



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, APRIL 13, 2021
11:00 AM**

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER:

A Special Meeting and Closed Session of the Santa Clara Valley Water District (Valley Water) Board of Directors, conducted by Zoom Teleconference, was called to order at 11:00 am.

1.1 Roll Call.

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

Staff in attendance were R. Callender, Chief Executive Officer, L. Orta, Acting District Counsel, A. Baker, R. Blank, A. Gschwind, C. Hakes, H. McMahon, M. Richardson, D. Rocha, D. Taylor, S. Tippetts, and T. Yoke, with M. King, Clerk, Board of Directors, participating from the Board room.

2. TIME CERTAIN:

11:00 AM

Chairperson Estremera noted that Item 2.1 had been removed from the agenda, and announced that the Board would adjourn to Closed Session for consideration of Items 2.2, 2.3, and 2.4.

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

2.1 ITEM REMOVED FROM AGENDA

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8:

Setting Negotiation Parameters for Price and Terms of Payment for Acquiring Property Interest in APN 728-34-020, 729-36-001, 725-06-008, 678-02-031 and 678-02-034

Negotiators: Rick Callender, Melanie Richardson, Sue Tippetts, Christopher Hakes, Eli Serrano, and Bill Magleby

Other Negotiating Parties: County of Santa Clara

- 2.2 CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL
Initiation of Litigation Pursuant to Government Code Section 54956.9(d)(4)
One Potential Case
- 2.3 CLOSED SESSION
PUBLIC EMPLOYMENT
Pursuant to Government Code Section 54957(b)(1)
Title: District Counsel
- 2.4 CLOSED SESSION
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957(b)(1)
Title: CEO, District Counsel and Clerk of the Board

1:00 PM

- 2.5 District Counsel Report on Closed Session.

Ms. Leslie Orta, Acting District Counsel, reported that the Board met in Closed Session with all members present; took no reportable action in regard to Item 2.2; and gave direction to staff in regard to Item 2.3.

Chairperson Estremera reported that the Board met in Closed Session with all members present; and took no reportable action in regard to Item 2.4.

- 2.6 Pledge of Allegiance/National Anthem.

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

- 2.7 Orders of the Day.

Chairperson Estremera confirmed that Item 2.11 would be continued to a future meeting.

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

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

Ms. Swanee Edwards, Morgan Hill resident, used the Zoom Raised Hand feature to indicate a desire to speak. However, technical difficulties prevented Ms. Edwards from addressing the Board until such time as indicated below.

- 2.9 Public Hearing to Consider the Santa Clara Valley Water District's Draft Fiscal Years 2022-2026 Five-Year Capital Improvement Program.

Recommendation: A. Open the public hearing to receive public comments and Board feedback regarding the Santa Clara Valley

- Water District's Fiscal Years 2022-2026 Five-Year Capital Improvement Program (CIP); and
- B. Continue the public hearing to the Regular Board Meeting scheduled for April 27, 2021, and the Board's Budget Work Study Sessions currently set for April 28 and April 29, 2021, and conclude at the regularly scheduled Board meeting on May 11, 2021.

Chairperson Estremera opened the Public Hearing.

Mr. Heath McMahon, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Chairperson Estremera declared time open for public comments.

Mr. Bob Nunez, Former Milpitas City Council member, suggested that Valley Water reach out to local Lions Clubs, Rotary Associations, and Chambers of Commerce to provide CIP overviews and receive constituent feedback in smaller group settings.

Director Santos expressed support for meeting jointly with each of the 15 city councils within Santa Clara County annually; and encouraged staff and Board member appearances before the city councils within each district to present information on upcoming projects.

Ms. Edwards suggested the Board utilize its Water 101 Academy Program's Water Ambassadors to extend Valley Water's CIP outreach to other groups and organizations with which they are involved.

In regard to Item 2.8, Ms. Edwards expressed concern about the potential environmental impacts associated with a proposed expansion of the Thousand Trails Recreational Vehicle Resort, located in Morgan Hill.

The Board continued the item to the April 27, 2021 Regular Meeting.

- 2.10 Public Hearing on the February 2021 Annual Report on the Protection and Augmentation of Water Supplies and Recommended Increased Groundwater Production Charge and Other Water Charges for Fiscal Year 2021-22.

- Recommendation:
- A. Conduct a Public Hearing pursuant to Section 26.6 of the District Act to consider Valley Water's Fiscal Year (FY) 2021-22 Annual Report on the Protection and Augmentation of Water Supplies and recommended increases to the groundwater production charge and other water charges;
 - B. Hear public comments from groundwater producers and any interested persons regarding such report;
 - C. Consider any written protests to proposed surface water rate increases;
 - D. Direct staff to review such report with, and solicit comments from, Valley Water's advisory committees; and

- E. Continue the Public Hearing regarding such report to the April 15, 2021 Special Meeting, at 7:00 p.m.

Chairperson Estremera opened the Public Hearing.

Mr. Aaron Baker, Chief Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo, and Mr. Darin Taylor, Chief Financial Officer, reviewed the corresponding presentation materials contained in Attachment 2. Mr. Taylor additionally clarified that the presentation materials reviewed today would focus on northern Santa Clara County, and that materials specific to southern Santa Clara County would be reviewed at the 7:00 p.m., April 15, 2021 Special Meeting and South County Public Hearing.

Chairperson Estremera acknowledged receipt of the attached letters from the Santa Clara Valley Open Space Authority (OSA), Santa Clara County Farm Bureau, and the Sierra Club, Loma Prieta Chapter, identified herein as Handouts 2.10-A, 2.10-B, and 2.10-C respectively. Copies of the Handouts were distributed to the Board and made available to the public.

Chairperson Estremera declared time open for public comments.

Mr. Mark Landgraf, Santa Clara Valley OSA, encouraged the Board to maintain agricultural water rates at no more than 10 percent of Municipal and Industrial rates.

Director Santos requested that staff come back with analysis on the Farm Bureau's recommendations to freeze agricultural groundwater rates for the next fifteen years and work with farmers going forward to increase the aquifer recharge done on farmlands, as contained in Handout 2.10-B, Page 2, Paragraph 2.

The Board continued the item to the April 15, 2021 Special Meeting.

- 2.11 Adopt the Resolution Approval of the Central Valley Project Repayment Contract, Authorize the Board Chair to Execute the Central Valley Project Repayment Contract, and Authorize District Counsel to File a Validation Action for the Central Valley Project Repayment Contract.

Recommendation:

- A. Receive information and discuss the proposed Central Valley Project Repayment Contract;
- B. Approve the Central Valley Project Repayment Contract by adopting the Resolution entitled APPROVAL OF CENTRAL VALLEY PROJECT REPAYMENT CONTRACT;
- C. Authorize the Board Chair to execute the Central Valley Project Repayment Contract; and
- D. Authorize District Counsel to file a validation action for the Central Valley Project Repayment Contract.

The Board continued Item 2.11 to a future meeting.

3. CONSENT CALENDAR:

Director Keegan concluded her participation by teleconference, and did not rejoin; and Director Kremen momentarily concluded his participation by teleconference, and rejoined as noted below.

The Board considered Consent Calendar Items 3.1 through 3.9 under one motion.

3.1 Adopt a Resolution Recognizing April 22, 2021, as Earth Day.

Recommendation: Adopt the Resolution RECOGNIZING APRIL 22, 2021, AS EARTH DAY.

3.2 Adopt Plans and Specifications and Authorize Advertisement for Bids for the Rinconada Water Treatment Plant Interim Site Restoration Project, Project No. 93294057, Contract No. C0670 (Los Gatos) (District 7).

Recommendation: A. Adopt Plans and Specifications and Authorize Advertisement for Bids for Construction of the Rinconada Water Treatment Plant Interim Site Restoration Project per the Notice to Bidders; and
B. Authorize the Designated Engineer to issue addenda, as necessary, during the bidding process.

3.3 Deny Claim of Lawrence and Roberta Drake.

Recommendation: Deny the claim.

3.4 Notice of Completion of Contract and Acceptance of Work for the Coyote Warehouse Project (Stage 1 of Construction), Calstate Construction, Inc., Contractor, Project No. 91234011, Contract No. C0635 (Morgan Hill) (District 1).

Recommendation: A. Accept the work on the Coyote Warehouse Project (Stage 1 of Construction), Calstate Construction, Inc., Contractor, Project No. 91234011, Contract No. C0635 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.

3.5 Consider Membership Nomination for Board Chair Committee Appointment to the 2012 Safe, Clean Water Independent Monitoring Committee.

Recommendation: Consider the Membership Nomination for Board Chair Committee Appointment to the 2012 Safe, Clean Water Independent Monitoring Committee (2012 SCW IMC).

3.6 Approve the Agreement with NBS Government Finance Group for Water Supply and Flood Protection Development Impact Fee Analyses, CAS File 5150, For a Not-To-Exceed Fee of \$357,660.

Recommendation: Approve the Agreement with NBS Government Finance Group for Water Supply and Flood Protection Development Impact Fee Analyses (Project) for a not-to-exceed fee of \$357,660.

3.7 Provide Notice of Time and Place of Public Hearing Regarding Flood Control Benefit Assessments for Fiscal Year 2021-2022 (FY 2021-22).

Recommendation: Set a time and place for the public hearing on Flood Control Benefit Assessments for FY 2021-22 at 1:00 p.m. on May 11, 2021, by Teleconference Zoom Board Meeting.

3.8 Accept the CEO Bulletin for the Weeks of March 19 Through April 8, 2021.

Recommendation: Accept the CEO Bulletin.

3.9 Approval of Minutes.

Recommendation: Approve the minutes.

Motion: Approve Consent Calendar Items 3.1 through 3.9, under one motion and roll call vote, as follows: adopt Resolution No. 21-13, RECOGNIZING APRIL 22, 2021, AS EARTH DAY, as contained in Item 3.1; adopt the Plans and Specifications and authorize advertisement for bids for construction of the Rinconada Water Treatment Plant Interim Site Restoration Project, per the Notice to Bidders, and authorize the Designated Engineer to issue addenda, as contained in Item 3.2; deny the claim of Lawrence and Roberta Drake, as contained in Item 3.3; accept the work as complete and direct the Clerk to sign and submit the Notice of Completion of Contract and Acceptance of Work to the Santa Clara County Clerk-Recorder, for the Coyote Warehouse Project (Stage 1 of Construction), Calstate Construction, Inc., as contained in Item 3.4; approve the membership nomination for the 2012 SCW IMC, as contained in Item 3.5; approve the agreement with NBS Government Finance Group for Water Supply and Flood Protection Development Impact Fee Analyses, for a not-to-exceed fee of \$357,660, as contained in Item 3.6; set a time and place for the public hearing on Flood Control Benefit Assessments for FY 2021-22 at 1:00 p.m. on May 11, 2021, by Teleconference Zoom Board Meeting, as contained in Item 3.7; accept the CEO Bulletin, as contained in Item 3.8; and approve the minutes, as contained in Item 3.9.

Move to Approve: John L. Varela

Second: Richard Santos

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

Nays:	None
Abstains:	None
Recuses:	None
Absent:	Barbara Keegan, Gary Kremen
Summary:	5 Yeas; 0 Nays; 0 Abstains; 2 Absent.

REGULAR AGENDA:

4. BOARD OF DIRECTORS:

4.1 Board Committee Reports.

Director Hsueh reported having met with the Chief Executive Officer in regard to the Environmental Water Resources Committee (EWRC) and Agricultural Water Committee (AWAC) recommendations to the Board Policy Planning Committee (BPPC), as contained in Handout 4.1-F, Page 1, Paragraphs 6 and 7.

Director Hsueh redacted the BPPC recommendations contained therein and made the following requests: that staff defer consideration of the EWRC's staff support levels to the CEO's existing EWRC unclassified manager delegate, to come back to the Board with policy discussion to establish support parameters, if necessary; and that the Board defer further consideration of returning to in-person committee meetings until June 2021, pending any relevant updates to the California State Governor and Santa Clara County Public Health Officer's orders related to Covid-19.

Director Kremen rejoined the meeting by teleconference.

4.2 Proposed Future Board Member Agenda Items.

None.

5. WATER UTILITY ENTERPRISE:

None.

6. WATERSHEDS:

6.1 Report of Bids Received and Award of Construction Contract to Flatiron West, Inc. in the sum of \$43,989,600 for the Upper Llagas Creek Flood Protection Project Phase 2A, Project No. 26174052, Contract No. C0665 (Morgan Hill) (District 1).

Recommendation:

- A. Ratify Addenda Nos. 1, 2, 3, 4, 5, and 6 to the Contract Documents for the Upper Llagas Creek Flood Protection Project, Phase 2A;
- B. Award the Contract to Flatiron West, Inc. located in Benicia, California, in the sum of \$43,989,600; and
- C. Approve a contingency sum of \$8,797,920 and authorize the Chief Executive Officer (CEO) or designee to approve individual change orders up to the designated amount.

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

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

7. ASSISTANT CHIEF EXECUTIVE OFFICER:

Mr. Chris Hakes, Deputy Operating Officer, reviewed the information on Items 7.1 and 7.2, per the attached Board Agenda Memos.

- 7.1 Approve Amendment No. 1 to Agreement No. A4325G, with Horizon Water and Environment, LLC, for Environmental Planning and Permitting Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, for a Not-to-Exceed Fee of \$2,974,005, Increasing the Total Not-to-Exceed Fee to \$7,468,230 (Morgan Hill) (District 1).

Recommendation: Approve Amendment No. 1 to Agreement No. A4325G with Horizon Water and Environment, LLC, for environmental planning and permitting services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, for a not-to-exceed fee of \$2,974,005, increasing the total not-to-exceed fee to \$7,468,230.

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

- 7.2 Approve Amendment No. 9 to Agreement No. A3555A, with Black and Veatch Corporation, for Project Management Services for the Anderson Dam Seismic Retrofit Project, Project No. 91864005, Increasing the Not-to-Exceed Fee in the Amount of \$10,172,942, Resulting in a Revised Total Not-to-Exceed Fee of \$28,832,004, and Extending the Agreement Term to December 31, 2023 (Morgan Hill) (District 1).

Recommendation: Approve Amendment No. 9 to Agreement A3555A, with Black and Veatch Corporation, for project management services for the Anderson Dam Seismic Retrofit Project, increasing the not-to-exceed fee by \$10,172,942, resulting

in a revised total not-to-exceed amount of \$28,832,004, and extending the Agreement term.

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

8. EXTERNAL AFFAIRS:

None.

9. CHIEF EXECUTIVE OFFICER:

9.1 CEO and Chiefs' Report.

Mr. Baker advised the Board of the recent promotion of Mr. Greg Williams to Deputy Operating Officer.

Ms. Tina Yoke, Chief Administrative Officer, advised the Board of the recent promotion of Mr. Ken Wong to Deputy of General Services.

Mr. Don Rocha, Acting Chief of External Affairs, reviewed the information contained in the attached Office of Communications Update, identified as Handout 9.1-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 meeting with Mr. Doug Muirhead, Morgan Hill resident.

Director Santos reported attending a Berryessa Citizens' Advisory Council meeting; a meeting with San Jose City Council Member David Cohen; and South County Recycled Water Authority (SCRWA) and San Luis Delta-Mendota Water Authority (SLDMWA) meetings.

Director LeZotte deferred her report until the April 27, 2021 Regular Meeting.

Director Hsueh reported attending Agricultural Water Advisory and Board Policy Planning Committee meetings; multiple Water Conservation and Demand Management Committee meetings; and various Board and staff meetings.

Director Kremen reported attending the aforementioned SCRWA and SLDMWA meetings; a Recycled Water Committee (RWC) meeting; and various meetings with staff.

Chairperson Estremera reported attending the aforementioned RWC meeting; the Valley Water Industrial Day event; a Delta Conveyance Authority meeting; a quarterly meeting with Senator Diane Feinstein regarding Anderson Dam; and various Board, Committee, and staff meetings.

12.2 Clerk Review and Clarification of Board Requests.

None.

12.3 Adjourn to Special Meeting at 1:00 p.m., on April 14, 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 2:30 p.m., to the Special Meeting at 1:00 p.m., on April 14, 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: