



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION & REGULAR MEETING
TUESDAY, APRIL 23, 2019
4:00 PM**

(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 was called to order in the Valley Water Headquarters Building Boardroom at 5700 Almaden Expressway, San Jose, California, at 4:00 p.m.

1.1. Roll Call.

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

Director Keegan arrived as noted below.

Staff members in attendance were N. Camacho, Chief Executive Officer, S. Yamamoto, District Counsel, M. King, Clerk, Board of Directors, K. Arends, M. Baratz, R. Callender, R. Chan, G. De La Piedra, A. Fulcher, R. Gibson, V. Gin, C. Hakes, G. Hall, N. Hawk, N. Nguyen, K. Oven, M. Richardson, D. Taylor, B. Yerrapotu, and T. Yoke.

Chairperson LeZotte announced that the Board would adjourn to Closed Session for consideration of Items 2.1, 2.2, and 2.3.

2. TIME CERTAIN:

4:00 PM

Director Keegan arrived.

- 2.1. CLOSED SESSION**
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957(b)(1)
Title: CEO, District Counsel and Clerk of the Board

- 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):
Fish and Aquatic Habitat Collaborative Effort (FAHCE) Guadalupe Coyote
Resources Conservation District v. SCVWD Settlement regarding Water Rights
- Upon return to Open Session, the same Board members, including Director Keegan, and staff were present.

6:00 PM

- 2.4. District Counsel Report.
- Mr. Stan Yamamoto, District Counsel, reported that the Board met in Closed Session with all members present, continued Item 2.1 to April, 25, 2019 at 4:00 p.m., and in regard to Items 2.2, and 2.3, gave direction to staff.
- 2.5. Pledge of Allegiance/National Anthem.
- Director Estremera led all present in reciting the Pledge of Allegiance.
- 2.6. Orders of the Day.
- Chairperson LeZotte confirmed that Item 3.2 would be considered after approval of the Consent Calendar.
- 2.7. Time Open for Public Comment on any Item not on the Agenda.
- Three statements expressing opposition to the Regnart Creek Trail were received from Ms. Benaifer Dastoor and Ms. Linda Wyckoff, Cupertino residents, and Mr. Gary Wong, Campo De Lozano Home Owners Association.
- 2.8. Public Hearing - Annual Report on the Protection and Augmentation of Water Supplies - February 2019 and Recommended Groundwater Production and Other Water Charges for Fiscal Year 2019-2020. (Continued from April 11, 2019)
- Recommendation:
- A. Continue the public hearing pursuant to Section 26.6 of the District Act to consider the District Fiscal Year 2019-2020 Annual Report on the Protection and Augmentation of Water Supplies, and direct staff to review such report with, and solicit comments from, the District's advisory committees;
 - B. Hear public comments from groundwater producers and any interested persons regarding such report; and
 - C. Close the public hearing.

Chairperson LeZotte opened the Public Hearing and declared time open for public comment.

Five statements expressing support for the Open Space Credit (OSC) were received from Ms. Katja Irvin, Sierra Club Loma Prieta Chapter; Mr. Paul Mirassou, and Mr. Brent McKinney, Santa Clara County Farm Bureau; Mr. Erin Gil, Morgan Hill resident; and Ms. Swanee Edwards, South County Democratic Party.

Chairperson LeZotte closed the public hearing.

Motion: Approve the Recommendation contained in Handout 2.8-A Page 2, as follows:

1. Continue current practice for OSC for the next 2 years, FY 2019-2020 and FY 2020-2021.
2. During the 2-year period, through a coalition of agriculture industry, open space organizations, other governmental organizations, environmental groups and Valley Water, work to pursue feasible revenue sources for OSC.
3. Depending on the outcomes of the efforts, the Board would then set the OSC accordingly. It is important to point out that the OSC decision cannot not be made independently, it needs to be considered in connection with the services Valley Water relies on Property Tax to deliver to the community; and
4. Direct staff to respond in writing to the correspondences contained in Handouts 2.8-B, 2.8-C, 2.8-D, and 2.8-E, and explain that, as stated in Handout 2.8-A, Page 1, Paragraph 2, the Board, present and former, has never wavered its support for agriculture; that the issue facing the Board is about an "unsustainable financial future" of property tax revenue; and requesting constituent support in the process.

Move to Approve:	Nai Hsueh
Second:	John L. Varela
Yeas:	Tony Estremera, Nai Hsueh, Richard Santos, John L. Varela
Nays:	Barbara Keegan, Gary Kremen, Linda J. LeZotte
Abstains:	None
Recuses:	None
Absent:	None
Summary:	4 Yeas; 3 Nays; 0 Abstains; 0 Absent.

Directors Keegan and Kremen explained that they voted in opposition to the item because they opposed delaying an OSC decision for two years.

Chairperson LeZotte explained that she voted in opposition to the item because in addition to shared concern regarding delaying an OSC decision, she was also concerned about the OSC diminishing funding for other projects.

3. CONSENT CALENDAR:

The Board considered Consent Calendar Items 3.1, and 3.3 through 3.6, under one motion.

- 3.1. Design-Build Method for the Vasona Pump Station Upgrade Project, and Consultant Agreement with Hazen and Sawyer for Project Planning and Preliminary Design Services, Project No. 92264001 (Los Gatos) (District 7).

Recommendation: A. Approve implementing the design-build project delivery method for the Vasona Pump Station Upgrade Project; and

 B. Approve a Consultant Agreement with Hazen and Sawyer for project planning and preliminary design services for the Vasona Pump Station Upgrade Project for a not-to-exceed fee of \$721,691.

- 3.3. Claim of Ezzat Lokzadeh.

Recommendation: Deny the claim.

- 3.4. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the San Tomas Aquino Creek Erosion Repair Project, United States Geological Survey Gage near Williams Road to Virginia Avenue, and Barron Creek Concrete Repair at Bryant Street, Project No. 62084001, Task No. 5192 and 5204, Contract No. C0647, (Palo Alto, Campbell, San Jose) (Districts 2, 4, 7).

Recommendation: A. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the San Tomas Aquino Creek Erosion Repair Project, United States Geological Survey Gage near Williams Road to Virginia Avenue, and Barron Creek Concrete Repair at Bryant Street, per the Notice to Bidders; and

 B. Authorize the Designated Engineer to issue addenda, as necessary, during bidding.

- 3.5. CEO Bulletins for the Weeks of April 5-11 and 12-18, 2019.

Recommendation: Accept the CEO Bulletins.

- 3.6 Approval of Minutes.

Recommendation: Approve the minutes.

Motion: Approve Consent Calendar Items 3.1, and 3.3 through 3.6, under one motion, as follows: approve implementing the design-build delivery method and approve agreement with Hazen and Sawyer for the Vasona Pump Station Upgrade Project, for a not-to-exceed fee of \$721,691.00, as contained in Item 3.1; deny the claim of Mr. Ezzat Lokzadeh, as contained in Item 3.3; adopt the Plans and Specifications and authorize advertisement for bids for construction of the San Tomas Aquino Creek Erosion Repair Project, as contained in Item 3.4; accept the CEO Bulletins, as contained in Item 3.5; and approve the minutes, as contained in Item 3.6.

Move to Approve: Richard Santos
Second: Tony Estremera
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 LeZotte returned the Agenda to Item 3.2.

3.2. Claim of Susan Landry.

Recommendation: Deny the claim.

Ms. Susan Landry, Campbell resident, reviewed and distributed the attached claim, identified as Handout 3.2-A herein. Copies of the Handout were distributed to the Board and made available to the public.

Motion: Continue the Item for Closed Session discussion, at a future meeting.

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

Director Kremen explained that he voted in opposition to the item because he preferred resolution through mediation.

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

Director Kremen stepped out of the meeting and returned as noted below.

4.1. District Living Wage Policy. (Continued from 04/09/2019)

- Recommendation:
- A. Receive information on the District's current Living Wage Policy; and
 - B. Direct District staff to return with proposed updates to the Living Wage Policy, for future discussion and approval by the Board.

Mr. Michael Baratz, Labor Relations Officer, reviewed the information on this item, per the attached Board Agenda Memorandum.

Motion: Direct staff to return with a proposed revised policy that includes health insurance and reasonable time off.

Move to Approve: Tony Estremera

Second: Richard Santos

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.

4.2. Fiscal Year 2019 Board Policy Planning and Performance Monitoring Calendars.

Recommendation: Review, discuss, and revise the Fiscal Year 2019 Board Policy Planning and Performance Monitoring Calendars.

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

The Board noted the information without formal action.

Director Kremen returned.

4.3. Board Committee Reports.

- A. Delta Conveyance Design and Construction Authority Update.
- B. Delta Conveyance Finance Authority Update.
- C. Agricultural Water Advisory Committee Update.
- D. Santa Clara Valley Water Commission Update.
- E. Environmental and Water Resources Committee Update.

There were no updates on the Delta Conveyance Design and Construction, and Finance Authorities given.

Chairperson LeZotte acknowledged receipt of the attached summaries of the April 8, 2019 Agricultural Water Advisory Committee, April 10, 2019 Santa Clara Valley Water Commission and April 15, 2019 Environmental and Water Resources Committee meetings, identified as Handouts 4.3-C, 4.3-D, and 4.3-E respectively herein. Copies of the Handouts were distributed to the Board and made available to the public.

Ms. Glenna Brambill, Management Analyst II, updated the Board regarding the March 14, 2019 Synopsis Fair results, and the April 7, 2019 Youth Commission Awards Ceremony.

The Board noted the information without formal action.

- 4.4. Recommendations and Associated Staff Analyses from the April 8, 2019, Agricultural Water Advisory Committee Meeting; April 10, 2019, Santa Clara Valley Water Commission's Meeting; and the April 15, 2019, Environmental and Water Resources Committee Meeting.

Recommendation: Consider and act on the following recommendations by the:

Agricultural Water Advisory Committee (AWAC):

- A. Accept the AWAC's letter opposing the proposed changes in the Open Space Credit policy; Santa Clara Valley Water Commission (Commission)
- B. Request staff review increasing the M&I groundwater charge by a few cents per month to help reduce future debt service costs that are projected to increase significantly over the next 10 years and, also, look for revenue sources that would reduce future debt service;
- C. Freeze the rates and retain Open Space Credit for 2020-2022 to further explore efforts that support the health of agriculture in Santa Clara County (referencing the County Ag Plan); Environmental and Water Resources Committee (EWRC):
- D. Include the EWRC's recommendations supporting staff's proposed groundwater production charge rates;
- E. Direct staff to supply additional financial data to the EWRC for next year's analysis of groundwater production charges by giving the EWRC sources and use of funds/revenue with a breakdown and clarity of where the funds come from North vs. South County costs, so the EWRC can make an informed decision on the rates in the future; and

- F. Keep the ag water rate the same and not consider the Williamson Act/Conservation Easement properties to keep everyone equal.

Ms. Brambill reviewed the information on this item, per the attached Board Agenda Memorandum.

Chairperson LeZotte noted that AWAC Recommendations A and C were addressed during consideration of Item 2.8, and that Recommendations B, D, and E would be considered at the May 14, 2109, regular meeting.

The Board noted the information without formal action.

Director Estremera left the meeting and returned as noted below.

5. WATER UTILITY ENTERPRISE:

None.

6. WATERSHEDS:

None.

7. EXTERNAL AFFAIRS:

Ms. Rachael Gibson, Deputy Administrative Officer, reviewed the information on Items 7.1, and 7.2, per the attached Board Agenda Memorandums.

- 7.1. Recommendations on Federal Legislation: H.R. 1497 (DeFazio) - Water Quality Protection and Job Creation Act; H.R. 658 (DeLauro) - National Infrastructure Development Bank Act of 2019; H.R. 1417 (Lawrence) - Water Affordability, Transparency, Equity, and Reliability (WATER) Act of 2019; and Other Legislation That May Require Urgent Consideration for a Position by the Board.

- Recommendation:
- A. Adopt a position of "Support" on H.R. 1497 (DeFazio) - Water Quality Protection and Job Creation Act;
 - B. Adopt a position of "Support" on H.R. 658 (DeLauro) - National Infrastructure Development Bank Act of 2019; and
 - C. Adopt a position of "Support" on H.R. 1417 (Lawrence) - Water Affordability, Transparency, Equity, and Reliability Act of 2019.

Move to Adopt: Richard Santos
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.

04/23/19

- 7.2. Recommended Positions on State Legislation: SB 487 (Caballero) Department of Water Resources: Aerial Snow Surveys; Members' Request for State Funding for the Paradise Irrigation District; AB 948 (Kalra) Coyote Valley Conservation Program; AB 1534 (Wicks) Regional Homeless Management Planning Act; SB 414 (Caballero) Small System Water Authority Act of 2019; Effort to Amend Elections Code Section 13119 Regarding Ballot Label Language for Local Measures; Proposition 68 Funding for Voluntary Agreements; and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

- Recommendation:
- A. Adopt a position of "Support" on: SB 487 (Caballero) Department of Water Resources: Aerial Snow Surveys;
 - B. Adopt a position of "Support" on: Members' Requests for State Funding for the Paradise Irrigation District;
 - C. Adopt a position of "Support" on: AB 948 (Kalra) Coyote Valley Conservation Program;
 - D. Adopt a position of "Support" on: AB 1534 (Wicks) Regional Homeless Management Planning Act;
 - E. Adopt a position of "Support" on: SB 414 (Caballero) Small System Water Authority Act of 2019;
 - F. Adopt a position of "Support" on: Effort to Amend Elections Code Section 13119 Regarding Ballot Label Language for Local Measures; and
 - G. Adopt a position of "Support" on: Proposition 68 Funding for Voluntary Agreement.

Move to Adopt: Richard Santos
Second: John L. Varela
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.

Director Estremera returned.

Ms. Gibson reviewed and distributed the attached memorandum dated, April 23, 2019, from Chairperson LeZotte requesting consideration to change the Board's February 26, 2019 adopted position on SB-204 (Dodd), State Water Project Contracts, from "Oppose Unless Amended" to "Oppose" identified as Handout

7.2-A herein. Copies of the Handout were distributed to the Board and made available to the public.

Motion: Approve changing the Board's February 26, 2019 adopted position of "Oppose Unless Amended", and adopt a position of "Oppose", on SB-204 (Dodd) State Water Project Contracts, as contained in Handout 7.2-A.

Move to Adopt: Gary Kremen

Second: Richard Santos

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.

7.3. Approval of Fiscal Year 2019 Grants for Safe, Clean Water and Natural Flood Protection Program.

- Recommendation:
- A. Review and discuss staff's recommendations for Fiscal Year 2019 Safe, Clean Water and Natural Flood Protection (Safe, Clean Water) Program Grant Awards;
 - B. Authorize the Chief Executive Officer, following the California Environmental Quality Act compliance, to approve and execute agreements for the following grant priority areas;
 - i. Water Conservation (Priority A2) grant in a total amount not-to-exceed \$30,000 for one (1) project;
 - ii. Support Volunteer Cleanup Efforts & Education (Priority B7) grants in a total amount not-to-exceed \$96,112 for three (3) projects;
 - iii. Access to Trails & Open Space (Priority D3) grants in a total amount not-to-exceed \$329,906 for three (3) projects; and
 - C. Authorize the Chief Executive Officer to approve and execute amendments to the recommended grant agreements, extending their terms up to twelve additional months and with no revisions to their no-to-exceed grant amounts.

Ms. Sherilyn Tran, Program Administrator, reviewed the information on this item, per the attached Board Agenda Memorandum.

Move to Authorize: Barbara Keegan
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.

8. CHIEF EXECUTIVE OFFICER:

8.1. CEO and Chiefs' Report.

Ms. Melanie Richardson, Chief Operating Officer, reported on sediment removal on the Downtown Guadalupe Flood Protection Project, and on the recommendation for grant funding of the San Francisco Bay Restoration Authority's Shoreline Economic Impact Areas 11 Projects.

Mr. Rick Callender, Chief of External Affairs, reviewed and distributed the attached Office of Communications Legislative Update, identified as Handout 8.1-A herein. Copies of the Handout were distributed to the Board and made available to the public.

9. ADMINISTRATION:

None.

10. DISTRICT COUNSEL:

None.

11. ADJOURN:

11.1. Board Member Reports/Announcements.

None.

11.2. Proposed Future Board Member Agenda Items.

Director Santos requested that staff provide the Board with an update on groundwater conditions and planned recharge pond operations including the Dr. Robert Cross Recharge Ponds on Upper Penitencia Creek (Board Member Request No. R-19-0005).

11.3. Clerk Review and Clarification of Board Requests.

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

11.4. Adjourn to 4:00 p.m. Closed Session and 6:00 p.m. Special Meeting, on Wednesday, April 24, 2019, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

Chairperson LeZotte adjourned the meeting at 9:00 p.m., to the 4:00 p.m. Closed Session and 6:00 p.m. Special meeting on Wednesday, April 24, 2019, in the Valley Water Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose.

Michele L. King, CMC
Clerk/Board of Directors

Approved:

Date: