



BOARD OF DIRECTORS MEETING

MINUTES

**CLOSED SESSION AND REGULAR MEETING
TUESDAY, AUGUST 24, 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 participating by teleconference were Barbara Keegan, Gary Kremen, Linda J. LeZotte, and John L. Varela, with Tony Estremera, Nai Hsueh, and Richard Santos being present in the Boardroom 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, C. Orellana, District Counsel, J. Aranda, E. Aryee, A. Baker, L. Bankosh, I. Bella, R. Blank, S. Bogale, J. Bourgeois, B. Broome, R. Chan, J. Codianne, M. Cook, A. Fulcher, R. Gibson, V. Gin, A. Gordon, A. Gschwind, C. Hakes, B. Hopper, M. Lugo, H. McMahon, L. Orta, M. Richardson, D. Rocha, K. Struve, D. Taylor, S. Tippetts, G. Williams, K. Wong, B. Yerrapotu, and T. Yoke.

2. TIME CERTAIN:

4:00 PM

Chairperson Estremera confirmed that the Board would adjourn to Closed Session for consideration of Items 2.1. and 2.2.

2.1. 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 Purchase, Sale, or Exchange of Property Interest in APNs: 110-26-023, 110-26-025, 110-26-027, 110-26-031, 110-26-049

Agency Negotiators: Rick Callender, Melanie Richardson, Sue Tippetts, Rechelle

Blank, Usha Chatwani, Yvonne Arroyo, and Bill Magleby
Negotiating Parties: Google LLC

- 2.2. CLOSED SESSION
CONFERENCE WITH LEGAL COUNSEL
Initiation of Litigation
Pursuant to Government Code Section 54956.9(d)(4)
One Potential Case

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

6:00 PM

- 2.3. District Counsel Report on Closed Session.

Mr. Carlos Orellana, District Counsel, reported that in regard to Items 2.1 and 2.2, the Board met in Closed Session with all members present, and took no reportable action.

- 2.4. Pledge of Allegiance/National Anthem.

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

- 2.5. Orders of the Day.

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

- 2.6. 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. There was no one present who wished to speak.

3. CONSENT CALENDAR:

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

- 3.1. Approve Recommended Positions on Federal Legislation: H.R. 4375 (Kuster)/S. 2356 (Feinstein) – Twenty-First Century Dams Act; H.R. 2197 (Cicilline)/S. 939 (Whitehouse) – Innovative Materials for America’s Growth and Infrastructure Newly Expanded (IMAGINE) Act; H.R. 3701 (Delgado) – Protecting Infrastructure and Promoting the Economy (PIPE) 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 H.R. 4375 (Kuster)/S. 2356 (Feinstein) – Twenty-First Century Dams Act;
 B. Adopt a position of “Support and Amend” on H.R. 2197 (Cicilline)/S. 939 (Whitehouse) – Innovative Materials for America’s Growth and Infrastructure Newly Expanded (IMAGINE) Act; and
 C. Adopt a position of “Support and Amend” on H.R. 3701 (Delgado) – Protecting Infrastructure and Promoting the Economy (PIPE) Act.

3.2. Resolution Proclaiming September 2021 as National Preparedness Month.

Recommendation: Adopt the Resolution NATIONAL PREPAREDNESS MONTH, SEPTEMBER 2021.

3.3. Accept the CEO Bulletin for the Weeks of August 6 – 19, 2021.

Recommendation: Accept the CEO Bulletin.

Motion: Approve Consent Calendar Items 3.1. through 3.3 under one motion, as follows: adopt the recommended positions on Federal Legislation, as contained in Item 3.1; adopt Resolution No. 21-79, NATIONAL PREPAREDNESS MONTH, SEPTEMBER 2021, by roll call vote, as contained in Item 3.2; and accept the CEO Bulletin, as contained in Item 3.3.

Move to Approve: Richard Santos

Second: Gary Kremen

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

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. Framework to Implement the Board's Guiding Principle No. 5 (GP5) from SCVWD Resolution No. 17-68, on Equity and Cost Related to the Delta Conveyance Project (Formerly California WaterFix).

Recommendation: A. Receive information on a framework to implement GP5 for agencies that receive on average 85% of their water supply from sources other than Santa Clara Valley Water District (Valley Water) managed supplies in their respective jurisdictions;
B. Approve the GP5 Program guidelines and implementation strategy; and
C. Authorize the Chief Executive Office to implement the GP5 Program beginning September 2021 (FY 2021-22) to negotiate and enter into cost-sharing agreements with Project Partners consistent with the Board approved GP5 Program guidelines.

Mr. Aaron Baker, Chief Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo, and Mr. Dave Tucker, Associate Civil Engineer, reviewed the information contained in Attachment 1.

Move to Approve: Gary Kremen

Second: Richard Santos

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

4.2. Purified Water Project – City of San José Partnership Update.

Recommendation: Receive information on the status of partnership with City of San Jose on the Purified Water Project.

Mr. Baker reviewed the information on this item, per the attached Board Agenda Memo.

Chairperson Estremera reported attending an August 11, 2021 meeting with Directors Hsueh and LeZotte, and the City of San Jose Mayor, Vice Mayor, Councilmembers, and staff. He advised the Board that discussion had been held to define a Valley Water's relationship with the City of San Jose in the Purified Water Program, the importance of timing to maximize opportunities for State and Federal Infrastructure Act funding, and the necessity for policymakers to be directly involved in negotiations to meet the January 2022 target date to have a Private Public Partnership (P3) agreement in place.

A teleconference participant identified as Mr. Perry, of undisclosed residency or agency affiliation, encouraged Valley Water's investment in matters that ensure against water shortage.

Chairperson Estremera confirmed that an additional discussion regarding the City of San Jose's responses would be held during the August 25, 2021 Recycled Water Committee meeting, and that he would report back to the Board on the outcomes of that discussion during the September 14, 2021 Regular Board meeting.

The Board noted the information on this item, without formal action.

4.3. Discuss Conducting Board and Board Committee Meetings Subsequent to COVID-19 Restrictions and Governor's Executive Order N-08-21.

Recommendation: A. Discuss and provide direction on conducting Board and Board Committee meetings subsequent to COVID-19 restrictions, the Governor's Executive Order N-08-21, expiring on September 30, 2021, and in compliance with the Brown Act;
 B. Consider allowing the public to continue to participate in Board and Board Committee meetings via teleconference method (such as Zoom) and/or in person; and
 C. Provide other relevant direction to staff.

Ms. Michele King, Clerk, Board of Directors, reviewed the information on Items 4.3, 4.4, and 4.5, per the attached Board Agenda Memos.

Motion: Approve allowing public participation in Board and Board Committee meetings via teleconference methods (such as Zoom), and/or in person, beyond the expiration of Governor's Order N-08-21.

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

4.4. Approve Fiscal Year 2021 Board Performance Report.

Recommendation: A. Review and provide feedback, if necessary, on the Fiscal Year 2021 Board Performance Report; and
B. Approve the Fiscal Year 2021 Board Performance Report.

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

4.5. Review Fiscal Year 2022 Board Policy Planning Calendar.

Recommendation: Review, discuss and revise the Fiscal Year 2022 Board Policy Planning Calendar.

Director Hsueh requested that the FY 2022 Board Policy Planning Calendar, Page 1, Item 8, be revised to include a footnote reading **See Item 3**.

The Board noted the information on this item, without formal action.

Director Kremen left meeting and did not return.

4.6. Consider the July 28, 2021, Santa Clara Valley Water Commission Recommendations Regarding Letters to the State of California, the Metropolitan Transportation Commission, and the Association of Bay Area Governments, Regarding Water Resource Concerns and Increasing Production and Use of Recycled Water.

Recommendation: A. Consider the Santa Clara Valley Water Commission's recommendation 1 that the Board of Directors write letters to the State of California, the Metropolitan Transportation Commission (MTC), and Association of

Bay Area Governments (ABAG), regarding the Water Commission's concerns about limited water resources and the length of the reconstruction of Anderson Dam, and requesting that the current Regional Housing Needs Allocation (RHNA) requirements be revisited to better balance housing growth and development with sustainable levels of water demand and supply, thereby helping to ensure RHNA requirements are feasible given the available water supply for the planning time period;

- B. Direct staff to write a letter for the Board Chair's approval and signature to the California Department of Housing and Community Development (HCD), MTC, and ABAG informing the agencies of the water availability challenges due to the reconstruction of Anderson Dam, as well as the current and recurring drought;
- C. Consider the Santa Clara Valley Water Commission's recommendation 2 that the Board of Directors take up the issue of increasing the production and use of recycled water with defined goals and benchmarks; and
- D. Direct staff to place on a future Water Commission agenda an item to inform members of the Commission about the planned outcomes and measurements for the Purified Water Project and other Valley Water recycled water efforts.

Ms. Rachel Gibson, Chief of External Affairs, and Mr. Don Rocha, Deputy Administrative Officer, reviewed the information on this item, per the attached Board Agenda Memo.

Three statements expressing support for the Board to write the letters recommended by the committee, were received as follows: Hon. Susan Landry, Campbell City Councilmember; Mr. Daniel Onn, City of Saratoga Neighborhood Safety Water Lead, and Rishi Kumar affiliate; and Ms. Mei-Ling Shek, of undisclosed residency or agency affiliation.

Five statements expressing opposition to the Board writing the letters recommended by the committee were received as follows: Mr. Brian Preskitt, San Jose resident; Mr. Aaron Eckhouse and Ms. Kelsey Banes, California Yimby Policy Directors; Mr. Kevin Ma, of undisclosed residency or agency affiliation; and Mr. Richard Mehlinger, Sunnyvale resident.

Motion: Approve directing staff to write a letter for the Board Chair's approval and signature, to the California Department of Housing and Community Development (HCD), MTC, and ABAG, informing the agencies of the water availability challenges due to the reconstruction of Anderson Dam, as well as the current and recurring drought; and direct staff to place an item on a future Water Commission agenda informing the Commission about the planned outcomes and measurements for the Purified

Water Project and other Valley Water recycled water efforts.

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

4.7. Board Committee Reports.

The Board noted the information contained in Handouts 4.7-A through 4.7-I, without formal action.

4.8. Proposed Future Board Member Agenda Items.

None.

5. WATER UTILITY ENTERPRISE:

- 5.1. Approve Amendment No. 3 to Agreement No. A3959A with Mark Thomas & Company, Inc. for On-Call Structural Engineering Services, Increasing the Fee by \$750,000; and Approve Amendment No. 3 to Agreement No. A3958A with Biggs Cardosa Associates, Inc. for On-Call Structural Engineering Services, Increasing the Fee by \$750,000.

Recommendation: A. Approve Amendment No. 3 to Agreement No. A3959A with Mark Thomas & Company, Inc. for On-Call Structural Engineering services, to increase the not-to-exceed fee by \$750,000, resulting in a total not-to-exceed fee of \$1,750,000; and
B. Approve Amendment No. 3 to Agreement No. A3958A with Biggs Cardosa Associates, Inc. for On-Call Structural Engineering services, to increase the not-to-exceed fee by \$750,000, resulting in a total not-to-exceed fee of \$1,750,000.

The Board considered the information on this item without a staff presentation.

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

- 5.2. Los Vaqueros Reservoir Expansion Project: Adopt Proposed Resolution Approving Joint Exercise of Powers Agreement and Appointing Santa Clara Valley Water District (Valley Water) Representative and Alternate to Joint Powers Authority Board; Approve Amendment No. 3 to Cost Share Agreement in the Amount of \$897,120; Authorize Chief Executive Officer to Sign Letter of Support.

Recommendation: A. Adopt Resolution AUTHORIZING VALLEY WATER'S PARTICIPATION IN LOS VAQUEROS RESERVOIR JOINT POWERS AUTHORITY AND APPOINTING REPRESENTATIVES TO SERVE AS DIRECTOR AND ALTERNATE ON JPA'S BOARD OF DIRECTORS;
B. Authorize Chief Executive Officer to sign the Los Vaqueros Reservoir Joint Exercise of Powers Agreement;
C. Approve Authorize the CEO to execute Amendment No. 3 to the 2019 Cost Share Agreement, in the Amount of \$897,120; and
D. Authorize the CEO to sign the proposed Joint Local Agency Partner Letter of Support for the Los Vaqueros Expansion Project.

Mr. Vince Gin, Deputy Operating Officer, reviewed the information on this item, per the attached Board Agenda Memo and the corresponding presentation materials contained in Attachment 7.

Motion: Adopt Resolution No. 21-80, AUTHORIZING VALLEY WATER'S PARTICIPATION IN LOS VAQUEROS RESERVOIR JOINT POWERS AUTHORITY AND APPOINTING Director LeZotte and Varela as primary and alternate REPRESENTATIVES TO SERVE AS DIRECTOR AND ALTERNATE ON JPA'S BOARD OF DIRECTORS, by roll call vote; authorize CEO to sign the Los Vaqueros Reservoir Joint Exercise of Powers Agreement; approve and authorize the CEO to execute Amendment No. 3 to the 2019 Cost Share Agreement, in the Amount of \$897,120; and authorize the CEO to sign the proposed Joint Local Agency Partner Letter of Support for the Los Vaqueros Expansion Project.

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

6. WATERSHEDS:

None.

7. ASSISTANT CHIEF EXECUTIVE OFFICER:

None.

8. EXTERNAL AFFAIRS:

8.1. Valley Water Headquarters Boardroom Glass Sign Update.

Recommendation: Review and consider options for the headquarters boardroom glass sign.

Ms. Gibson reviewed the information on this item, per the attached Board Agenda Memo, and Ms. Jimin Oh Lee, Public Information Representative, reviewed Attachment 1 and Handout 8.1-A.

Motion: Approve the Boardroom Glass Sign Design contained in Attachment 1, Option 1B.

Move to Approve: Nai Hsueh
Second: Barbara Keegan

Director Santos offered the following substitute motion.

Motion: Approve the Boardroom Glass Sign Design contained in Attachment 1, Option 2B.

Move to Approve: Richard Santos
Second: Tony Estremera
Yeas: Richard Santos, Tony Estremera
Nays: Nai Hsueh, Barbara Keegan, John L. Varela
Abstains: Linda J. LeZotte
Recuses: None
Absent: Gary Kremen
Summary: 2 Yeas; 3 Nays; 1 Abstains; 1 Absent.

Director LeZotte explained that she abstained from voting because she believed the signage update to be a waste of money.

Director Santos' substitute motion failed by 2:3 vote.

Chairperson Estremera called for a vote on the original motion made by Director Hsueh.

Yeas: Nai Hsueh, Barbara Keegan, Tony Estremera
Nays: Richard Santos, John L. Varela
Abstains: Linda J. LeZotte
Recuses: None
Absent: Gary Kremen
Summary: 3 Yeas; 2 Nays; 1 Abstains; 1 Absent.

Mr. Carlos Orellana, District Counsel, confirmed that four votes in favor were required to pass the motion.

The motion failed by 3:2 vote.

9. CHIEF EXECUTIVE OFFICER:

9.1. CEO and Chiefs' Report.

Ms. Sue Tippets, Interim Chief Operating Officer, reviewed and distributed the attached Watersheds Operations and Maintenance Report, identified as Handout 9.1-A herein.

Ms. Gibson, reviewed and distributed the attached Office of Government Relations Update and the Office of Civic Engagement Update, identified as Handouts 9.1-B and 9.1-C, herein.

Copies of Handouts 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 various Valley Water Board of Directors' meetings (BOD) and a Valley Water Townhall meeting; an ACWA Education Committee meeting; a Delta Conveyance Authority (DCA) Briefing; a Morgan Hill Chamber of Commerce webinar; and various meetings with staff and constituents.

Director Keegan reported attending the aforementioned DCA briefing; Board Audit Committee (BAC) and Joint Water Resource Committee (JWRC) with Morgan Hill and Gilroy meetings; a meeting with a Campbell City Councilmember; and various meetings with staff.

Director Santos reported attending the aforementioned BAC meeting; a San Luis Delta Mendota Water Authority Board workshop; a Water Conservation town hall with California State Assemblymember Alex Lee; and various meetings with staff.

Director LeZotte reported attending the aforementioned BOD meetings, DCA briefing and BAC meeting; Water Conservation and Demand Management and Capital Improvement Program (CIP) committee meetings; a Purified Water Program discussion with City of San Jose staff and elected officials; a District 9 Council Neighborhood Association Drought presentation; a meeting with Campbell City Councilmember Susan Landry; and various other meetings with staff.

Director Hsueh reported attending the aforementioned Purified Water Program discussion with City of San Jose staff and elected officials, DCA briefing, and CIP and JWRC meetings; a Rinconada Water Treatment Plant Project Update

meeting; a San Francisquito Creek Joint Powers Authority FEMA Risk Rating 2.0: Equity in Action Webinar; and various meetings with staff.

Chairperson Estremera reported attending the aforementioned DCA briefing, and CIP and JWRC meetings; a Recycled Water Committee meeting, a Groundwater Management Plan community meeting, a meeting with Valley Water Bargaining Unit representatives, and various meetings with staff; and participating in a video recording at the Silicon Valley Advanced Water Purification Center.

12.2. Clerk Review and Clarification of Board Requests.

None.

12.3. Adjourn to Regular Meeting at 1:00 p.m., on September 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-08-21.

Chairperson Estremera adjourned the meeting at 7:50 p.m., to the 1:00 p.m. Regular meeting on September 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:

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