Mr. Rocha explained that the County Parks Department was interested in working with the District to move the project forward, but did not have the resources or expertise necessary.

Director Keegan and Mr. Anthony Fulcher, Senior Assistant District Counsel explained that the District did not own Ogier Ponds but entered into a Fisheries and Aquatic Habitat Collaborative Effort (FAHCE) Agreement to which the County is not involved, to do a project in that area. Mr. Fulcher further stated that the District sought County help to remediate Ogier Ponds with the District contributing up to 50 percent of the costs.

Ms. Shani Kleinhaus, Santa Clara Audubon Society, stated that it was the District's responsibility to conduct the planning phase of the project, and discussed habitat impacts.

The Board requested that District staff continue discussions with the County to move toward the planning stage, if the County Board of Supervisors concurs and supports the planning effort, and return to the Board within six months to provide a status update.

### **3. CONSENT CALENDAR: (3.1 - 3.7)**

Chairperson Santos acknowledged receipt of the attached written comments from Mr. Doug Muirhead, Morgan Hill resident, identified as Handout 3.1-A, herein. Copies of the Handout were distributed to the Board and made available to the public.

Ms. Melanie Richardson, Chief Operating Officer, advised the Board that in regard to Item 3.7, Board Agenda Memo, Page 1, Summary Section, Paragraph 1, the number of trees to be removed from the project area had been reduced from 51 to 30, and that the California Department of Fish and Wildlife has issued the permit, which has not yet been received and that work to remove the trees would not begin until the permit was received.

The Board considered Consent Calendar Items 3.1 through 3.7, under one motion.

- 3.1. Consultant Services Agreement with AECOM Technology Services, Inc., for Planning Services for an Amount Not-to-Exceed \$621,848 for the Stevens Creek Fish Passage Analysis Project, Project No. 62044001 (Santa Clara County, Cupertino, Sunnyvale, Mountain View) (Districts 5 and 7).

Recommendation:   A. Approve the Consultant Services Agreement with AECOM Technology Services, Inc., for planning services for the Stevens Creek Fish Passage Analysis Project for a not-to-exceed amount of \$621,848; and  
                              B. Authorize the Chief Executive Officer or her designee to execute the agreement with AECOM for the Stevens Creek Fish Passage Analysis Project.

- 3.2. Sponsorship of Silicon Valley Leadership Group's 2018 Energy and Sustainability Summit.

Recommendation:   A. Receive information on the Silicon Valley Leadership Group's 2018 Energy and Sustainability Summit; and  
                              B. Approve the request for sponsorship in the amount of \$10,000.

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

Recommendation:   A. Receive an update on the Almaden Valley Pipeline Inspection and Rehabilitation Project; and

- B. 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).

- 3.4. Notice of Time and Place of Public Hearing Regarding the Proposed Modifications to Project A2: Safe, Clean Water Partnerships and Grants (Nitrate Treatment System Rebate Program); and Project E4: Upper Penitencia Creek Flood Protection of the Safe, Clean Water and Natural Flood Protection Program.

Recommendation: Set a time and place for a public hearing on the proposed modifications to Project A2: Safe, Clean Water Partnerships and Grants (Nitrate Treatment System Rebate Program); and Project E4: Upper Penitencia Creek Flood Protection of the Safe, Clean Water and Natural Flood Protection Program, to occur at 1:00 p.m., on April 10, 2018, at the Santa Clara Valley Water District, 5700 Almaden Expressway, San Jose, California.

- 3.5. Approval of Minutes.

Recommendation: Approve the minutes.

- 3.6. CEO Bulletins for the Weeks March 9–15, and 16–22, 2018.

Recommendation: Accept the CEO Bulletins.

- 3.7. Procurement of Sole Source Services From Mowbray's Tree Service for Hazardous Tree Removal Along Saratoga Creek (Saratoga) (District 5). (Moved From March 21, 2018 Agenda)

Recommendation: 

- A. Approve a Sole Source purchase of services for hazardous tree removal along Saratoga Creek for a not-to-exceed amount of \$100,000; and
- B. Authorize the Chief Executive Officer or her designee to procure tree removal services from Mowbray's Tree Service for an amount not-to-exceed \$100,000.

Motion: Approve Consent Calendar Items 3.1 through 3.7, under one motion, as follows: approve the Consultant Services Agreement with AECOM Technology Services, Inc., for planning services for the Stevens Creek Fish Passage Analysis Project for a not-to-exceed amount of \$621,848, and authorize the Chief Executive Officer or her designee to execute the agreement, as contained in Item 3.1; approve Silicon Valley Leadership Group 2018 Energy and Sustainability Summit sponsorship in the amount of \$10,000, as contained in Item 3.2; determine 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, by 4/5 majority vote, as contained in Item 3.3; set a time and place for a public hearing on the proposed modifications to Project A2: Safe, Clean Water Partnerships and Grants (Nitrate Treatment System Rebate Program), and Project E4: Upper Penitencia Creek Flood Protection of the Safe, Clean Water and Natural Flood Protection Program, to occur at 1:00 p.m., on April 10, 2018, as contained in Item 3.4; approve the minutes, as contained in Item 3.5; accept the CEO Bulletins, as contained in Item 3.5; and approve a Sole Source purchase of services for hazardous tree removal along Saratoga Creek for a not-to-exceed amount of \$100,000, and authorize the CEO or her designee to procure tree removal services from Mowbray's Tree Service, as contained in Item 3.7.

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

## **REGULAR AGENDA:**

### **4. BOARD OF DIRECTORS:**

#### **4.1. Board's Annual Self-Assessment of its Performance for 2017.**

Ms. Michele King, Clerk/Board of Directors, reviewed the information on Items 4.1 and 4.2, per the attached Board Agenda Memos.

Recommendation:	A. Conduct a Board self-assessment based on 2017 performance results; and
	B. Share 2017 Annual Board Performance Report broadly with stakeholders, such as, customers, Board Committees, community groups, and employees, among others.

Chairperson Santos acknowledged receipt of the attached comments from Mr. Muirhead, identified as Handout 4.1-A, herein. Copies of the Handout were distributed to the Board and made available to the public.

Motion:	Refer Item 4.1 to the Board Policy and Planning Committee for discussion and development of additional
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targets for the coming year to help improve communication and outreach; and that staff bring back recommendations for Board consideration.

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

4.2. Fiscal Year 2018 Board Policy Planning and Performance Monitoring Calendars.

Recommendation: Review, discuss and revise, if necessary, the Fiscal Year 2018 Board Policy Planning and Performance Monitoring Calendars.

The Board noted the information, without formal action.

4.3. Board Committee Reports.

Director Hsueh reviewed the attached Agricultural Water Advisory Committee and Capital Improvement Program Committee reports, identified as Attachments 1 and 2, respectively herein.

The Board noted the information, without formal action.

**5. WATER UTILITY ENTERPRISE:**

5.1. Dam Safety Program Update.

Recommendation: Receive, review, and discuss information on the Dam Safety Program.

Mr. Hemang Desai, Dam Safety Program Manager, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 3.

Chairperson Santos requested that staff increase outreach on the costs to retrofit Anderson Dam.

5.2. Open Space Credit Policy Discussion.

Recommendation: Consider information provided by staff and provide policy direction as necessary.

Mr. Darin Taylor, Chief Financial Officer, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 1.

Mr. Muirhead urged the Board to consider implementation of the County's Sustainable Agricultural Framework and outcome before approving an increase in agricultural water rates.

Chairperson Santos acknowledged receipt of the attached correspondence from Mr. Dhruv Khanna, Kirigin Cellars and Ms. Julie Hutcheson, Santa Clara County Food Systems Alliance, identified as Handouts 5.2-A and 5.2-B respectively, herein. Copies of the Handout were distributed to the Board and made available to the public.

Director Hsueh requested that staff provide a comparison of actual versus estimated Open Space Credit revenue projections for specific years identified in Attachment 1, Page 4; and Director Kremen requested that staff look at other options to offset an increase to the agricultural water rate.

## **6. WATERSHEDS:**

None.

## **7. EXTERNAL AFFAIRS:**

Ms. Rachael Gibson, Deputy Operating Officer, reviewed the information Items 7.1 and 7.2, per the attached Board Agenda Memos.

- 7.1. Recommended Position on State Legislation: Proposition 72 Property Tax: New Construction Exclusion: Rain Water Capture System; AB 2308 (Stone) Single Use Cigarette Filters; SB 966 (Wiener) Onsite Treated Non-Potable Water Systems; and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

Recommendation:    A. Adopt a position of "Support" on: Proposition 72 Property Tax: New Construction Exclusion: Rain Water Capture System; and  
                                 B. Adopt a position of "Support" on: AB 2308 (Stone) Single Use Cigarette Filters; and  
                                 C. Adopt a position of "Support" on: SB 966 (Wiener) Onsite Treated Non-Potable Water Systems.

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



- 7.2. Recommended Positions on Federal Legislation: HR 5127 (Napolitano) Water Recycling Investment and Improvement Act, HR 1669 (Delaney) Partnership to Build America Act of 2017, S 2346 (Booker) Innovative Workforce Development Act; HR 660 (Gosar) and S 216 (Barrasso) Bureau of Reclamation Transparency Act.

Recommendation: A. Adopt a position of "Support and Amend" on: HR 5127 (Napolitano)—Water Recycling Investment and Improvement Act; and  
B. Adopt a position of "Support and Amend" on: HR 1669 (Delaney) Partnership to Build America Act of 2017; and  
C. Adopt a position of "Support" on: S 2346 (Booker) Innovative Workforce Development Act; and  
D. \*Adopt a position of "Support and Amend" on: HR 660 (Gosar) and S 216 (Barrasso) Bureau of Reclamation Transparency Act.

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

## **8. CHIEF EXECUTIVE OFFICER:**

- 8.1. Fiscal Year 2018-19 Second Pass Budget Development Process Overview.

Recommendation: Receive and discuss the overview of the District's FY 2018–19 Second Pass Budget Development Process.

Mr. Taylor reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Supplemental Attachment 1.

The Board noted the information, without formal action.

- 8.2. Chief Executive Officer Report.

Ms. Norma Camacho, Chief Executive Officer, reported on a Metropolitan Water District workshop on the California WaterFix.

Ms. Nina Hawk, Chief Operating Officer, provided an update on the Almaden Valley Pipeline Repair Project, and acknowledged Rick Callender, Chief of External Affairs, and his staff for their receipt of the Silicon Valley Water Conservation Award for education and outreach.

Ms. Melanie Richardson, Chief Operating Officer, distributed and reviewed the information contained in the attached Storm Report Update, identified as Handout 8.2-A, herein. Copies of the Handout were distributed to the Board and made available to the public.

Mr. Callender reported on District water truck use; SB-881, Flood Control: County of Santa Clara: South San Francisco Bay Shoreline Project; and AB 1889, Santa Clara Valley Water District, amending the District Act.

**9. ADMINISTRATION:**

None.

**10. DISTRICT COUNSEL:**

None.

**11. ADJOURN:**

**11.1. Board Member Reports/Announcements.**

Director Kremen reported attending the Silicon Valley Water Conservation Awards.

Director Keegan reported attending a California WaterReuse Conference.

Director LeZotte reported attending a San Jose Kiwanis meeting, a District Brown Bag event on Sediment Transport Modeling, a Campbell Chamber of Commerce meeting, and the aforementioned Silicon Valley Water Conservation Awards.

Director Hsueh reported attending Agricultural Water Committee, Capital Improvement Program Committee; and various meetings with staff.

Director Varela reported attending City of San Jose Councilmember Sylvia Arenas' Volunteer Appreciation Breakfast, the California Wildlife Day Celebration, the San Martin Spring Trash Bash Creek Clean Up Event, the American Association of University Women 2018 Wildflower Run, a Local Agency Formation Commission workshop; and the aforementioned California WaterReuse Conference.

Chairperson Santos reported attending the Special Joint Meeting with Milpitas City Council.

**11.2. Proposed Future Board Member Agenda Items.**

Director LeZotte requested the Board agendaize discussion of a resolution opposing the City of San Jose's Measure B, relative to the Evergreen Senior Housing Initiative.

11.3. Clerk Review and Clarification of Board Requests.

Ms. King confirmed there were no new Board Member Requests.

11.4. Adjourn to Regular Meeting at 1:00 p.m., on April 10, 2018, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Chairperson Santos adjourned the meeting at 8:35 p.m., to the 11:00 a.m., Closed Session and 1:00 p.m., Regular Meeting on April 10, 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: May 8, 2018

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