



# Santa Clara Valley Water District Board Policy and Planning Committee Meeting

Board Conference Room A-124

## REGULAR MEETING AGENDA

**Monday, July 22, 2019  
2:00 PM**

**District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.**

BOARD POLICY AND PLANNING  
COMMITTEE

Nai Hsueh - District 5, Committee  
Chair

Barbara Keegan - District 2,  
Committee Vice Chair

Linda J. LeZotte, District 4

The Board Policy and Planning Committee provides support to the Board in the areas of Board planning process; Board Committees' principles and structures; Board and organization performance monitoring and; other tasks assigned by the Board.

Public records for this Committee are available for inspection in the Clerk of the Board's Office, 5700 Almaden Expressway, San Jose, CA 95118. Materials are available to the public at the same time they are made available to the Committee. The District will make reasonable efforts to accommodate persons with disabilities wishing to attend meetings. Please advise the Clerk of the Board of any special needs by calling (408) 265-2600.

COMMITTEE CLERK

Michele L. King, CMC  
Clerk, Board of Directors

**Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown Act.**



**Santa Clara Valley Water District**  
**Board Policy and Planning Committee**  
**REGULAR MEETING**  
**AGENDA**

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Monday, July 22, 2019

2:00 PM

Board Conference Room A-124

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**1. CALL TO ORDER:**

1.1. Roll Call.

**2. TIME OPEN FOR PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA.**

*Notice to the public: This item is reserved for persons desiring to address the Committee on any matter not on this agenda. Members of the public who wish to address the Committee on any item not listed on the agenda should complete a Speaker Form and present it to the Committee Clerk. The Committee Chair will call individuals in turn. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Committee action on, or extended discussion of, any item not on the agenda except under special circumstances. If Committee action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Committee may take action on any item of business appearing on the posted agenda.*

**3. APPROVAL OF MINUTES:**

3.1. Approval of Minutes.

[19-0314](#)

Recommendation: Approve the June 24, 2019, Minutes.

Manager: Michele King, 408-630-2711.

Attachments: [Attachment 1: June 24, 2019, Minutes.](#)

**4. ACTION ITEMS AND ACTION ITEMS:**

4.1. Proposed Board Governance Policy - Governance Process-6.3 - Board Member Exercising Individual Authority Over the Organization.

[19-0670](#)

Recommendation: Review, revise if necessary, and request staff to present proposed policy language change to full Board for approval.

Manager: Michele King, 408-630-2711.

Attachments: [Attachment 1: Proposed Revisions Board Governance Policy GP-](#)  
[Attachment 2: Proposed Revisions Board Governance Policy EL-](#)

4.2. Work Plan, Meeting Schedule and Accomplishments Report.

[19-0311](#)

- Recommendation: A. Review the Board Policy and Planning Committee's Work Plan and Accomplishments Report and incorporate any new tasks; and  
B. Schedule Committee meetings as appropriate.

Manager: Michele King, 408-630-2711.

Attachments: [Attachment 1: 2019 BPPC Work Plan & Accomplishments Report](#)

**5. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.**

*This is an opportunity for the Clerk to review and obtain clarification on any formally moved, seconded, and approved requests and recommendations made by the Committee during the meeting.*

**6. ADJOURN:**

- 6.1. Adjourn to Regular Meeting at 2:00 p.m., on August, 26, 2019, in the Santa Clara Valley Water District Board Conference Room A-124, 5700 Almaden Expressway, San Jose, California.



# Santa Clara Valley Water District

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**File No.:** 19-0314

**Agenda Date:** 7/22/2019  
**Item No.:** 3.1.

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## COMMITTEE AGENDA MEMORANDUM

### Board Policy and Planning Committee

**SUBJECT:**

Approval of Minutes.

**RECOMMENDATION:**

Approve the June 24, 2019, Minutes.

**SUMMARY:**

A summary of Committee discussions, and details of all actions taken by the Committee, during all open and public Committee meetings, is transcribed and submitted for review and approval.

Upon Committee approval, minutes transcripts are finalized and entered into the District's historical records archives and serve as historical records of the Committee's meetings.

**ATTACHMENTS:**

Attachment 1: June 24, 2019, Minutes.

**UNCLASSIFIED MANAGER:**

Michele King, 408-630-2711.





BOARD POLICY AND PLANNING COMMITTEE

**DRAFT** MINUTES

**Monday, June 24, 2019  
2:00 PM**

(Paragraph numbers coincide with agenda item numbers)

**1. Call to Order  
1.1 Roll Call**

A regular meeting of the Santa Clara Valley Water District Board Policy and Planning Committee (Committee) was called to order at 2:00 p.m. on June 24, 2019, at the District Headquarters Building, Conference Room A-124, 5700 Almaden Expressway, San Jose, California.

Board Members in attendance were: Director Nai Hsueh-District 5; Director Linda J. LeZotte-District 4, and Barbara Keegan-District 2, constituting a quorum.

Staff members in attendance were Rick Callender, Usha Chatwani, Jessica Collins, Vincent Gin, Jeff Ham, Brian Hopper, Michele King, Melanie Richardson, Sue Tippetts, Stan Yamamoto, and Tina Yoke.

Mr. Arthur Keller, Environmental and Water Resources Committee (EWRC) Vice Chair was in attendance.

**2. Time Open for Public Comment on any Item not an Agenda**

Chairperson Hsueh declared time open for public comment on any item not on the agenda. There was no one present that wished to speak.

**3. Approval of Minutes**

**3.1 Approval of Minutes – May 30, 2019.**

The Committee considered the attached minutes of the May 30, 2019 meeting. Director Hsueh requested that the Item 4.2 paragraph be revised to remove “Board approved” from the first sentence. It was moved by Director LeZotte, seconded by Director Keegan, and unanimously carried to approve the minutes as amended.

**4. Information and Action Items:**

**4.1 Policy for Encroachments on District Properties.**

Ms. Melanie Richardson, Chief Operating Officer and Ms. Sue Tippetts, Deputy Operating Officer reviewed the information on this item, per the attached Committee Agenda Memo, Attachment 1, and the presentation contained in Handout 4.1-A; and Mr. Brian Hopper reviewed the information contained in Handout 4.1-B. The handouts were distributed to the Committee and made available to the public.

During the presentation, the Committee provided the following input on the presentation:

- Communication, education and outreach plans need to identify who we are engaging and educating and that it's an ongoing effort that provides timely information on water resources protection.
- Add notations on the Question and Answer attachment (Attachment 1) that reflects the Committee and staff's positions on specific subjects.
- Add the word "Existing" Encroachments to the title, and highlight the note at the bottom of page 18.
- In the Guiding Principles section, include a statement that declares that over time, it's the Board's goal to resolve and eliminate encroachments.
- Notifying Property Owners of survey results should be a separate bullet on page 20.
- Replace the word "house" with "structure" in second bullet on page 22.
- License should be recorded so the District is notified when the property with the encroachment is sold.
- Staff should have authority to renew the two-year license.
- Denial of a license extension should be subject to the appeal process.
- Two-step appeal process should be documented on page 24.
- Include an appeal process framework, and the committee's recommendation that appeals should go to the full Board.
- Provide historical information on how property along the creek was obtained and how boundaries are determined.

Mr. Phillip Livengood, Saratoga resident, expressed concern for the interpretation of using public land for private use, and the concept that portions of the creek embankment were given to the District through the subdivision land map provision in the 1950s.

Mr. Michael Weber, Saratoga resident, expressed concern for the method in which the creek embankment property may have been obtained and how property boundaries were determined when the subdivision along Saratoga creek was constructed.

The committee requested that staff finalize the presentation and schedule for full board consideration.

#### **4.2 Proposed Board Governance Policy – Governance Process-6.3 – Board Member Exercising Individual Authority Over the Organization.**

Ms. Michele King, Clerk of the Board, Mr. Brian Hopper, Senior Assistant District Counsel, and Stan Yamamoto, District Counsel, reviewed the information on this item, per the attached Committee Agenda Memo and Attachment 1.

The Committee requested that the proposed language added to GP-6.3 be revised to list sections GP-6.7 through GP-6.15 to document complaints from non-Board members, and requested staff bring back additional policy language that codifies the Board Appointed Officers' obligation to report any staff claims of Board members exercising individual authority over the organization.

**4.3 Fiscal Year 2020 Draft Board Policy Planning and Performance Monitoring Calendars.**

Ms. King and Committee Chair Hsueh reviewed the board calendars. The Committee requested some revisions and additions to the performance monitoring calendar, and requested that staff present both calendars to the full Board for approval.

**4.4 Work Plan, Meeting Schedule and Accomplishments Report.**

The Committee reviewed the work plan, confirmed the next meeting date, and identified subjects for the July meeting agenda.

**5. Clerk Review and Clarification of Committee Requests.**

Ms. King reviewed the Committee requests and recommendations.

**6. Adjourn:**

Committee Chair Hsueh adjourned the meeting at approximately 4:15 p.m.

Michele L. King, CMC  
Clerk of the Board

Approved:





# Santa Clara Valley Water District

**File No.:** 19-0670

**Agenda Date:** 7/22/2019

**Item No.:** 4.1.

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## COMMITTEE AGENDA MEMORANDUM

### Board Policy and Planning Committee

**SUBJECT:**

Proposed Board Governance Policy - Governance Process-6.3 - Board Member Exercising Individual Authority Over the Organization.

**RECOMMENDATION:**

Review, revise if necessary, and request staff to present proposed policy language change to full Board for approval.

**SUMMARY:**

Per the Board's January 28, 2019 request for the Board Policy and Planning Committee (BPPC) to review policies associated with Board Members exercising individual authority over the organization, the BPPC reviewed Board Governance Policy - Governance Process (GP-6), Board Members' Code of Conduct, at the April 29, 2019, and June 24, 2019, meetings.

The BPPC requested staff bring back additional policy language that codifies the Board Appointed Officers' obligation to report any staff claims of Board members exercising individual authority over the organization, and the process to report such claims.

Attachment 1 and 2 contains staff's proposed revisions to GP-6 and EL-3 that documents the process for handling alleged Board misconducts by both the Board and the BAOs.

**ATTACHMENTS:**

Attachment 1: Proposed Revisions Board Governance Policy GP-6

Attachment 2: Proposed Revisions Board Governance Policy EL-3

**UNCLASSIFIED MANAGER:**

Michele King, 408-630-2711.



# Governance Policies of the Board

**Title: Board Members' Code of Conduct**

**Category: Governance Process**

**Policy No. GP-6**

Adopted: June 15, 1999  
Chair: Larry Wilson

Latest Revision: August 21, 2012  
Chair: Linda J. LeZotte

The Board of Directors revised and adopted this policy at its public meeting on the latest revision date.

The Board commits itself and its members to ethical, business-like, and lawful conduct, including proper use of authority and appropriate decorum when acting as Board members.

Board members who do not adhere to this code of conduct may be subject to the procedures of GP-6.7 through GP-6.9 listed below.

- 6.1. Members must have loyalty to the District and community and not be conflicted by loyalties to staff, other organizations or any personal interest.
- 6.2. Members must avoid conflict of interest with respect to their fiduciary responsibility and are obligated by virtue of their office to discharge their responsibilities with integrity and fidelity and are prohibited from placing themselves in a position where their private, personal interest may conflict with their official duties.
- 6.3. Board members may not attempt to exercise individual authority over the organization or any staff member. Each board appointed officer is obligated to report any such attempt by any individual board member within five (5) business days of such attempt having been made, in accordance with procedural steps outlined in GP-6.9 listed below.
  - 6.3.1. Members' interaction with the BAOs or with staff must recognize the lack of authority vested in individual members except when explicitly Board authorized. Violation of this section, as with other sections within GP-6, are subject to the procedures outlined in GP-6.7 through GP-15 listed below.
  - 6.3.2 Board members shall refrain from abusive conduct, personal charges or verbal assaults upon the character or motives of other members of the Board, committees, commissions, staff and the public. Board members shall support the maintenance of a positive and constructive environment for District employees.
  - 6.3.23. Members' interaction with public, press or other entities must recognize the same limitation and the inability of any Board member to speak for the Board except to repeat explicitly stated Board decisions.

# Governance Policies of the Board

6.3.~~34~~. No member shall contact staff on behalf of a party who is bidding or intends to bid on a District contract or who has or intends to submit a response to a request for proposals or request for qualifications, nor shall a Director inquire about the identity of bidders or proposers prior to the time that staff has made a recommendation for selection of a contractor, vendor, or consultant. Members are not prohibited from making general inquiries about the status of a particular procurement, or from providing a member of the public with information about the appropriate staff contact concerning procurement of goods and services by the District.

6.3.~~45~~. After issuance of a request for goods or services, Board members are prohibited from communicating with any current or potential vendor, supplier, contractor, or consultant, except as described in this paragraph, until after issuance by the Board Administrative Officer or his/her designee of a decision on any protest relating to the request for goods or services or resultant contract award. Any communications during this period shall be limited to matters unrelated to the request for goods or services or the contract award. Whenever the member has communicated during the aforementioned period with any current or potential vendor, supplier, contractor, or consultant in violation of these restrictions, the name of the party, the date, and the content of the communications shall be disclosed at the next board meeting after the communication and noted in the minutes.

6.4. Members will respect the confidentiality appropriate to issues of a sensitive nature.

6.4.1. No member shall violate the confidentiality of closed session discussion.

6.5. Members will be properly prepared for Board deliberation.

6.6. The Board may not authorize severance pay for a Board-appointed employee of the District when the employee voluntarily separates from District employment. "Severance pay" does not include any otherwise lawful payment required to be paid by the District under a pre-existing employment agreement or under a separation and release agreement resolving a claim or claims made or threatened against the District. The Board shall not agree to amend an employment contract after the employee announces or requests a voluntary separation, except upon a Board determination, in open session, that an adjustment in compensation is required to retain the employee and is in the best interest of the District.

6.7. This policy applies to the Santa Clara Valley Water District Board of Directors and the following procedures shall be followed when any member of the Board of Directors reasonably believes that another member of the Board has engaged in misconduct or has failed to act in the best interests of the District. The procedures shall not be effective in any case in which a non-board member seeks redress for alleged misconduct by a Board member. While the Board has discretion in deciding the actions it may choose to take in response to a complaint, this policy provides definitions and procedures related to three types of actions: admonition, sanction and censure.

# Governance Policies of the Board

## 6.7.1. Admonition

Admonition is the least severe form of action. An admonition may typically be directed to all members of the Board, reminding them that a particular type of behavior is not in the best interests of the District, and that, if it occurs or is found to have occurred, could make the member subject to sanction or censure. An admonition may be issued in response to a particular alleged action or actions, although it would not necessarily have to be triggered by a complaint of misconduct. An admonition may be issued by the Board prior to any findings of fact regarding any complaint, and because it is a warning or reminder, would not necessarily require an investigation or separate public hearing to determine whether a complaint is true.

## 6.7.2. Sanction

Sanction is the next most severe form of action. Sanction should be directed to a particular member of the Board based on a particular action (or set of actions) that is determined to be misconduct but is considered by the Board not to be sufficiently serious to require censure. A sanction is distinguished from censure in that it does not constitute punishment. A written sanction may be based upon the Board's review and consideration of a written complaint. The member accused of such misconduct will have an opportunity to provide a written response to the complaint. A sanction may be issued by the Board, and because it is not punishment or discipline, it would not necessarily require an investigation or separate public hearing.

## 6.7.3. Censure

Censure is the most severe form of action in this policy. Censure is a formal statement of the Board officially reprimanding one of its members. It is a punitive action, which serves as a penalty imposed for misconduct, but it carries no fine or suspension of the rights of the member as an elected official. Censure should be used for cases in which the Board determines that the misconduct is a serious offense. In order to protect the overriding principle of freedom of speech, the Board shall not impose censure on any of its members for the exercise of his or her First Amendment rights, no matter how distasteful the expression was to the Board or the District. However, nothing herein shall be construed to prohibit the Board from collectively condemning and expressing their strong disapprobation of such remarks.

## 6.7.4. Referral to District Attorney

At any point during any of the processes hereinafter described, the Board may refer the matter, as appropriate, to the Santa Clara County District Attorney for investigation. Prior to or following such referral, the Board may proceed with any of the actions described in this policy.

# Governance Policies of the Board

## 6.8. Available Procedures for addressing Misconduct

There are four separate methods for the Board to address Board member misconduct under this Policy: (1) written complaint; (2) request for admonition; (3) request for sanction; and (4) request for censure. Written complaints that specifically seek admonition, sanction, or censure as a specific remedy shall be treated as a request for that remedy (admonition, sanction, or censure), and the provisions of sections GP-6.9 and GP-6.10 shall not apply.

## 6.9. Written Complaints

In the event a Board member reasonably believes another Board member has failed to act in the best interests of the District resulting in misconduct, a written complaint shall be submitted to the ~~Human Resources Director~~Chief People Officer. Upon receipt, the ~~Deputy Administrative Officer~~Chief People Officer, Human Resources Division shall transmit the complaint to the District Counsel for review. The District Counsel shall review complaints to determine whether there is a sufficient basis for further action.

6.9.1. If a complaint fails to articulate a sufficient basis for further consideration, the complainant and the accused Board member will be so advised by the District Counsel, and the matter shall be deemed concluded.

6.9.2. If a complaint adequately articulates a sufficient basis for further action, the District Counsel shall present the complaint to the Board Ethics and Conduct Ad Hoc Committee (the "Committee"), which shall be comprised of the Chair and two members of the Board. In the event the subject of a complaint is the Chair or any member of the Committee, the Board shall select another Board member to serve on the Committee in that member's stead. The District Counsel may recommend to the Committee that:

6.9.2.1. Fact finding as to the complaint should be conducted; or

6.9.2.2. Informal resolution of the complaint should occur; or

6.9.2.3. An independent investigation of the complaint should occur.

6.10. Prior to any determination by the Committee to proceed with an investigation, the accused Board member must be given a reasonable opportunity to meet with the Committee or to provide a written response to the complaint. In deciding whether or not to open an investigation, the Committee should consider:

6.10.1. Whether an investigation may compromise investigations regarding the same alleged misconduct, whether the misconduct may result in criminal charges, and whether the right of

# Governance Policies of the Board

the accused Board member to a fair jury trial may be compromised by proceeding with an investigation.

6.10.2. Whether persons involved in the allegations may choose to exercise their constitutional right against self-incrimination, which may limit the investigation's ability to present a full and impartial picture of alleged events.

6.10.3. Whether measures can be taken to protect the rights of the member accused of misconduct, the member making such allegations, and those who have information regarding the allegations.

## 6.11. Investigations

6.11.1. If the Committee determines that an investigation is warranted, upon notification of the Board, District Counsel may be directed to conduct the investigation. District Counsel may select and manage an independent investigator to assist in conducting the investigation.

6.11.2. In the course of the investigation, District Counsel shall determine the process by which statements are taken. District Counsel may allow witnesses to choose to provide a signed declaration under penalty of perjury attesting to their knowledge of the facts surrounding the complaint.

6.11.3. At the conclusion of the investigation, the results of the investigation shall be presented in writing to the Committee and CEO. If the Committee is satisfied with the completeness of the investigation, it shall provide the Board with its findings and any recommendations. Following such findings and recommendations, any individual Board member may file a request for admonition, sanction, or censure.

6.11.4. If the Committee determines that an investigation is not warranted, the complainant and the Board shall be notified. Following such notification, any Board member may file a request for admonition, sanction, or censure.

6.11.5. Should any Board member file a request for admonition, sanction, or censure following investigation, the Committee shall submit to the Board a recommendation as set forth in sections GP-6.12.2, GP-6.13.2, or GP-6.14.2, below, and the matter shall thereafter be considered by the Board at its next public meeting subject to the restrictions of section GP-6.14.5, below.

## 6.12. Request for Admonition

# Governance Policies of the Board

- 6.12.1. Any Board member may make a written request for an admonition which must be submitted to the Committee. The request must contain specific language descriptive of the alleged misconduct and the reason(s) admonition is appropriate. A copy of the request for admonition shall be provided to the Board member accused of the misconduct.
  - 6.12.2. The Committee shall review the request and submit it to the Board with a recommendation. The Committee's recommendation shall provide:
    - 6.12.2.1. Admonition is warranted; or
    - 6.12.2.2. Admonition is not warranted; or
    - 6.12.2.3. No further action is required.
  - 6.12.3. A recommendation by a majority of the Committee shall be based on the Committee's review of the written record.
  - 6.12.4. An admonition can be approved by a majority of the Board.
- 6.13. Request for Sanction
- 6.13.1. Any Board member may make a written request for sanction which must be submitted to the Committee. The request must contain specific language descriptive of the alleged misconduct and the reason(s) sanction is appropriate. A copy of the request for sanction shall be provided to the Board member accused of the misconduct by personal service within five (5) business days from the date the Committee receives the request. The time for service shall be tolled if the Board member is unavailable for service.
  - 6.13.2. The Committee shall review the request and determine if an investigation is warranted. Following the investigation, or if no investigation was undertaken, following review of the request, the Committee shall submit the request to the Board with a recommendation. The Committee's recommendation shall provide:
    - 6.13.2.1. Admonition, rather than sanction is warranted; or
    - 6.13.2.2. Sanction is warranted; or
    - 6.13.2.3. No further action is warranted.
  - 6.13.3. A recommendation by a majority of the Committee shall be based on the Committee's review of the written record.

# Governance Policies of the Board

6.13.4. The Committee's recommendation shall be subject to a majority vote of the Board.

## 6.14. Request for Censure

6.14.1. Any Board member may make a written request for a censure which must be submitted to the Committee. The request must contain specific language descriptive of the alleged misconduct and the reason(s) censure is appropriate. A copy of the request for censure shall be served on the Board member accused of the misconduct by personal service within five (5) business days from the date the Committee receives the written request. The time for service shall be tolled if the Board member is unavailable for service.

6.14.2. The Committee shall review the request and submit the request to the Board with a recommendation. The Committee's recommendation shall provide:

6.14.2.1. Further investigation of the request for censure is required; or

6.14.2.2. Admonition or sanction is warranted; or

6.14.2.3. The request for censure should be set for a separate Board public hearing; or

6.14.2.4. No further action is required.

6.14.3. A recommendation by a majority of the Committee shall be based on the Committee's review of the written record.

6.14.4. If the Board determines that further investigation is required, the Board shall direct the Committee to lead the investigation which may be assisted by the CEO and District Counsel. The following guidelines apply to such an investigation:

6.14.4.1. The Committee may be assisted by a separate independent investigator.

6.14.4.2. Upon completion of the investigation, the Committee should determine if taking all the facts and evidence into consideration, there are reasonable grounds to believe or not believe that the misconduct occurred.

6.14.4.3. The Committee shall issue to the Board a final a report and recommendation as approved by a majority of the Committee. The Committee's final report shall be made available to the public.

# Governance Policies of the Board

6.14.5. If a separate Board public hearing is required, it must be scheduled far enough in advance to provide the Board member subject to the charges adequate time to prepare a defense, and that Board member shall be given the opportunity to make an opening and closing statement and to question his or her accusers. The Board member subject to the charges may be represented and may have the representative speak or question on his/her behalf. The Chair or Vice Chair, if the Chair is the subject of the charges, shall preside at the public hearing. The rules of evidence shall not apply to the hearing of the matter, which is not a formal adversarial proceeding. If the District Counsel has assisted Board members in the investigation, independent legal counsel shall provide legal advice to the Board during the hearing of the matter.

6.14.6. A decision to censure requires the adoption of a resolution making findings with respect to the specific charges, based on substantial evidence and approved by a two-thirds vote of Board.

## 6.15. Complaints from non-Board members

This policy applies to the Santa Clara Valley Water District Board of Directors and the following procedure shall be followed when a non-Board member files a written complaint stating his/her reasonable belief that a member of the Board has acted or failed to act in the best interests of the District resulting in misconduct. While the Board has discretion in deciding the actions it may choose to take in response to such a complaint, this policy provides definitions and procedures related to three types of actions: admonition, sanction and censure as defined in sections GP-6.7.1, GP-6.7.2., and GP-6.7.3, of this policy.

6.16. At any point during any of the processes hereinafter described, the Board may refer the matter as appropriate to the Santa Clara County District Attorney for investigation. Following such referral, the Board may proceed with any of the actions described in this policy.

6.17. This policy applies to the Santa Clara Valley Water District Board of Directors and the following procedures shall be followed when a non-Board member reasonably believes that a member of the Board has acted or failed to act in the best interests of the District resulting in misconduct. A written complaint signed by the complainant shall be filed with the ~~Deputy Administrative Officer~~Chief People Officer, Human Resources Division. Upon receipt, the ~~Deputy Administrative~~Chief People Officer shall transmit the complaint to the Chief Executive Officer (CEO) and the District Counsel for review. The CEO and District Counsel shall review the complaint to determine whether there is a sufficient basis for further action.

6.17.1. If a complaint fails to articulate a sufficient basis for further consideration, the complainant and the accused Board member will be so advised and the matter shall be deemed concluded.

# Governance Policies of the Board

- 6.17.2. If a complaint adequately articulates a sufficient basis for further action, the CEO and District Counsel shall present the complaint to the Chair of the Board. In the event the subject of the complaint is the Chair, the Vice Chair shall be presented with the complaint. The CEO and District Counsel may recommend to the Chair or Vice Chair that:
  - 6.17.2.1. Fact finding as to the complaint should be conducted; or
  - 6.17.2.2. Informal resolution of the complaint should occur; or
  - 6.17.2.3. An independent investigation of the complaint should occur.
- 6.18. Prior to the determination by the Chair or Vice Chair to proceed with an investigation, the accused Board member must be given a reasonable opportunity to meet with the Chair or Vice Chair or to provide a written response to the complaint. In deciding whether or not to open an investigation, the Chair or Vice Chair should consider:
  - 6.18.1. Whether an investigation may compromise investigations regarding the same alleged misconduct and if the misconduct may result in criminal charges, whether the right of the accused Board member to a fair jury trial may be compromised by proceeding with an investigation.
  - 6.18.2. If persons involved in the allegation may choose to exercise their constitutional right against self-incrimination, which may limit the investigation's ability to present a full and impartial picture of the alleged events.
  - 6.18.3. Measures to protect the rights of the member accused of misconduct, the non-Board member making such allegations, and those who have information regarding the allegations.
- 6.19. Investigations
  - 6.19.1. If the Chair or Vice Chair determines that an investigation is warranted, upon notification of the Board, District Counsel may be directed to conduct the investigation. District Counsel may select and manage an independent investigator to assist in conducting the investigation.
  - 6.19.2. In the course of the investigation, District Counsel shall determine the process by which statements are taken. A witness may choose to provide a signed declaration under penalty of perjury attesting to his/her knowledge of the facts surrounding the complaint. Within ninety (90) days of the date an investigation begins, District Counsel shall inform the Board of the investigation's progress. Investigations should be completed within six (6) months from the date the investigation begins; however, in the event the investigation cannot be completed within the six (6) month time period, District Counsel shall so notify the Board.

# Governance Policies of the Board

- 6.19.3. At the conclusion of the investigation, the results of the investigation shall be presented in writing to the Chair or Vice Chair. If the Chair or Vice Chair is satisfied with the completeness of the investigation, the Chair or Vice Chair shall provide the Board with findings and any recommendations. Following such findings and recommendation, any individual Board member may file a request for admonition, sanction, or censure.
- 6.19.4. If the Chair or Vice Chair determines that an investigation is not warranted, the complainant and the Board shall be notified. Following such notification, any Board member may file a request for admonition, sanction, or censure as set forth in sections GP-6.12, GP-6.13, or GP-6.14 of this policy, save and except that whenever the term “Committee” appears therein, the term “Chair” or “Vice Chair” shall be applicable.
- 6.19.5. Should any Board member file a request for admonition, sanction, or censure following the Chair or Vice Chair’s findings and recommendations or determination that an investigation is not warranted as set forth in sections GP-6.19.1 through GP-6.19.4 above, the matter shall thereafter be considered by the Board at its next public meeting subject to the restrictions of section GP-6.14.5, above.

# Governance Policies of the Board

**Title:** Human Resources  
**Category:** Executive Limitations

<b>Policy No. EL-3</b>	Adopted: June 15, 1999 Chair: Larry Wilson	Latest Revision: July 29, 2015 Chair: Gary Kremen
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The Board of Directors revised and adopted this policy at its public meeting on the latest revision date.

With respect to compensation and benefits, employment, and the treatment of employees and persons doing work for or on behalf of the District, a BAO shall:

## Employee Relations

- 3.1. Operate with written personnel rules which: (a) clarify rules for employees, (b) provide for effective handling of grievances, and (c) protect against wrongful conditions, such as preferential treatment for personal reasons. [See BAO Interpretation](#)
  - 3.1.1 Report any attempt by any individual board member to exercise individual authority over the organization or any staff member within five (5) business days of such attempt having been made, in accordance with procedural steps outlined in GP-6.17
- 3.2. Not retaliate against any employee.
- 3.3. Inform employees of their protections under this policy. [See BAO Interpretation](#)
- 3.4. Integrate, and operate within, written ethics policies and behavioral expectations that embody fairness, dignity and respect. [See BAO Interpretation](#)
- 3.5. Operate with written employee health and safety policies which (a) ensure that standards, programs, and procedures meet or exceed acceptable industry standards as written in state and federal regulations, and (b) ensure a healthful and safe work environment for all District employees. [See BAO Interpretation](#)
- 3.6. Subject to the District's Living Wage Policy, provide persons doing work for or on behalf of the District at least a living wage and reasonable time off. [See BAO Interpretation](#)

## Recruitment and Employment

- 3.7. Retain no more than thirty-two (32) unclassified positions without Board approval. [See BAO Interpretation](#)
  - 3.7.1. Not hire or promote unclassified employees without going through a competitive process.

# Governance Policies of the Board

- 3.8. Present an appointment of a Chief-level employee to the Board for confirmation.
- 3.9. Not allow compensated employment by the District for any serving member of the Board of Directors and for one year following the end of the Board member's term of office.
- 3.10. Require pre-employment alcohol/drug testing only where mandated by State or Federal laws.
- 3.11. Not change his or her own compensation and benefits. *See BAO Interpretation*
- 3.12. Not promise or imply permanent or guaranteed employment. *See BAO Interpretation*
- 3.13. Consider attrition, pending retirement, employee retraining, and reduction in temporary or contract staff, prior to employee layoffs.
- 3.14. Solicit Board input on changes to recruitment and hiring policies.

## **Succession Planning**

- 3.15. Assure there are capable employees with knowledge and expertise in subject matter integral to the future of water resource management in Santa Clara County. *See BAO Interpretation*
- 3.16. Have no fewer than two other unclassified employees familiar with Board and BAO issues and processes in order to protect the Board from sudden loss of BAO services. *See BAO Interpretation*

## **Labor-Management Relations**

- 3.17. Operate in an environment where there are good labor relations. *See BAO Interpretation*
- 3.18. Only negotiate terms for bargaining unit agreements within parameters set by the Board.



# Santa Clara Valley Water District

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**File No.:** 19-0311

**Agenda Date:** 7/22/2019  
**Item No.:** 4.2.

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## COMMITTEE AGENDA MEMORANDUM

### Board Policy and Planning Committee

**SUBJECT:**

Work Plan, Meeting Schedule and Accomplishments Report.

**RECOMMENDATION:**

- A. Review the Board Policy and Planning Committee's Work Plan and Accomplishments Report and incorporate any new tasks; and
- B. Schedule Committee meetings as appropriate.

**SUMMARY:**

This item allows the Committee to review its 2019 Work Plan, meeting schedule and accomplishments report and identify additional tasks and schedule meetings as appropriate.

**ATTACHMENTS:**

Attachment 1: 2019 BPPC Work Plan & Accomplishments Report

**UNCLASSIFIED MANAGER:**

Michele King, 408-630-2711.



2019 Board Policy and Planning Committee Work Plan and Schedule

Subject	Task	1/11/2019	1/31/2019	2/25/2019	3/25/2019	4/22/2019	5/30/2019	6/24/2019	7/22/2019	8/26/2019	9/23/2019	10/28/2019	11/25/2019	12/23/2019
Board Planning Process	<b>A. Provide Support for Board Planning Activities</b>													
	1. Develop FY19-20 Board Policy Planning and Performance Monitoring Calendars						X	X						
	2. Planning for Board's FY20-21 Strategic Planning Workshop											X	X	
	3. Discuss FY19-20 Board Budget Message & Board Work Plan	X	X				X							
	<b>B. Provide Support for Board Policy Review</b>													
	1. Policy for use of District Property for Trails, Open Space, and Recreation			X	X									
	2. Policy for Encroachment on District Properties					X		X						
	3. Policy Maintenance Role/Responsibility for District-Owned and Non-District-Owned Unimproved/Natural Creeks and Creekside Land		X	X	X									
4. Presentation on District Mitigation lands		X	X											
Board Committees Principles and Structures	<b>C. Align Board Committees' Work Plans with Board Planning Calendar</b>													
	1. Review Effectiveness of Board Advisory Committees (External)						X							X
	2. Review Board Member Exercising Individual Authority Over the Organization (GP-6.3.1)					X	X	X	X					
Other Assignments Requested by Board	<b>D. Other Assignments as Requested by the Board</b>													
	1. Provide Direction on Standard Process of Allocating SCW Program Grant Awards		X											

## Board Policy and Planning Committee Accomplishments Report

Subject	Task	Action Taken
<b>Board Planning Process</b>	<b>A.</b> Provide ongoing support for Board Planning Activities	
	1. Develop FY20 Board Policy Planning and Performance Monitoring Calendars	Committee forwarded calendars to full Board for approval on 7/9/19.
	2. Planning for Board's FY20-21 Strategic Priorities Workshop	
	3. Discuss FY19-20 Board Budget Message and Board Work Plan	Committee forwarded draft goals, strategies and focuses to full board on 3/12/19
	<b>B.</b> Provide Support for Board Policy Review	
	1. Policy for use of District property for trails, open space, and recreation	Committee requested that staff present policy to Board and include input provided at 3/25/19 committee meeting.
	2. Policy for encroachment on District properties	Committee requested that staff present policy to Board and include input provided at 6/24/19 committee meeting.
	3. Policy maintenance role/responsibility for District-Owned and Non-District-Owned unimproved/natural creeks and creekside land	Committee requested that staff present policy to Board and include input provided at 3/25/19 committee meeting.
4. Presentation on District Mitigation lands	Committee received an informational report on 2/25/19	
<b>Board Committees Principles and Structures</b>	<b>C</b> Align Board Committees' Work Plans with Board Planning Calendar	
	1. Review Effectiveness of Board Advisory Committees (External)	On 2/25/19 the Committee reviewed and proposed revisions to the Advisory Committee Agenda template to incorporate standing updates on the Board's priorities. Board approved revised template at 3/12/19 meeting.
<b>Board &amp; Organization Performance Monitoring</b>	2. Review Board Member Exercising Individual Authority Over the Organization (GP-6.3.1)	
	<b>D.</b> Assignments as directed by the Board	
	1. Provide direction on standard process of allocating SCW Program Grant Awards	On 1/31/18 the Committee unanimously approved supporting staff's proposed revisions and requested that a 10% budget flexibility be presented to the Board for consideration, to allow staff the ability to fund more grant applications. The Board approved the revised process at the 2/26/19 meeting.