



BOARD OF DIRECTORS MEETING

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# MINUTES

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**CLOSED SESSION AND REGULAR MEETING  
TUESDAY, FEBRUARY 23, 2021  
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, conducted by Zoom Teleconference, 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 participating by teleconference were R. Callender, Chief Executive Officer, L. Orta, Acting District Counsel, J. Aranda, A. Baker, R. Blank, B. Broome, M. Cook, A. Fulcher, R. Gibson, V. Gin, A. Gschwind, C. Hakes, B. Hopper, L. Infante, M. Lugo, H. McMahon, M. Richardson, D. Rocha, K. Struve, D. Taylor, S. Tippetts, K. Wong, B. Yerrapotu, and T. Yoke.

**2. TIME CERTAIN:**

**4:00 PM**

Chairperson Estremera confirmed that Item 2.1 had been removed from the agenda, and that the Board would adjourn to Closed Session for consideration of Items 2.2 and 2.3.

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

- 2.1 ITEM REMOVED FROM AGENDA**  
Closed Session - Threat to Public Services or Facilities  
Pursuant to Government Code Section 54957(a)  
Consultation with Alex Gordon, Assistant Officer

- 2.2 CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL  
INITIATION OF LITIGATION  
Government Code Section 54956.9(d)(4)  
16 Potential Cases
- 2.3 CLOSED SESSION  
CONFERENCE WITH LEGAL COUNSEL  
ANTICIPATED LITIGATION - Significant Exposure to Litigation  
Pursuant to Government Code Section 54956.9(d)(2)  
(One Potential Case)

**6:00 PM**

- 2.4 District Counsel Report on Closed Session.

Mr. Brian Hopper, Senior Assistant District Counsel, reported that in regard to Item 2.2, the Board met in Closed Session with all members present and directed staff to initiate litigation. He stated that once formally commenced, the action, defendants, and other particulars, would be disclosed upon inquiry - unless doing so would jeopardize Valley Water's ability to effect service on unserved parties, or jeopardize ongoing settlement negotiations.

Mr. Joseph Aranda, Assistant District Counsel, reported that in regard to Item 2.3, the Board met in Closed Session with all members present and gave direction to staff.

- 2.5 Pledge of Allegiance/National Anthem.

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

- 2.6 Orders of the Day.

Chairperson Estremera 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.

Mr. Henry Patel, Kiewit Corporation, encouraged the Board to consider investigating the Santa Clara Valley Transit Authority's Request for Industry Feedback (RFIF) process for large transit expansion projects as a model for Valley Water's Advanced Recycled Water Project.

- 2.8 Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's Seventh Annual Report for Fiscal Year 2019-2020.

Recommendation:   A. Receive the Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's Seventh Annual Report for Fiscal Year 2019-2020; and  
                              B. Provide direction to staff as appropriate.

Ms. Kathleen Sutherland, Safe Clean Water (SCW) Independent Monitoring Committee (IMC) Chairperson, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 1.

The Board noted the information, without formal action.

2.9 Approve Fiscal Year 2021 Grants for the Safe, Clean Water and Natural Flood Protection Program.

- Recommendation:
- A. Review and discuss staff's recommendations for Fiscal Year 2021 Safe, Clean Water and Natural Flood Protection Program (Safe, Clean Water Program) grant awards;
  - B. Authorize the Chief Executive Officer to approve and execute agreements for Priority B7: Support Volunteer Cleanup Efforts and Education grants for four (4) projects in a total amount not-to-exceed \$188,558;
  - C. Authorize the Chief Executive Officer to approve and execute agreements for Priority D3: Access to Trails and Open Space grants for one (1) project in a total amount not-to-exceed \$25,530;
  - D. Authorize the Chief Executive Officer to approve and execute amendments to the recommended grant agreements, extending their terms up to twenty-four (24) additional months and with no revisions to their not-to-exceed grant amounts; and
  - E. Receive information about the Pilot Priority A2: Water Conservation Mini-Grant Program.

Ms. Kristen Yasukawa, Program Administrator, reviewed the information on this item, per the attached Board Agenda Memo.

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

### 3. CONSENT CALENDAR:

Chairperson Estremera removed Item 3.1 from the Consent Calendar for individual consideration, and the Board considered Consent Calendar Items 3.2 through 3.6, under one motion.

#### 3.2 Sponsorship of the 2021 Bay Area Council's California Resilience Challenge.

Recommendation:   A. Receive information on the Bay Area Council's California Resilience Challenge; and  
                              B. Approve the request for sponsorship in the amount of \$200,000.

#### 3.3 Adopt Recommended Positions on Federal Legislation: S. 91 (Sinema) / H.R. 535 (Garamendi) Special Districts Provide Essential Services Act of 2021; H.R. 610 (Speier) San Francisco Bay Restoration Act; and Other Legislation That May Require Urgent Consideration for a Position by the Board.

Recommendation:   A. Adopt a position of "Support and Amend" on S. 91 (Sinema) / H.R. 535 (Garamendi) - Special Districts Provide Essential Services Act of 2021; and  
                              B. Adopt a position of "Support" on H.R. 610 (Speier) - San Francisco Bay Restoration Act.

#### 3.4 Adopt Resolution Expressing Appreciation to Kevin Murray, for 20 Years of Service to the San Francisco Bay Joint Powers Authority.

Recommendation:   Adopt the Resolution EXPRESSING APPRECIATION TO KEVIN MURRAY.

#### 3.5 Accept the CEO Bulletin for the Weeks of February 5-18, 2021.

Recommendation:   Accept the CEO Bulletin.

#### 3.6 Approval of Minutes.

Recommendation:   Approve the minutes.

Motion:               Approve Consent Calendar Items 3.2 through 3.6, under one motion, as follows: approve the Bay Area Council's California Resilience Challenge request for sponsorship in the amount of \$200,000, as contained in Item 3.2; adopt positions of "Support and Amend" on S. 91 (Sinema) / H.R. 535 (Garamendi) - Special Districts Provide Essential Services Act of 2021, and "Support" on H.R. 610 (Speier) - San Francisco Bay Restoration Act, as contained in Item 3.3; adopt Resolution No. 21-11, EXPRESSING APPRECIATION TO KEVIN MURRAY, by roll call vote, as contained in Item 3.4; accept the CEO Bulletin, as contained in Item 3.5; and approve the minutes, as contained in Item 3.6.

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

Chairperson Estremera returned the agenda to Item 3.1.

3.1 Resolution to Establish Independent Monitoring Committee for the Renewed Safe, Clean Water and Natural Flood Protection Program.

Recommendation: Adopt a Resolution PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT.

Ms. Jessica Collins, Watersheds Business Planning and Analysis Manager, responded to Board member questions pertaining to renewed SCW IMC membership terms, and confirmed that the proposed method of staggering two- and three-year membership terms was consistent with membership terms on the existing SCW IMC.

Motion: Adopt Resolution No. 21-10, PROVIDING FOR A SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM INDEPENDENT MONITORING COMMITTEE OF THE SANTA CLARA VALLEY WATER DISTRICT, by roll call vote.

Move to Adopt: Nai Hsueh  
Second: Richard Santos  
Yeas: Richard Santos, John L. Varela, Tony Estremera, Nai Hsueh, Barbara Keegan, Gary Kremen, Linda J. LeZotte  
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 Consider the January 7, 2021 Board Policy and Planning Committee Recommendations Regarding Modifications to Valley Water Environmental Justice Board Governance Ends Policies.

Recommendation: A. Consider the January 7, 2021 Board Policy and Planning Committee recommendations to adopt the proposed modifications to Board Governance Ends Policy General Principles E-1 and Glossary to add Environmental Justice Policy Language; and  
B. Adopt the proposed modifications to Board Governance Ends Policy General Principles E-1 and Glossary to add Environmental Justice Policy Language.

Ms. Marta Lugo, Assistant Officer, reviewed the information on this item, per the attached Board Agenda Memo.

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

- 4.2 Approve Revised Clarifying Language to the Board Audit Committee Audit Charter.

Recommendation: Approve Revised Clarifying Language to the Board Audit Committee Audit Charter.

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

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

4.3 Fiscal Year 2021 Board Policy Planning Calendar.

Recommendation: Review, discuss, and revise the Fiscal Year 2021 Board Policy Planning Calendar.

Ms. Michele King, Clerk, Board of Directors, reviewed the information on this item, per the attached Board Agenda Memo, and per the information contained in Attachment 1.

The Board noted the information, without formal action.

4.4 Board Committee Reports.

Chairperson Estremera reported on recent Delta Conveyance Design and Construction Joint Powers Authority (DCA) Board of Directors membership changes, which recently brought in new members, created a seven-member Board, and allowed for Board members to appeal budget-related matters for reconsideration under a weighted vote approach that aligns votes with levels of investment. He reported that under the new DCA Board bylaws, each Director gets one vote except on items that have been brought up for reconsideration. Items being reconsidered are decided by a weighted vote that is based on the size of the investment represented by the Director. He said that the DCA Board will continue to work on its governance while Delta Conveyance Project changes continue; that he would continue to report out on progress at future Valley Water Board meetings; and that both Valley Water and Metropolitan Water District were monitoring the matter to determine whether their level of investment remained prudent, in light of water supply benefits each agency was seeing as a result of their water conservation programs.

The Board noted the information, without formal action.

4.5 Proposed Future Board Member Agenda Items.

None.

**5. WATER UTILITY ENTERPRISE:**

None.

**6. WATERSHEDS:**

None.

**7. ASSISTANT CHIEF EXECUTIVE OFFICER:**

7.1 Review and Authorize Distribution of Santa Clara Valley Water District's Draft Fiscal Years 2022-26 Capital Improvement Program.

Recommendation: Review the Draft Fiscal Years 2022-26 Capital Improvement Program and authorize release of the document to all cities in Santa Clara County and the

County of Santa Clara for review as to its consistency with their General Plans.

Mr. Heath McMahon, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo, and reviewed the attached presentation materials identified as Handout 7.1-A herein. Copies of the Handout were distributed to the Board and made available to the public.

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

**8. EXTERNAL AFFAIRS:**

None.

**9. CHIEF EXECUTIVE OFFICER:**

**9.1 Fiscal Year 2020-21 Midyear Financial Status Update and Fiscal Year 2020-21 Midyear Central Budget Adjustments.**

Recommendation: A. Receive the Fiscal Year 2020-21 midyear financial status update as of December 31, 2020; and  
B. Approve the Fiscal Year 2020-21 midyear central operating and capital budget adjustments as per Attachments 2 and 3.

Mr. Darin Taylor, Chief Financial Officer, reviewed the information on this item, per the attached Board Agenda Memo, and Mr. Enrique De Anda, Budget Manager, reviewed the corresponding presentation materials contained in Attachment 1.

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

**9.2 CEO and Chiefs' Report.**

Mr. Aaron Baker, Chief Operating Officer, reported on recent U.S. Bureau of Reclamation and California Department of Water Resources declarations



regarding a forecasted limited amount of rainfall in March, and the impact this would have on Valley Water's Settlement Exchange Contractors and Central Valley Project water supplies.

Ms. Rachael Gibson, Chief of External Affairs, reviewed the information contained in the attached Office of Government Relations Update, identified as Handout 9.2-A herein. Copies of the Handout were distributed to the Board and made available to the public.

**10. ADMINISTRATION:**

None.

**11. DISTRICT COUNSEL:**

None.

**12. ADJOURN:**

**12.1 Board Member Reports/Announcements.**

Director Varela reported attending funeral services for former District 1 Director Sig Sanchez; Capital Improvement Program (CIP), Board Audit Committee (BAC), and Safe Clean Water (SCW) Independent Monitoring Committee (IMC) meetings; a Sustainable Village Club meeting; a meeting with San Jose City Council member Matt Mahan; the Borello Estates community meeting on the Anderson Dam Seismic Retrofit Project; a Valley Water Town Hall meeting; and various meetings with staff.

Director Keegan reported attending the aforementioned SCW IMC, BAC, and Valley Water Town Hall meetings; a Project Labor Agreement (PLA) Working Group and a Delta Conveyance Authority (DCA) meetings; and various meetings with staff.

Director Santos reported attending the aforementioned Valley Water Town Hall meeting; the Valley Water Youth Commission Job Shadow Day; and various meetings with staff.

Director LeZotte reported attending the aforementioned BAC and Valley Water Town Hall meetings; a Joint Recycled Water Committee (JRWC) meeting with the Cities of Palo Alto, East Palo Alto, and Mountain View; an elected officials breakfast; a CalDesal Conference; and various meetings with staff.

Director Hsueh reported attending the aforementioned PLA Working Group meeting and Youth Commission Job Shadow Day; a leak detection seminar; the Valley Water Asian American Pacific Island (AAPI) Employee Resource Group (ERG) Luna New Year event; and various meetings with staff.

Director Kremen reported attending the aforementioned meeting with San Jose City Council member Matt Mahan, and JRWC and DCA meetings; a meeting with Santa Clara City Council member Kathy Wantanabe; a San Francisquito Creek Joint Powers Authority meeting; and various meetings with staff.

Chairperson Estremera reported attending the aforementioned JRWC, SCW IMC, PLA, DCA, and Valley Water Town Hall meetings, and the AAPI ERG Lunar New Year event; and announced that the open period for applications for the position of Valley Water District Counsel had closed with 24 applications received.

12.2 Clerk Review and Clarification of Board Requests.

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

12.3 Adjourn to 10:00 a.m. Closed Session and 1:00 p.m. Regular Meeting, on March 9, 2021, 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 Estremera adjourned the meeting at 7:20 p.m., to the 10:00 a.m. Closed Session and 1:00 p.m. Regular Meeting, on March 9, 2021, 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: