



BOARD OF DIRECTORS MEETING

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# MINUTES

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**CLOSED SESSION AND REGULAR MEETING  
TUESDAY, AUGUST 25, 2020  
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, and Richard Santos. Board members participating by teleconference were Barbara Keegan, Gary Kremen, Linda J. LeZotte, and John L. Varela, constituting a quorum of the Board.

Staff in attendance was M. King, Clerk, Board of Directors. Staff members participating by teleconference were R. Callender, Chief Executive Officer, B. Broome, M. Cook, G. De La Piedra, R. Gibson, C. Hakes, G. Hall, N. Nguyen, A. Noriega, L. Orta, M. Richardson, D. Rocha, D. Taylor, S. Tippetts, and T. Yoke. Senior Assistant District Counsel B. Hopper represented District Counsel S. Yamamoto.

**2. TIME CERTAIN:**

**4:00 PM**

Chairperson Hsueh confirmed that the Board would adjourn to Closed Session for consideration of Item 2.1. Upon return to Open Session, the same Board members and staff were present.

**2.1 CLOSED SESSION**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code Section 54957(b)(1)

Title: Chief Executive Officer, District Counsel and Clerk of the Board.

## **6:00 PM**

### **2.2 District Counsel Report on Closed Session.**

Chairperson Hsueh reported that in regard to Item 2.1, the Board met in Closed Session with all members present and gave direction to the Board Chairperson.

### **2.3 Pledge of Allegiance/National Anthem.**

Chairperson Hsueh led all present in reciting the Pledge of Allegiance.

### **2.4 Orders of the Day.**

Ms. Michele King, Clerk, Board of Directors, noted that an administrative error had been identified in the June 23, 2020 Board of Directors meeting minutes proposed for Board approval under Consent Calendar Item 3.4, and requested that the Board consider approving the June 23, 2020 amended minutes contained in Handout 3.4-A.

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

Chairperson Hsueh acknowledged receipt of, and referred to staff, the attached email dated August 25, 2020, from Mr. Doug Lieberman, identified as Handout 2.5-A herein. Copies of the Handout were distributed to the Board and made available to the public.

Twelve statements requesting expedited resolution to claims associated with the 2017 Presidents' Day Flooding event were received from: Mr. Garry Johnson, Ms. Joan Rivas-Cosby, Ms. Yolanda Najar, Mr. Peter Miskin, Mr. Brendan Lavelle, Mr. Armundo Lopez, Ms. Juanita Wilson, Mr. Raymond Fiddler, and Ms. Hong Mai, San Jose residents; Ms. Quyen Vuong, representing San Jose resident Ms. Angel Hi Huynh; Rev. Jethroe Moore, San Jose/Silicon Valley Chapter National Association for the Advancement of Colored People (NAACP); and Ms. Anne Rosenzweig, Morgan Hill resident, retired attorney, and advocate for 2017 Presidents' Day Weekend Flooding event victims.

Chairperson Hsueh requested that staff prepare a communication to send to all constituents who have contacted the Board outlining the actions taken to date on the President's Day flood on Coyote Creek (Board Member Request No. R-20-0008).

### **2.6 Recognition of Outgoing Youth Commission Members.**

Recommendation: Acknowledge and Recognize Outgoing Youth Commission Members.

Ms. Glenna Brambill, Management Analyst, reviewed the information on this item, per the attached Board Agenda Memo.

The Board collectively and individually expressed appreciation for the participation of the Youth Commission members, and noted the information without formal action.

- 2.7 Adopt Resolution Authorizing the Issuance of Not to Exceed \$120 Million Water System Refunding Revenue Bonds, Authorizing the Execution and Delivery of Not to Exceed \$155 Million Revenue Certificates of Participation, Approving the Execution and Delivery of Certain Documents, and Authorizing Certain Acts in Connection Therewith.

Recommendation: A. Adopt the Resolution AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$120 MILLION REFUNDING REVENUE BONDS, AUTHORIZING THE EXECUTION AND DELIVERY OF NOT TO EXCEED \$155 MILLION REVENUE CERTIFICATES OF PARTICIPATION, APPROVING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS, AND AUTHORIZING CERTAIN ACTS IN CONNECTION THEREWITH; and

B. Authorize and direct the Chief Executive Officer, Assistant Chief Executive Officer-Operations, Chief Financial Officer, Treasury and Debt Officer, District Counsel, the Clerk of the Board, and such other officers and staff of the Santa Clara Valley Water District, acting singly, to do any and all things, and to execute and deliver any and all documents, which such officers may deem necessary or advisable in order to consummate the sale and delivery of the Refunding Revenue Bonds and the Revenue Certificates of Participation.

Mr. Steve Peters, Senior Management Analyst, reviewed the information on this item, per the attached Board Agenda Memo, and the following staff and external participants responded to Board member questions: Mr. Hopper; Ms. Charlene Sun, Treasury and Debt Manager; Mr. Doug Brown, Bond Counsel, Stradling Yocca Carlson & Rauth; and Mr. Edmund Soong, Public Resources Advisory Group.

Director Kremen expressed concern that material information relevant to the bond documents may have been omitted or misstated in the Preliminary Official Statement contained in Attachment 2, and requested that staff investigate whether the following additional matters should be added: the U.S. Bureau of Reclamation Shasta Temperature Management Plan; the agreement with the City of Palo Alto related to the Regional Water Quality Control Plant; State and Federal biological opinion issues; Updates related to Upper Berryessa and the Bay Delta Plan; the award of \$484 million Proposition 1 (California Water Commission) grant funding for the Pacheco Reservoir Expansion Project; Semitropic reverse flow drought challenges; and South Bay Aqueduct

repairs. He additionally requested that a more thorough description of the enhanced and renewed Safe, Clean Water and Natural Flood Protection ballot measure be provided.

Motion: Approve Recommendations A and B, and direct staff to make the revisions requested by Director Kremen subsequent to the Board's approval, but within the 25 days allowed after the September 16, 2020, closing date.

Move to Approve: Linda J. LeZotte

Second: The motion did not receive a second and was lost.

Motion: Continue the item to the September 8, 2020 Regular Meeting, and direct staff to work with Director Kremen to address his concerns with the Preliminary Official Statement and make revisions accordingly.

Move to Continue: Nai Hsueh

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.

### **3. CONSENT CALENDAR:**

The Board considered Consent Calendar Items 3.1 through 3.4, including Handout 3.4-A amending the June 23, 2020 minutes, under one motion.

Subsequent to approval Item 3.1 was reconsidered, as indicated below.

- 3.1 Consider Nominations for Two-Year Membership Appointments, and Two-Year Membership Reappointments, to the Santa Clara Valley Water Youth Commission.

Recommendation: Consider nominations for two-year membership appointments, and two-year membership reappointments, to the Santa Clara Valley Water Youth Commission.

- 3.2 Notice of Completion of Contract and Acceptance of Work for the Milpitas Pipeline North Capital Avenue at Countrybrook Way Emergency Repair Project, Kiewit Infrastructure West Co., Contractor, Project No. 93764004, Contract No. C0659 (San Jose) (District 3).

Recommendation: A. Accept the work on the Milpitas Pipeline North Capital Avenue at Countrybrook Way Emergency Repair Project, Kiewit Infrastructure West Co., Contractor, Project No. 93764004, Contract No. C0659 as complete; and  
B. Direct the Clerk of the Board to sign the Notice of Completion of Contract and Acceptance of Work and submit for recording to the Santa Clara County Clerk-Recorder.

3.3 Accept the CEO Bulletin for the Weeks of July 31 - August 13, 2020.

Recommendation: Accept the CEO Bulletin.

3.4 Approval of Minutes.

Recommendation: Approve the minutes.

Motion: Approve Consent Calendar Items 3.1 through 3.4, including Handout 3.4-A amending the June 23, 2020 minutes, under one motion as follows: consider nominations for two-year membership appointments, and two-year membership reappointments, to the Santa Clara Valley Water Youth Commission, as contained in Item 3.1; accept the work as complete on the Milpitas Pipeline North Capital Avenue at Countrybrook Way Emergency Repair Project and direct the Clerk to sign and file the Notice of Completion of Contract and Acceptance of Work with the Santa Clara County Clerk-Recorder, as contained in Item 3.2; accept the CEO Bulletin, as contained in Item 3.3; and approve the June 23, 2020 minutes as amended, and the July 14, 2020 minutes as presented, as contained in Item 3.4 and Handout 3.4-A.

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.

## REGULAR AGENDA:

### 4. BOARD OF DIRECTORS:

- 4.1 Receive Board Independent Auditor Report Findings Regarding Hiring Practices Ad-hoc Desk Review and Consider the Recommendation of the Board Audit Committee Regarding Comprehensive Background Checks for New or Existing Employees Being Considered for Executive Level or Fiduciarily Responsible Positions.

Recommendation:   A. Receive the report findings of the Hiring Practices Ad-hoc Desk Review; and  
                          B. Discuss the recommendation from the Board Audit Committee to consider performing comprehensive background checks for new employees and existing employees who are being considered for Executive Level positions or those being considered for positions with a fiduciary responsibility.

Ms. Tina Yoke, Chief Operating Officer, Information Technology and Administrative Services, reviewed the information on this item, per the attached Board Agenda Memo, and the following staff responded to Board member questions: Mr. Brian Hopper, Senior Assistant District Counsel; Mr. Darin Taylor, Chief Financial Officer; Ms. Anna Noriega, Chief People Officer; and Ms. Ingrid Bella, Employment Services Manager.

Motion:                       Refer to staff to develop a comprehensive policy proposal; and refer staff's policy proposal, once developed, to the Board Policy Planning Committee to review and bring back to the Board.

Move to

Refer to Staff:           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.

- 4.2 Board Committee Reports.

Director LeZotte reviewed the information on the August 13, 2020 Financial Sustainability Working Group meeting contained in Handout 4.2-E; Director Kremen expressed concern that he had not reviewed the information on the

August 13, 2020 Water Supply Exploratory Committee meeting contained in Handout 4.2-F and requested that staff ensure Committee Chair review of meeting summaries prior to publication in the future; and the Board noted the information in the remaining Handouts 4.2-A, 4.2-B, 4.2-C, 4.2-D, and 4.2-G, without review or discussion.

4.3 Proposed Future Board Member Agenda Items.

None.

**5. WATER UTILITY ENTERPRISE:**

- 5.1 Authorize the Chief Executive Officer to Negotiate and Execute Amendment No. 3 to Agreement No. A4120A, with Brown & Caldwell, Inc., to Provide Additional Resources and Engineering Support on the Countywide Water Reuse Master Plan, for the Recycled and Purified Water Program, Project No. 91101004, for a Not-to-Exceed Fee of \$285,000, Resulting in a Revised Total Agreement Not-to-Exceed Amount of \$3,335,700, and Including a One-Year Extension to the Agreement Term.

Recommendation: Authorize the Chief Executive Officer to negotiate and execute Amendment No. 3 to Agreement No. A4120A, with Brown and Caldwell, Inc., to provide additional resources and engineering support on the Countywide Water Reuse Master Plan, for the Recycled and Purified Water Program, Project No. 91101004, for a not-to-exceed fee of \$285,000, resulting in a revised total Agreement not-to-exceed amount of \$3,335,700, and including a one-year extension to the Agreement term.

The Board considered Item 5.1 without a staff presentation.

Move to Authorize:	Tony Estremera
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.

**6. WATERSHEDS:**

None.

## 7. ASSISTANT CHIEF EXECUTIVE OFFICER:

- 7.1 Consider Implementing a Best Value Construction Contractor Selection Method for the Anderson Dam Federal Energy Regulatory Commission Order Compliance Project (FOCP).

Recommendation: Consider implementing a best value construction contractor selection method for the Anderson Dam Federal Energy Regulatory Commission Order Compliance Project (FOCP).

- A. \*Consider implementing a best value construction contractor selection method for the Anderson Dam Tunnel Project element of the Federal Energy Regulatory Commission Order Compliance Project (FOCP).
- B. \*Adopt the Resolution APPROVING BEST VALUE CONTRACTOR SELECTION FOR THE ANDERSON DAM TUNNEL PROJECT (ADTP).

Mr. Chris Hakes, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo, and the corresponding presentation materials contained in Attachment 3 were reviewed by External Legal Consultant Mr. Eric Firstman, Meyers Nave Legal Services. Ms. Leslie Orta, Senior Assistant District Counsel, and Ms. Rachael Gibson, Acting Chief of External Affairs, also participated in response to Board member questions.

Mr. Joe Lubas, of undisclosed residency or agency affiliation, expressed opposition to utilizing a Project Labor Agreement for the Anderson Dam Tunnel Project.

Motion: Adopt Resolution No. 20-70, APPROVING BEST VALUE CONTRACTOR SELECTION FOR THE ANDERSON DAM TUNNEL PROJECT (ADTP), by roll call vote.

Move to Adopt: 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.



**8. EXTERNAL AFFAIRS:**

- 8.1 ITEM REMOVED FROM AGENDA. Adopt Resolution Regarding State-Mandated Local Program Costs of AB 3005 (R. Rivas) Expedited Dam Safety for Silicon Valley Act, in Support of AB 3005.

The Board noted that Item 8.1 had been removed from the agenda.

**9. CHIEF EXECUTIVE OFFICER:**

- 9.1 Adopt Resolution Expressing Appreciation to Ngoc Nguyen, P.E.

Recommendation: Adopt the Resolution EXPRESSING APPRECIATION TO NGOC NGUYEN, P.E.

Ms. Melanie Richardson, Assistant Chief Executive Officer, reviewed the information on this item, per the attached Board Agenda Memo, and provided an overview of Mr. Nguyen's 31-year Valley Water career.

The Board individually and collectively expressed appreciation to Mr. Nguyen and expressed congratulations on his retirement.

Motion: Adopt Resolution No. 20-71, EXPRESSING APPRECIATION TO NGOC NGUYEN, P.E., by roll call vote.

Move to Adopt: Tony Estremera

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.

- 9.2 Update on COVID-19 Response.

Mr. Alex Gordon, Emergency and Security Services Manager, reported on countywide enforcement of the public health order pertaining to face coverings; discussed on-site COVID-19 testing opportunities for Valley Water staff and water retailer employees; and confirmed that recent power outages and wildfire conditions had had no significant impact to District operations or facilities.

- 9.3 CEO and Chiefs' Report.

Ms. Richardson reported that Valley Water and the San Francisquito Creek Joint Powers Authority had received the International Partnering Institute's

2020 John L. Martin Partnered Project of the Year Award, for their joint efforts on the San Francisquito Creek Flood Protection Project.

Ms. Yoke advised the Board that in response to the Santa Clara and Santa Cruz Counties Lightning Complex Wildfires, 261 employees had been identified as living within zip codes currently under evacuation order or warning, and three had lost their homes. She discussed Valley Water's efforts to provide resources and information to its affected employees.

Ms. Sue Tippets, Acting Chief Operating Officer, Watersheds, and Ms. Gibson, reviewed the information on the Stream Maintenance Project and Office of Government Relations Update contained in Handouts 9.3-A and 9.3-B, respectively.

Director Kremen concluded his participation by teleconference and did not rejoin.

## **10. ADMINISTRATION:**

The Board considered Items 10.1 and 10.2 without staff presentations.

- 10.1 Approve the Professional Services Agreement with Catalyst Consulting Group to Implement a Customer Relationship Management System, CAS File No. 4924, for an Amount Not-to-Exceed \$1,548,000.

Recommendation: A. Approve the Professional Services Agreement with Catalyst Consulting Group to Implement a Customer Relationship Management System, CAS File No. 4924, for an Amount Not-to-Exceed \$1,548,000; and  
B. Approve a 10% agreement contingency on professional services.

Move to Approve: Richard Santos  
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.

- 10.2 Continuation of Declaration of State of Emergency Regarding COVID-19.

Recommendation: A. Receive Information Regarding Ongoing Threat Posed by the COVID-19 Pandemic Since April 28, 2020; and  
B. By four-fifths vote, adopt a RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY WATER DISTRICT CONTINUING

EMERGENCY DECLARATION AS A RESULT OF  
THE COVID-19 PANDEMIC.

Motion: Adopt Resolution No. 20-72, RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY WATER DISTRICT CONTINUING EMERGENCY DECLARATION AS A RESULT OF THE COVID-19 PANDEMIC, By four-fifths vote.

Move to Adopt: Tony Estremera  
Second: John L. Varela  
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.

**11. DISTRICT COUNSEL:**

None.

**12. ADJOURN:**

**12.1 Board Member Reports/Announcements.**

Director Varela reported attending an Association of California Water Agencies leadership event, a well-related webinar, a San Jose District 2 Councilmember Sergio Jimenez event, and a California International Organization for Standardization meeting.

Director Keegan reported attending Board Policy and Planning Committee (BPPC), Fish and Aquatic Habitat Collaborative Effort (FAHCE), and Board Audit Committee (BAC) meetings; a Delta Conveyance Authority (DCA) meeting; a meeting with County Supervisor Cindy Chavez; a countywide elected officials teleconference; and a Valley Water Town Hall meeting.

Director Santos reported attending the aforementioned meeting with County Supervisor Cindy Chavez and various meetings with staff.

Director LeZotte reported attending the aforementioned BPPC, FAHCE, and BAC meetings; a Financial Sustainability Working Group meeting; and various meetings with staff.

Chairperson Hsueh reported attending the aforementioned BPPC and Financial Sustainability Working Group meetings; and Recruitment Working Group and Public Facilities Financing Corporation meetings.

Director Estremera reported attending the aforementioned DCA and FAHCE meetings; a meeting with representatives of the Contra Costa County Water and Sanitation District; and various meetings with staff.

12.2 Clerk Review and Clarification of Board Requests.

Ms. Michele King, Clerk, Board of Directors, read the new Board Member Request into the record.

On Ms. King's request, Chairperson Hsueh returned the agenda to Item 3.1.

3.1 Consider Nominations for Two-Year Membership Appointments, and Two-Year Membership Reappointments, to the Santa Clara Valley Water Youth Commission.

Recommendation: Consider nominations for two-year membership appointments, and two-year membership reappointments, to the Santa Clara Valley Water Youth Commission.

Ms. King advised the Board that it had been called to her attention that the wrong materials had been attached to the item under the descriptor *Original Memo and Attachments*, and distributed the attached correct Original Memo and Attachments materials identified as Handout 3.1-A herein.

The Board rescinded their prior vote on the item and considered the corrected nomination and appointment information as presented in Handout 3.1-A.

Motion: Approve the nominations for two-year membership appointments, and two-year membership reappointments, to the Santa Clara Valley Water Youth Commission, as contained in Handout 3.1-A.

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.

Chairperson Hsueh returned the agenda to Item 12.3.

12.3 Adjourn to Regular Meeting at 1:00 p.m., on September 8, 2020, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.

Chairperson Hsueh adjourned the meeting at 9:30 p.m., in memory of Mr. Rick Doyle, former San Jose City Attorney, to the next regularly scheduled meeting at 1:00 p.m., on September 8, 2020, to be called to order in compliance with the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20.

Michele L. King, CMC  
Clerk, Board of Directors

Approved:

Date:

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