



SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM
INDEPENDENT MONITORING COMMITTEE

MINUTES

WEDNESDAY, JANUARY 26, 2022

(Paragraph numbers coincide with agenda item numbers)

A regularly scheduled meeting of the Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee was held on January 26, 2022.

1. CALL TO ORDER

Committee Chair Ms. Tess Byler called the meeting to order at 4:01 p. m.

1.1. ROLL CALL

A quorum was established with 9 Members present.

Members in attendance were:

<u>Jurisdiction</u>	<u>Representative</u>	<u>Representative</u>
District 2	Rosalinda (Rosie) Zepeda	
District 3	Huy Tran	
District 4	Hon. Jason Baker*	Hon. Joe Head
District 5	Bill Hoeft	George Fohner
District 6	Hon. Patrick S. Kwok	
District 7	Tess Byler	Hon. Stephen Jordan
2021 Board Chair Appointment	Hon. Bob Nuñez	

Member not in attendance was:

<u>Jurisdiction</u>	<u>Representative</u>
District 1	Susan Kazemi
District 3	Rolane Santos
District 6	Hon. Dan McCorquodale

*Committee Member arrived as noted

Board Members in attendance was: Director John L. Varela (Board Alternate).

Staff members in attendance were: Wade Blackard, Rechelle Blank, Glenna Brambill, Rolando Bueno, Justin Burks, Jennifer Codianne, Jessica Collins, James Downing, Amy Fonseca, Meenakshi Ganjoo, Laura Garrison, Alexander Gordon, Andrew Gschwind, Christopher Hakes, Jeannine Larabee, Juan Ledesma, Larry Lopez, Devin Mody, Judy Nam, Carmen Narayanan, Alec Nicholas, Thalia Revilla, Metra Richert, Afshin Rouhani, Denis Ruttenberg, Paul Thomas, Doug Titus, Sherilyn Tran, Javier Valencia, Kristen Yasukawa, and Emily Zedler.

2. PUBLIC COMMENT

There was no one present who wished to speak.

3. APPROVAL OF MINUTES

It was moved by Hon. Patrick S. Kwok, seconded by Hon. Joe Head, and carried by roll call and unanimous vote, to approve the minutes of the December 8, 2021, Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee meeting as presented.

4. OUTCOME OF SUBCOMMITTEE MEETINGS

4a. SUBCOMMITTEE CHAIRS REPORT OUT ON KEY AREAS OF DISCUSSIONS AND RECOMMENDATIONS

Committee Chair Tess Byler introduced each Subcommittee Chair who reported out on key areas of discussions and recommendations from the subcommittee meetings:

Priority B Subcommittee Chair reported:

Mr. George Fohner

Reduce Toxins, Hazards, and Contaminants in Our Waterways

- All projects were categorized as being “On Target” except **Project B4, “Good Neighbor Program: Encampment Cleanup.** **Project B4** was categorized as “Not on Target” because “cleanups” as defined in the project’s KPI were severely curtailed by restrictions pertaining to COVID-19.
- The subcommittee made no formal recommendations`
- VW’s projects add to scientific knowledge and practical experience that help solve important problems both inside and outside of Santa Clara County.
- VW’s extensive partnerships and collaboration with others help it achieve more than it could achieve on its own.
- VW’s priorities and methods are adjusted over time in response to changes in conditions “on the ground” and in the regulatory priorities of numerous agencies. Those conditions and regulatory priorities for north county are different than they are for south county.
- Impressive innovations have been made in the administration of grants and in experimentation with partnerships like Cash for Trash.
- Laudable changes have been made in the grants programs. Those changes increase flexibility and the inclusion of diverse organizations. The IMC subcommittee encouraged additional efforts to better reach disadvantaged communities, especially Native American communities.
- The IMC subcommittee commended the innovative adjustments in “volunteer cleanup efforts and education” that VW made in response to COVID, and its ongoing programs to encourage participation by young people to create the “next generation” of volunteers.
- The IMC subcommittee noted that many KPIs involve “actions taken” not “outcomes achieved”.

Priority D Subcommittee Chair reported:

Hon. Joe Head

- Overall-No significant issues with staff recommendations
- **D1 Management of Revegetation Projects**, agreed on target and had no recommendations, understood staffing issues clarify how Valley Water will employ a more sustainable practice of staff functioning as leads to oversee contract crews. Fix the title of Graph D1.2 on page 78 to

- reflect that it is “projected new acreage.” In future reports, clarify that the total projected acres of revegetation to be maintained in future years is higher than the projected new acreage.
- **D2 Revitalize Stream, Upland and Wetland Habitat**, it is a completed project and were satisfied
 - **D3 Grants and Partnerships to Restore Wildlife Habitat and Provide Access to Trails**, Grants challenges of doing grants during COVID restrictions and inability to interact with grantees and to execute them and once COVID recedes staff and grantees will be able to return to business as usual. Agreed on target and had no recommendations
 - Committee question on the stream corridor priority plans-part of D5-not a KPI? What was rationale of deleting it as a KPI?
 - ✚ Ms. Meenakshi Ganjoo and Mr. Afshin Rouhani were available to answer questions.
 - **D4 Fish Habitat and Passage Improvement**, had 2 areas subject of focus Almaden Lake/Ogier, Almaden Lake is completed, had discussion on Anderson Dam vs Ogier, project was adjusted they agreed and had no recommendations
 - **D5 Ecological Data Collection and Analysis**, agreed project is on target and had no recommendations
 - **D6 Creek Restoration and Stabilization**, project adjusted and had no recommendations
 - **D7 Partnerships for the Conservation of Habitat Lands**, is completed
 - **D8 South Bay Salt Ponds Restoration Partnership**, agreed on target and had no recommendations

*Hon. Jason Baker logged on at 4:24 p.m.

Priority A and C Subcommittee Chair reported:

Hon. Jason Baker, Ms. Tess Byler, Hon. Joe Head

- Overall projects are on target, staff worked hard, and they had no recommendations.
- **A1 Main Avenue and Madrone Pipelines Restoration**
- **A2 Safe, Clean Water Partnerships and Grants**, Nitrate program was unsuccessful, and therefore terminated, even though staff worked hard, the people did not engage, and no recommendations
- **A3 Pipeline Reliability Project** not easy to execute on the timeline/schedule, was adjusted and had no recommendations. There were some constraints that were out of staff’s control
- **C1 Anderson Dam Seismic Retrofit**, KPI providing \$45 million dollars to fulfill the capacity of the reservoir subcommittee all felt project was on target except 1 member felt the transfer of \$45 million dollars did not accomplish the 15-year KPI and language should be explained as it was unclear if it was actually met by merely transferring of the money or should it have been monitored.
 - Discussion: There should be a KPI and not to just transfer the money without any input on how the money was going to be spent. It was suggested to have a KPI to not just transfer the money and perhaps have the Renewed IMC review. Subcommittee felt the KPI was not to simply transfer the funds, but the Tax Collector was to transfer the money and the bill language needs to be clear on how the funds were supposed to be spent and if transferring funds is within the language that voters voted on as was set forth within the 15 years (FY2028). Benefit #5 was to prevent uncontrollable releases that could cause downstream flooding but was this done? It was also felt that the project did not achieve the restoration to date to bring it back to full capacity of 90k acre feet
What is the One Water Plan and how does it impact SCW projects?
 - ✚ Ms. Jessica Collins, Mr. Afshin Rouhani, and Mr. Brian Mendenhall were available to answer questions.

Committee Action taken:

It was moved by Ms. Tess Byler, seconded by Hon. Steve Jordan to recommend that the IMC would like the Renewed IMC to consider reviewing the \$45 million dollar transfer and other KPI needs to reflect end-result as required by the language set forth.

- ✚ Ms. Jessica Collins was available to answer questions: A public hearing is required to change a KPI.
- Discussion: Some committee members agreed on the transfer of funds and the need for it to be explained for transparency and because the program has ended it needs to be clear of how the funds are expended. 2 Members will be voting no as there was a methodology that was set early on in the program and this is a minor element of the project and being kept informed was satisfactory to the IMC. Anderson Dam project is a need and SCW was contributing funds for the project. The program does not have a sunset and there should not be just a simple transfer of funds without a definite KPI.

Motion restated again: To have the current IMC recommend for the Renewed IMC to consider an expanded KPI for the Anderson Dam Reservoir that goes beyond a simple money transfer and that provides some accountability and transparency to the voters in the long-term.

- Discussion: Considering a new KPI makes it more specific and intentional and may lead to another discussion under Priority E. Another proposal is to consider their evaluations of this project and how the money is being spent would be more general. Another friendly amendment that the new IMC consider the full sentence of the KPI (to restore the full capacity) and not create a new KPI but consider the full sentence of the existing KPI.

Final motion restated: The current IMC recommends that the Renewed IMC consider looking beyond the KPI transfer of funds to be evaluated discussing the use of those funds in service of the ultimate objective of the KPI as voted on by the taxpayers.

The motion failed 5 Yes/5 Nays.

- **C2 Emergency Response Upgrades** Subcommittee was satisfied with the project and its design. Project on target and had no recommendations.

Priority E and Others Subcommittee Chair reported:

Mr. George Fohner

Provide Flood Protection to Homes, Businesses, Schools and Highways

- Subcommittee agreed with staff's categorization of project status for all Priority E projects. All were categorized as being "On Target" except **Project 8, "Upper Guadalupe River Flood Protection"**, which is "Adjusted". Its schedule has been pushed back to accommodate completion of a General Re-evaluation Study by the US Army Corp of Engineers that will affect prospects for federal funding.
- Our subcommittee made one formal recommendation. That recommendation was logged in connection with Project E5, but the subcommittee asserted its relevance to other SCW projects: Recommend that the Renewed IMC Program discuss how projects are categorized with regard to project status.
- One additional note was formally recorded for Project E4 to correct text on page 133 to clarify that the Final Planning Study was not yet completed.
- Regulatory restrictions complicate the disposal of sediments and vegetation for flood protection and the budgeting and scheduling of stream maintenance.
- VW emergency action plans are an asset for communities throughout the county with respect to emergency preparedness and regulatory compliance.
- VW and the City of San Jose have developed a collaborative relationship and strong working partnership for addressing flood risk. VW is striving for the same with other cities at risk from flooding.

- VW Flood Risk Reduction Studies have value for deterring development that would be prone to flood risk as well as for planning measures to reduce risk to existing development. Those studies are a resource for decision-making by cities and FEMA.
- In its flood control construction projects VW must address issues associated with diverse community and national interests, numerous permitting agencies, and a wide array of potential tradeoffs.
- For some projects that currently have 100-year design specifications the subcommittee encouraged VW to consider less expensive alternatives that could be completed more quickly
- The “On Target” rating system reflects whether a project is considered able to accomplish its KPIs within budget and schedule as originally specified or as modified or adjusted by the Board.
- The subcommittee was concerned that the “sum” of the annual “On Target” ratings may not add up to the “cumulative status” of the projects as the public would perceive and judge them.
- The subcommittee questioned whether the “On Target” rating system suitably communicates to the public the “path” that the project has followed during the SCW program, and the gauntlet of regulations, funding criteria, and community desires that VW staff has had to balance and satisfy along that path.
- The subcommittee asked: What is the purpose of that rating system? How is it used? Do the criteria for the ratings reflect that purpose and those uses?
 - Question: Does Measure S define the scoring system.
 - Ms. Jessica Collins and Ms. Meenakshi were available to answer questions.

Committee action taken:

It was moved by Mr. George Fohner, seconded by Mr. Huy Tran, and carried by roll call vote to recommend that the Renewed Safe, Clean Water & Natural Flood Protection: Independent Monitoring Committee (Renewed IMC) review and refine as needed the project rating system of “on target, adjusted or not on target”.

Other Capital Flood Protection Projects and Safe, Clean Creeks Grants Project

- Subcommittee agreed with staff’s categorization of project status for all
- Four of the projects were “Completed”, one was “On Target”, and the Sunnyvale East and Sunnyvale West Channels Flood Protection project was adjusted because of delays associated with the added complexity and negotiations of this “private-public project”.
- Our subcommittee made no formal recommendations.
- Projects like the “Sunnyvale Channels” project provide many “lessons learned”. Those lessons learned may help VW and others accomplish future projects, especially if documented in a case study or otherwise.
- Pertaining to the source of funding for these “Other” projects, the financial table, Appendix A1.2 in the annual report, includes an accounting of funding carried forward from the Clean, Safe Creeks program that preceding the 2012 program. A similar table will provide an accounting of funding carried forward from the 2012 program to the Renewed Safe, Clean Water Program.

Hon. Joe Head logged off at 5:25 p.m. and did not return.

- Further discussion: on the concern of not meeting the targets, delayed due to lack of funding or regulatory constraints, and it was agreed to bring it to the full committee on the rating system (“on target, adjusted or not on target”). However, it was already addressed in Committee’s action taken. To address with the expectation that it would involve discussion on the disconnect between performance on an annual basis that it is meeting targets or that have been adjusted for good reason creates a disconnect between the cumulative progress of the ultimate goal vs the history of annual ratings. Committee agrees with the KPI’s

nomenclature and making sure that people are doing what they are supposed to do to fulfill the objectives. The IMC should **also** be looking at the outcomes, so the voters know that the measure is being fulfilled because they want to have clean water coming out of the taps **at an acceptable price**, and clean creeks without trash and encampments. After 15 years it would need to be communicated that the projects were done and noted in the measure and why projects are adjusted, delayed or on target and that process needs to be clear in a way that the voters can understand it. Those Members going to the Renewed IMC will bring it up during that time.

Financial Subcommittee Chair reported:

Ms. Rosalinda (Rosie) Zepeda

- Summaries in the beginning of the financial report, the footnotes need more context
 - Expand the graphs to represent the information that is being presented. Clarifying KPI's to be as transparent and viewing from a public perspective, making sure that the actions taken and outcomes achieved have more in depth definition of the funds
 - More clarity on these reports as it is not clear and there is difficulty interpreting when projects/program ends or wrapped up and how funds are spent/dispersed/transferred and having the reports indicate what that entails. Also make them more visually enticing as a project is wrapped up and what is being carried over. Capturing chronologically the projects that are closed or completed, carried over, and showing the funds in detail
 - Suggested that the Tables A1.2 from last year's report that included the current 15-year forecast should be retained as it was very helpful
- ✚ Ms. Meenakshi Ganjoo and Ms. Jessica Collins were available to answer questions.

5. NEXT STEPS:

Committee Chair Tess Byler reviewed the agenda items below:

5a. January 27, 2022, IMC Report Drafting Meeting (IMC Chair and Subcommittee Chairs)

5b. February 9, 2022, Full Committee Meeting Report
i. Approve Final IMC Report

5c. February 23, 2021, IMC Chair presents Final IMC Report to Board

The Independent Monitoring Committee took no action.

6. CLERK REVIEW AND CLARIFICATION OF COMMITTEE REQUESTS.

The Independent Monitoring Committee took one action item.

Agenda Item 4.

The SCW IMC voted unanimously by roll call vote to recommend that the Renewed Safe, Clean Water & Natural Flood Protection: Independent Monitoring Committee (Renewed IMC) review and refine as needed the project rating system of “on target, adjusted or not on target”.

7. **ADJOURNMENT**

Committee Chair Tess Byler adjourned the meeting at 5:46 p.m. to the next scheduled meeting on Wednesday, February 9, 2022, at 4:00 p.m.

Glenna Brambill
Board Committee Liaison
Office of the Clerk of the Board

Approved: 2-9-2022