



Santa Clara Valley Water District

CONFORMED COPY

File No.: 20-0690

Agenda Date: 9/22/2020

Item No.: 4.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Consider the July 27, 2020 Diversity and Inclusion Ad Hoc Committee Recommendation to Adopt a Resolution Addressing Systemic Racism and Promoting Equity and Present the Resolution to all Board Committees.

RECOMMENDATION:

- A. Consider the July 27, 2020 Diversity and Inclusion Ad Hoc Committee recommendations to adopt a Resolution Addressing Systemic Racism and Promoting Equity, and refer to staff to present the Resolution, if adopted, to all Board committees;
- B. Adopt the Resolution ADDRESSING SYSTEMIC RACISM AND PROMOTING EQUITY; and
- C. Refer to staff to present the Resolution, if adopted, to all Board committees.

SUMMARY:

In July, CEO Callender announced the creation of a new Office of Racial Equity, Diversity, and Inclusion (REDI) under the External Affairs division. The new office will include the existing Diversity and Inclusion Program, with an expanded goal to break down any organizational barriers that enable systemic racism, and instead promote a culture of racial equity. This office will ensure that racial equity, diversity and inclusion practices are all equally reflected both internally and externally to better serve all communities within Valley Water's service area.

On July 27, 2020, the Diversity and Inclusion Ad Hoc Committee convened to hear a presentation from the new Office of Racial Equity, Diversity and Inclusion (REDI) and consider a new draft resolution (Attachment 1) on Addressing Systemic Racism and Promoting Equity. The ad hoc committee suggested clarifying the intent by broadening the language under equity to include gender and gender identity bias as well; therefore, staff made several adjustments to the resolution title and within the language of the resolution based on this feedback to improve upon the draft that was presented.

This resolution is consistent with Valley Water's core values and the principles used in accomplishing Valley Water's mission. Specifically, the purpose and intent of the resolution is to establish Valley Water's response to individual and systemic racism and its commitment in taking meaningful action, internally and externally, to address the impacts of acts of prejudice, abuse of power, racial bias, gender or gender identity bias, racism, and barriers to diversity, equity and inclusion.

The resolution will direct the CEO to further improve racial equity, diversity and inclusion in Valley Water's culture and practices of hiring, contracting, programs and service delivery and employee support. In addition, the resolution will provide the CEO direction to initiate a new framework and model to inform potential changes to Valley Water internal policies, procedures, and trainings to ensure that the workplace will not tolerate acts of prejudice, abuse of power, racial bias, gender or gender identify bias or racism, and sets expectations to address conscious and unconscious bias. The resolution also calls for implementation of programs consistent with the intent of Proposition 16, if the voters elect to pass the measure, and the resolution calls for the creation of an End's Policy relative to Environmental Justice.

The attached final draft of the resolution reflects the requested changes by the committee and is being presented to the full board for consideration on adoption.

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 a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

- Attachment 1: Resolution
- Attachment 2: ACA 5 (Weber)

UNCLASSIFIED MANAGER:

Marta Lugo, 408-630-2237

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 20-78

ADDRESSING SYSTEMIC RACISM AND PROMOTING EQUITY

WHEREAS, the Board of Directors of the Santa Clara Valley Water District (Valley Water) has adopted policies upholding its commitment to diversity, inclusion equity, and justice; and has reflected on the current events of the killings of George Floyd, Breonna Taylor, Ahmaud Arbery, and countless others that underscore a history in which Black and African Americans have been unjustly accused, detained, or killed by citizens or police officers as a result of prejudice, abuse of power, racial bias, and racism; and

WHEREAS, in this sobering and heartbreaking moment, our eyes have been opened to the ongoing burden and the resulting inequalities that prejudice, abuse of power, racial bias, and racism in both overt and systemic forms have inflicted on the Black and African American community; and

WHEREAS, Valley Water is committed to the fair treatment of all races, cultures, ethnicities, socio-economic classes, genders, gender identity, sexual orientation, and affirms that diversity, equity, inclusiveness, and respect are core values of the agency; and

WHEREAS, Valley Water is committed to advancing racial justice by centering the agency's programs and resource allocations on racial and social equity, both as a regional employer, as well as a service provider; and

WHEREAS, Valley Water understands that many members of the communities served by Valley Water, as well as members of our own employee community, are hurting deeply because of the events surrounding the unjust killings and abuse of power of George Floyd, Breonna Taylor, Ahmaud Arbery, and countless others; and

WHEREAS, the Governance Policies of the Board GP 7.7 states that the Santa Clara Valley Water District is committed to creating an inclusive work environment, which reflects and supports the diversity of our community and enriches our perspectives; and

WHEREAS, In 2018 the Valley Water Board adopted the Environmental Justice Policy, aligning with the Federal Environmental Protection Agencies' definition of Environmental Justice and adding a value statement that we are committed to upholding Environmental Justice for Disadvantaged Communities in Santa Clara County (including low-income, minority, immigrant, tribal, and Limited English Proficiency residents), and will strive to ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to our projects and programs; and

WHEREAS, Valley Water acknowledges that increasing diversity, representation, inclusion and a sense of belonging at all levels, including the Board, Executive Leadership and Professional and Managerial classes is critical, as it results in better outcomes for individuals as well as for the Agency; and

WHEREAS, On June 22, 2020, the Board of Directors took an emergency legislative position of support on ACA 5 (Weber), an Assembly-proposed constitutional amendment to repeal

Proposition 209 enacted in November 1996, in order to support equity, diversity, inclusion, and justice in state and local government hiring practices; and

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District stands against prejudice, abuse of power, racial bias, gender bias, gender identity bias, sexual orientation bias, and racism in both overt and systematic forms, and does hereby adopt the following guiding principles, at Valley Water we will:

1. Recognize and acknowledge that black lives matter.
2. Stand up against acts of racism, exclusion, and abuse of power in our organization and in our community.
3. Provide leadership in calling out institutionalized racism and broken systems within water resources community and working to fix them.
4. Go beyond diversity and inclusion and build cultural competence and address issues of racial inequity to become an anti-racist, anti-hate organization.
5. Intentionally and proactively change our ways of thinking about racial equity through dialogue, education, training, and engaging all Valley Water employees and contractors.
6. Create a supportive work environment regardless of gender, sexual orientation, or gender identity and create a more equitable and safe work environment for LGBT employees.
7. Combat hate, discrimination, and unfair treatment against all people.
8. Be a resource for education and awareness for Valley Water employees and the communities we serve, relative to Valley Water's mission, by regularly sharing educational resources about ongoing social justice issues in America.
9. Offer consistent, equitable amenities across Valley Water projects regardless of community demographics or affluence.
10. Support First Amendment rights that allow freedom of speech and peaceful non-violence public protests to educate and advocate for justice and stand against injustice.
11. Condemn systematic racism that sanctions police violence against people of color and especially Black and African American people.
12. Ensure that all employees voices be heard, creating a culture of equity, diversity inclusion, and belonging by continuing to support the Employee Resource Groups (ERGs).

BE IT FURTHER RESOLVED that the Valley Water Board further calls upon Valley Water labor union partners to affirmatively address racial, gender, gender identity, sexual orientation, and social inequalities and ensuring equitable benefits, decision-making, and negotiation demands.

BE IT FURTHER RESOLVED that the Valley Water Board acknowledges and calls on all employees to recognize that the responsibility falls on each of us, regardless of the color of our skin to work together to create a "new normal" in which the legacy of bigotry and unequal treatment no longer infects our institutions, systems, and values.

BE IT FURTHER RESOLVED that the Valley Water Board directs the CEO to move beyond acknowledgement of injustice and take concrete actions that are visible in the prioritization of resources and programs to (1) create a culture where employees feel safe, respected, valued, and are invited to participate fully in sharing their unique gifts, talents, and backgrounds; (2) expand access to equity, diversity, and inclusion evidence-based strategies, such as implicit bias trainings, culturally competent education and historical learnings, including through collaboration and support of ERGs; (3) recognize and ensure access to clean and safe drinking water as a human right; (4) recognize and make sure flood protection is provided in an equitable fashion to all communities; and (5) recognize and ensure that environmental restoration and watershed stewardship projects equitably benefit all communities.

BE IT FURTHER RESOLVED that the Valley Water Board directs the CEO to bring forward an Environmental Justice Ends Policy for the Board's adoption, consistent with the Board's Environmental Justice Executive limitation before end of this fiscal year FY2021.

BE IT FURTHER RESOLVED that the Valley Water Board directs the CEO to identify and dismantle structural and institutional racism within Valley Water by (1) affirmatively addressing racial and social inequities and (2) promoting environmental justice consistent with the Board's policies.

BE IT FURTHER RESOLVED that the Valley Water Board directs the CEO to assess, strengthen, and fund outreach and engagement strategies to ensure that communities of color and disadvantaged communities have true access to representation and participation in our agency's processes, as well as equitable access to engage in Valley Water processes and programs.

BE IT FURTHER RESOLVED that the Valley Water Board directs the CEO to assure hiring, retention, and promotion practices ensure personnel decisions are made equitably and justly, and make sure the workforce is diverse and enjoys equal opportunities for promotions and benefits.

BE IT FURTHER RESOLVED that the Valley Water Board directs the CEO to put into place programs that will ensure the greatest diversification of its contractors to strive to aim for inclusion and utilization of all Local Business Enterprises, including Minority and Women Business Enterprises.

BE IT FURTHER RESOLVED that the Board of Directors directs the CEO to identify actions Valley Water will implement to advance racial, and social equity across all enterprises and, including developing performance measures, incorporating a racial, and social equity lens in budgeting, personnel, contracting decisions, and in all strategic long-term planning processes for the express purpose of advancing racially just outcome reporting.

BE IT FURTHER RESOLVED that the Board of Directors directs the CEO, upon the passage of Proposition 16, the numeric designation assigned to ACA 5 (Weber) for the statewide General Election to be held on November 3, 2020, to put in place programs, policies, and procedures to implement the expressed intent of Proposition 16.

BE IT FINALLY RESOLVED, that Valley Water will support and continue to explore additional efforts in the communities which it serves, the State of California, and nationwide to address racial inequalities.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on September 22, 2020:

AYES: Directors Varela, Estremera, Keegan, Kremen, LeZotte, Santos, Hsueh

NOES: Directors None

ABSENT: Directors None

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT



NAI HSUEH
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC



Clerk, Board of Directors



MEMORANDUM

TO: Norma J. Camacho
Chief Executive Officer

FROM: Rick L. Callender
Chief of External Affairs

SUBJECT: EL 7.8 Recommended
Emergency Position on:

DATE: June 20, 2020

**RE: ACA 5 (Weber) Government Preferences: Repeal of
Proposition 209 – SUPPORT**

Pursuant to Board Governance Policy EL 7.8 regarding emergency positions on legislation, staff recommends a position of SUPPORT on Assembly Constitutional Amendment (ACA) 5 (Weber) Government Preferences: Repeal of Proposition 209.

Following the CEO's approval, I will forward the recommendation to the Board Chair for concurrence. In the event the Chair does not concur with the recommended position, staff will not communicate a formal position on behalf of the Board. If you have any questions regarding this item, please call me at extension 2017 or Rachael Gibson at extension 2884.

ANALYSIS

ACA 5 (Weber) would place a constitutional amendment on the November 3, 2020 ballot to repeal Proposition 209 (Article I, Section 31 of the California Constitution), thereby permitting the use of race and gender as decision factors in public employment, public education and public contracting. This measure also makes findings on how Proposition 209 invalidated laws requiring state agencies to eliminate traditional patterns of segregation and exclusion in the workforce, and states the intent of the Legislature to allow the consideration of gender, racial, and ethnic diversity among factors for college admissions, government hiring, and public contracting.

In November 1996, the voters of California passed Proposition 209, the California Civil Rights Initiative, by a 55 to 45 percent margin. After nearly 25 years, public opinion on issues of race and gender have changed, as has California's increasingly diverse electorate. Supported by Governor Pete Wilson and Ward Connerly, a businessman and former University of California Regent, Proposition 209 qualified for the ballot through the collection of voter signatures. The campaign advocated for a colorblind society, celebrating the "melting pot," and looking forward to the end of racial prejudice in American society.

ACA 5 makes numerous findings regarding the impacts of Proposition 209 and points to well-documented economic disparities for women and people of color. The findings

cite a 2016 study which estimated that the implementation of Proposition 209 costs women and people of color over \$1 billion annually in lost public contract awards, and asserts that most public procurement and subcontracting remain effectively closed to these groups due in part to the limitations enacted by Proposition 209.

Irrespective of the merits of a colorblind society, data and current events suggest that we are not currently living in one. Economic and sociological studies reveal that the tools to compete in the American economy are unevenly distributed, perpetuating historical inequality between races and genders.

In September 2008, the Thelton E. Henderson Center for Social Justice at the University of California Berkeley School of Law released a report based on trends in public employment by the State of California since 1990.¹ The percentage of the working age population was compared to state civil service employment rates by gender and race. The key findings in the report are quoted below.

There is modest, but persistent, gender disparity. Men were more likely to be employed as civil servants than women, even after accounting for differences in the working age population. Disparity increased in the mid-1990s, around the time Proposition 209 was on the ballot, and remained steady during the following decade.

Trends over time are largely the same for men and women within each racial and ethnic group. White American men are much more likely to be employed in the civil service than White American women, though for African Americans and Filipino Americans, women are more likely than men to be employed.

People of color show rapid gains in employment as civil servants, though these gains trail increases in the working age population. Over time, the number of people of color in the civil service has grown while the number of White American civil servants has remained constant. However, the civil service employment rate for people of color has lagged several years behind changes in the working age population.

Latino Americans are greatly underrepresented in civil service positions. Latino Americans, though making large gains in terms of the number of civil servants, are vastly underrepresented relative to their population. Furthermore, this disparity has grown over time. White Americans and African Americans are overrepresented as civil servants, while Asian Pacific Islander Americans have mostly been at parity.

The repeal of Proposition 209 would permit the use of race and gender as “plus” factors in college admissions, public employment, and public contracting. It would not permit the use of quotas or policies that are broad in scope and do not consider the totality of the individual college applicant, job candidate, or contract bidder.

¹ Michael D. Sumner, PhD., “Proposition 209 and Public Employment in California: Trends in Workforce Diversity,” Thelton E. Henderson Center for Social Justice (Berkeley Law – University of California, 2008), 2.
<https://www.law.berkeley.edu/wp-content/uploads/2016/07/Proposition-209-and-Public-Employment-Workforce-Diversity.pdf>

Impacts to Valley Water

Valley Water is committed to creating an inclusive work environment which supports the diversity of our community and enriches our perspectives. Valley Water delivers on its mission of water supply, flood protection, and environmental stewardship by depending on a workforce that finds strength and creativity in its diversity.

The passage of ACA 5 and subsequent approval by the voters in November will present Valley Water with an opportunity to intentionally consider women and minority owned business enterprises for contract opportunities. Born from increased opportunity in recent decades, these businesses often are small, relatively new companies that may lack expertise in public contracting process but deliver a quality product or service. Allowing race and gender as factors to be considered in the awarding of public contracts will create more opportunities for women and people of color, thereby fostering social and economic justice, building stronger more resilient communities in Santa Clara County.

Staff recommends a position of “Support” on ACA 5 in compliance with the Board’s direction to build a diverse workforce that values diversity and inclusion, and to advance the goals of Valley Water’s Small and Local Business Program.

Pros

- Amends the California Constitution to remove a prohibition on consideration of race and gender as a factor in hiring decisions by public agencies, if that consideration is not prejudicial in its application.
- Allows reinstatement of Women and Minority-Owned Business Enterprise programs and could restore \$1 billion annually in public contract awards in California.

Cons

- May require a review of employment and contracting policies to reflect changes to the California Constitution.

URGENCY

Urgency is required because the Legislature is working on an abbreviated schedule due to the COVID-19 pandemic. ACA 5 could be sent to the Governor after a vote in the Senate as soon as Tuesday, June 24, 2020.

Policy basis for recommended positions: The request is consistent with Board Governance Policy 11, which includes the following preamble.

The Board of Directors is committed to providing equal employment opportunity to all persons and to building a diverse work force that values diversity and inclusion.

The Board firmly believes that such a work force provides advantages both internally, in terms of the human resources potential offered by a variety of diverse perspectives, and externally, in increasing the District's ability to respond to the community we serve.

The Board understands that diversity is more than inclusion of racial or cultural groups, that valuing diversity involves respect for all persons, and that valuing diversity requires a positive change in the way we interact with each other and a change in our organizational culture.



Rick L. Callender
Chief of External Affairs



Norma J. Camacho
Chief Executive Officer

Board Concurrence Section

Comments:

Sign Off for Concurrence with Staff Recommendations Pursuant to EL-7.8:



6/22/2020

SCVWD Board Chair or Designee

Date