



Santa Clara Valley Water District

File No.: 21-0008

Agenda Date: 2/9/2021

Item No.: 2.7.

BOARD AGENDA MEMORANDUM

SUBJECT:

Public Hearing - Determine the Necessity for the Board of Directors to be Compensated for up to 15 Days Per Calendar Month, and to Consider Meeting Compensation Amount for Calendar Year 2021.

RECOMMENDATION:

- A. Conduct a Public Hearing to allow members of the public to provide comments on the need to compensate Directors for up to 15 days per calendar month, and Director meeting compensation amount for calendar year 2021;
- B. Close the Public Hearing; and
- C. Discuss, make a finding, and adopt the Ordinance PROVIDING FOR COMPENSATION OF DIRECTORS OF SANTA CLARA VALLEY WATER DISTRICT PURSUANT TO CHAPTER 2, DIVISION 10, CALIFORNIA WATER CODE, reflecting the number of meetings per calendar month Directors should be compensated and the Director meeting compensation amount for calendar year 2021; or
- D. Provide direction to the Clerk of the Board relevant to the authorized number of compensated meetings per month and meeting compensation amount for calendar year 2021.

SUMMARY:

This item allows the Board to hold a public hearing to:

- a. Determine necessity for Directors to be compensated for up to 15 days per calendar month; and
- b. Consider Directors' meeting compensation for calendar year 2021

PUBLIC HEARING

At its January 12, 2021, regular meeting, the Board set a public hearing to be held on February 9, 2021, to determine the necessity for Directors to be compensated for up to 15 days per calendar month and to consider Directors' meeting compensation for calendar year 2021. A Notice of Public Hearing has been published in a newspaper of general circulation, as well as community papers throughout Santa Clara County, notifying the public of the opportunity to provide comment at the public hearing if they so choose (Attachment 1).

The public hearing is held pursuant to Santa Clara Valley Water District (Valley Water) Act (District Act) Section 33(c), Government Code Section 53232.1, and California Water Code Sections 20200-20207.

Monthly Meeting Limit

AB 1889 (Caballero) signed by the Governor on September 5, 2018, and which took effect on January 1, 2019, amends the District Act by adding Section 33(c), authorizing the Board, until December 31, 2023, to annually adopt a written policy describing, based on a finding supported by substantial evidence, why more than 10 meetings per month, but not more than 15 meetings per month, are necessary for the effective operation of Valley Water. The determination of whether a Director's activities on any specific day are compensable shall be made pursuant to Section 53232.1 of the Government Code. Board Governance Policy GP-10.6.1 provides the activity definitions required by this Government Code section.

In accordance with Board Governance Policy GP-10-6.1, a finding could be made based on substantial evidence including, but not limited to the following.

1. Many of Valley Water's responsibilities such as water supply, flood protection, and environmental stewardship, are in other jurisdictions spread across separate governmental entities. These functions require numerous meetings to set courses of action based on input from the community and other stakeholders.
2. The number and scope of Board and committee meetings, public hearings, community meetings, and other meetings Directors must attend to accomplish the District's business are extensive. The Board has 23 internal and/or joint policy committees/working groups, and the Directors serve on a total of 19 external boards and committees for other intergovernmental, regional, or public policy entities (Attachment 2).
3. The District is the only water agency in California that is both a state and federal water contractor through the State Water Project and the Central Valley Project, putting the District at the heart of complex water policy debates in both Sacramento and Washington. This greatly expands the number of meetings necessary to ensure reliable water supplies for Santa Clara County as compared to other regions.
4. In 2020 the maximum meeting days per month that Directors could be compensated was 15, per Ordinance 20-01. During the first 11 months of 2020, the Valley Water Board of Directors reported 1106 meeting days that were paid, and 145 meeting that were unpaid, because they exceeded the maximum number of meeting days allowed for the stated month. The table included as Attachment 3 provides details on the meetings per month data.

The Board could consider the following monthly meeting limit options:

1. Make a finding based on substantial evidence that there is an operational need to compensate Directors for up to 15 days per calendar month, and set the meeting day limit accordingly, effective April 14, 2020, for calendar year 2020 (60 days after adoption of ordinance); or
2. Determine that there is no operational need to compensate Directors for more than the current 10 days per calendar month, per California Water Code.

Meeting Compensation

California Water Code Section 20202 authorizes the Board to annually consider, through the public hearing and ordinance adoption process, meeting compensation increases at a rate not to exceed an amount equal to five percent (5%) annually.

Any Board approved change in the Directors' number of compensated meetings per month and meeting compensation rate will become effective beginning 60 days after date of ordinance adoption, pursuant to California Water Code Section 20204.

The Board's last compensation adjustment was in April 2020. In accordance with the regulatory process, the Board held a public hearing on February 11, 2020, for the public to comment on the Directors' meeting compensation amount; and at that meeting, the Board adopted Ordinance 20-01 enacting a compensation increase of five percent (5%), effective April 14, 2020 (12 months after the last compensation increase.)

The Board could consider the following monthly compensation options:

1. Keep the Directors' compensation at the current amount of \$316.06 per day; or
2. Reduce the Directors' compensation to a specified amount below the current \$316.06 rate per day, up to 10 or 15 days per calendar month, as previously determined, effective April 14, 2021; or
3. Approve an increase up to 5% in Directors' compensation in accordance with the California Water Code Sections 20200-20207, effective April 14, 2021.

FINANCIAL IMPACT:

Funds are budgeted in the Board of Directors Fiscal Year 2021 budget for meeting compensation.

Staff estimates that a 5% increase in Directors' compensation for up 15 days per calendar month would cost approximately \$20,000. Since contingency budgeting is not performed, funding for any Board-approved increase in compensation may need to be transferred from reserves pursuant to a budget adjustment if the impact cannot be absorbed within budget.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Notice of Public Hearing
Attachment 2: 2020 Board Committee Appointments
Attachment 3: 2020 Board Meeting Days Analysis
Attachment 4: Draft Ordinance

UNCLASSIFIED MANAGER:

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