



Santa Clara Valley Water District

File No.: 21-1265

Agenda Date: 12/8/2021

Item No.: *4.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Continuation of Report of Former Board of Directors Chairperson Nai Hsueh, Upon Review of Investigation of May 27, 2020 Complaint Filed by Rev. Jethroe Moore and Consideration of Recommendations of Current Chairperson Tony Estremera.

RECOMMENDATION:

- A. Review and consider findings in the Executive Summary of the investigative report previously presented to the Board; and
- B. Consider and provide direction to staff on Chairperson Tony Estremera's recommendations regarding selection process criteria for Board Appointed Officers and regarding complaint procedures in Board Governance Policies Governance Procedures 6.9 to 6.19.

SUMMARY:

On May 27, 2020, Rev. Jethroe Moore submitted a complaint to Valley Water alleging that Directors Keegan and LeZotte engaged in discriminatory and retaliatory conduct with respect to CEO Rick Callender during the process for his selection to that position. Since Rev. Moore is a non-board member, the complaint was handled in accordance with the provisions of Board Governance Process 6.15 through 6.19.

Then-District Counsel Stan Yamamoto, with input from the Board Ethics and Conduct Committee, retained the services of Amy Oppenheimer, Attorney at Law, to serve as the impartial and independent investigator. Ms. Oppenheimer served as the principal investigator and was assisted by Julie M. Kennedy.

During the course of the investigation, Rev. Moore supplemented his complaint with a letter to the investigator dated August 10, 2020.

Review Process

Pursuant to Board Governance Process (GP)-6.19.3, upon the conclusion of an investigation into a complaint by a non-board member against a board member, the Chair of the Board shall be presented with the written results of the investigation. If the Chair of the Board is satisfied with the

completeness of the investigation, he or she shall provide the Board with findings and any recommendations.

Following the process required by GP-6.19.3, and as documented in her memorandum for item 4.1 for the January 26, 2021 Board meeting, Director Nai Hsueh reviewed the investigative report during the first week of January 2021 while she was still in the capacity of the Chair of the Board. Then-Chairperson Hsueh did not solicit assistance from the Board Ethics and Conduct Committee, and the committee had no role in her review.

Based on her review, then-Chairperson Hsueh found the investigative report complete and consistent with the scope of services, and did not have any separate recommendations to the Board as a result of her review.

The Executive Summary of Ms. Oppenheimer's report was provided to the Board as part of agenda item No. 4.1 for the January 26, 2021 Santa Clara Valley Water District Board of Directors meeting. Discussion on that item was continued to a later date and thus this item is returning to the Board at this time.

Pursuant to GP 6.19.3, and as a result of his review of Ms. Oppenheimer's report, current Board Chairperson Tony Estremera recommends that the Board discuss and provide direction to staff on (1) criteria for the selection process for Board Appointed Officers; and (2) revisions to the complaint procedures in Board Governance Policies - Governance Procedures Policy to 6.19, inclusive.

Next Step

Pursuant to Governance Process 6.19.3, following such review, any individual board member may file a request for admonition, sanction, or censure. If such a request is filed, the subsequent procedure is set forth in Governance Process 6.19.5.

ENVIRONMENTAL JUSTICE IMPACT:

There are no Environmental Justice impacts associated with this item.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

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:

- *Handout 4.1-A: Memo, Directors Estremera and Hsueh
- *Handout 4.1-B: Memo, Directors LeZotte and Keegan
- *Handout 4.1-C: Letter, C Moore

UNCLASSIFIED MANAGER:

Board Chairperson Tony Estremera