

SANTA CLARA VALLEY HABITAT AGENCY

IMPLEMENTATION BOARD MEETING MINUTES

THURSDAY, May 18, 2023

3:00 P.M.

CALL TO ORDER

Chair Carman called the Implementation Board meeting to order at 3:06 p.m.

IMPLEMENTATION BOARD ATTENDANCE

PRESENT: Arenas (left at 4:35 p.m.), Armendariz, Carman, Candelas (left at 4:00 p.m.), Eisenberg, Ho, Rocha, Spring

ABSENT: Keegan, Keyon, Marques

STAFF/OUTSIDE AGENCIES:

PRESENT: Edmund Sullivan, Denise Rosenberger, Gerry Haas, Valerie Armento, Nathan Hale and Kim Mancera

REPORT FROM THE CHAIR

No Report

REPORT FROM THE PUBLIC ADVISORY COMMISSION

No Report

PUBLIC COMMENT

Public comment opened at 3:08 p.m.

Hearing no requests to speak, the public comment closed.

IMPLEMENTATION BOARD ACTION

CONSENT CALENDAR:

Action: On a motion by Board Member Spring and seconded by Board Member Rocha approving the Consent Agenda items 1, 2 and 4 through 7. The motion passed by the following vote: Ayes 8 (Armendariz, Arenas, Candelas, Carman, Eisenberg, Ho, Rocha, Spring); Noes 0; Abstain: 0; Absent 3 (Keegan, Keyon, Marques).

1. **MEMORANDUM OF UNDERSTANDING WITH VALLEY WATER TO RECEIVE D2 GRANT FUNDS FOR HABITAT REVITALIZATION PROJECTS**

Recommended Action: Authorize the Executive Officer to execute a Memorandum of Understanding (MOU) with the Santa Clara Valley Water District (Valley Water) to receive D2 grant program funding up to \$200,000.00 per year for three years, for costs incurred to treat invasive species and/or restore native plant communities within the Habitat Plan Study Area. At the end of the MOU term, the Habitat Agency and Valley Water may mutually agree to extend the agreement another three years.

2. **RESOLUTION ACCEPTING SECOND CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE PLANNING ASSISTANCE GRANT FOR A MAJOR AMENDMENT TO THE SANTA CLARA VALLEY HABITAT PLAN**

Recommended Action:

- 1) Adopt a resolution accepting a second award from, and entering into a grant agreement with, the State of California Department of Fish and Wildlife (CDFW) for a Planning Assistance Grant. The Planning Assistance Grant has been awarded to fund the Habitat Plan Amendment (Project) in the amount of up to \$650,000.
- 2) Appoint the Executive Officer or designee as agent for the Santa Clara Valley Habitat Agency to ensure all grant related tasks for the Project are completed.

4. **REVISION TO GENERAL CONTRACTING AND PROCUREMENT PROCEDURES AND PUBLIC WORKS CONTRACTING PROCEDURES**

Recommended Action: Adopt a resolution revising the policies and procedures regarding the authority of the Executive Director to amend contracts.

5. **ON-CALL LAND MANAGEMENT PROFESSIONAL SERVICES AGREEMENT WITH CONFLUENCE RESTORATION**

Recommended Action: Authorize the Executive Officer to execute a not-to-exceed \$100,000.00 Professional Services Agreement with Confluence Restoration to provide on-call land management support for two years.

6. **CONTRACT AMENDMENT WITH ECOLOGICAL CONCERNS INC. TO TREAT INVASIVE SPECIES**

Recommended Action: Authorize the Executive Officer to amend an existing service agreement with Ecological Concerns Inc. to treat invasive plants within the Reserve System. The amended contract will not exceed \$68,108.75. However, \$49,950.00 of the amended contract cost will be reimbursed by the Santa Clara Valley Water District (Valley Water) through its D2 grant program.

7. **THIRD AMENDMENT DAVIDSON RESERVE SOIL PILE REMOVAL PROJECT AGREEMENT WITH TRIHYDRO CORPORATION**

Recommended Action: Authorize the Executive Officer to execute a third amendment to the agreement with the Trihydro Corporation to dispose of a legacy soil pile from the Davidson Reserve site in an amount not to exceed \$44,500.

REGULAR BUSINESS:

8. **SANTA CLARA VALLEY HABITAT PLAN FY2022 ANNUAL REPORT**

Recommended Action: Approve the Santa Clara Valley Habitat Plan Fiscal Year 2021-2022 Annual Report.

Program Manager Gerry Haas provided a presentation and report.

Public comment opened at 3:28 p.m.

Hearing no requests to speak, the public comment closed.

Action: On a motion by Board Member Spring and seconded by Board Member Ho approving the Santa Clara Valley Habitat Plan Fiscal Year 2021-22 Annual Report. The motion passed by the following vote: Ayes 7 (Armendariz, Arenas, Candelas, Carman, Ho, Rocha, Spring); Noes 0; Abstain: 1 (Eisenberg); Absent 3 (Keegan, Keyon, Marques).

11. **PACHECO CREEK RESTORATION CONSTRUCTION WITH TRIANGLE PROPERTIES, INC**

Recommended Action: Authorize the Executive Officer to negotiate a contract with Triangle Properties, Inc. for the construction and 5-years of maintenance of the Pacheco Creek Restoration Project in an amount not to exceed \$1,750,000.

Nathan Hale with the Santa Clara Valley Habitat Agency provided a report and presentation.

Public comment opened at 3:47 p.m.

Hearing no requests to speak, the public comment closed.

Action: On a motion by Board Member Ho and seconded by Board Member Spring approving the recommended action. The motion passed by the following vote: Ayes 8 (Armendariz, Arenas, Candelas, Carman, Eisenberg, Ho, Rocha, Spring); Noes 0; Abstain: 0; Absent 3 (Keegan, Keyon, Marques).

12. **PACHECO CREEK RESTORATION PROJECT CONSTRUCTION SUPPORT AND MONITORING AGREEMENT WITH H.T. HARVEY & ASSOCIATES**

Recommended Action: Authorize the Executive Officer to execute a not-to-exceed \$381,667 service agreement with H.T. Harvey & Associates for construction support services, including biological and hydrological surveys, design construction monitoring, and implementation review, as-built reporting, regulatory coordination, and an initial 2 years of annual monitoring in accordance with regulatory permitting for the Pacheco Creek Restoration Project.

Nathan Hale with the Santa Clara Valley Habitat Agency provided a report and presentation.

Public comment opened at 3:49 p.m.

Hearing no requests to speak, the public comment closed.

Action: On a motion by Board Member Armendariz and seconded by Board Member Spring approving the recommended action. The motion passed by the following vote: Ayes 8 (Armendariz, Arenas, Candelas, Carman, Eisenberg, Ho, Rocha, Spring); Noes 0; Abstain: 0; Absent 3 (Keegan, Keyon, Marques).

13. **PAJARO RIVER RESTORATION CONSTRUCTION (PHASE 2) WITH TRIANGLE PROPERTIES, INC**

Recommended Action: Authorize the Executive Officer to execute a not-to-exceed contract with Triangle Properties, Inc. (Triangle) for construction and 3 years of maintenance of the Pajaro River Restoration Project in an amount not to exceed \$538,675.

Nathan Hale with the Santa Clara Valley Habitat Agency provided a report and presentation.

Public comment opened at 3:53 p.m.

Hearing no requests to speak, the public comment closed.

Action: On a motion by Board Member Spring and seconded by Board Member Eisenberg approving the recommended action. The motion passed by the following vote: Ayes 8 (Armendariz, Arenas, Candelas, Carman, Eisenberg, Ho, Rocha, Spring); Noes 0; Abstain: 0; Absent 3 (Keegan, Keyon, Marques).

14. **PAJARO RIVER RESTORATION PROJECT (PHASE 2) CONSTRUCTION SUPPORT AGREEMENT WITH ICF**

Recommended Action: Authorize the Executive Officer to execute a not-to-exceed \$148,715 Service Agreement with ICF for permit compliance and contractor coordination, for Phase 2 of the Pajaro River Restoration Project.

Nathan Hale with the Santa Clara Valley Habitat Agency provided a report and presentation.

Public comment opened at 3:55 p.m.

Hearing no requests to speak, the public comment closed.

Action: On a motion by Board Member Spring and seconded by Board Member Armendariz approving the recommended action. The motion passed by the following vote: Ayes 8 (Armendariz, Arenas, Candelas, Carman, Eisenberg, Ho, Rocha, Spring); Noes 0; Abstain: 0; Absent 3 (Keegan, Keyon, Marques).

15. **APPROVE SALARY INCREASE OF 6% AND A MERIT BONUS OF 5% FOR THE EXECUTIVE OFFICER CONSISTENT WITH THE JULY 1, 2015 CONTRACT FOR SERVICES, AMENDED JULY 1, 2018 AND JANUARY 19, 2023**

Recommended Action: Adopt resolution approving a salary increase of 6% for the Executive Officer and award a merit bonus of 5%, consistent with the provisions of the contract for services dated July 1, 2015, and amended July 1, 2018, and January 19, 2023.

Agency General Counsel Valerie Armento provided a report.

Public comment opened at 3:57 p.m.

Hearing no requests to speak, the public comment closed.

Action: On a motion by Board Member Spring and seconded by Board Member Eisenberg approving the recommended action. The motion passed by the following vote: Ayes 8 (Armendariz, Arenas, Candelas, Carman, Eisenberg, Ho, Rocha, Spring); Noes 0; Abstain: 0; Absent 3 (Keegan, Keyon, Marques).

16. **EDMUND SULLIVAN EMPLOYMENT AGREEMENT 2023-2028**

Recommended Action: Adopt a resolution approving a new 5-year Employment Agreement for the Executive Officer for the period July 1, 2023 to June 30, 2028.

Agency General Counsel Valerie Armento provided a report.

Public comment opened at 3:59 p.m.

Hearing no requests to speak, the public comment closed.

Action: On a motion by Board Member Spring and seconded by Board Member Rocha approving the recommended action. The motion passed by the following vote: Ayes 8 (Armendariz, Arenas, Candelas, Carman, Eisenberg, Ho, Rocha, Spring); Noes 0; Abstain: 0; Absent 3 (Keegan, Keyon, Marques).

ITEM PULLED FOR DISCUSSION

3. **ADOPT REVISED PUBLIC LAND-IN-LIEU FEE POLICY**

Recommended Action: Adopt a resolution approving the revised Public Land-In-Lieu Fee Policy, which clarifies that the endowment fee may not be waived when real property is dedicated.

This item will be brought back at a later date.

9. **DRAFT OPERATING BUDGET - FISCAL YEAR 2023-2024 AND 2024-2025**

Recommended Action: Review and recommend to the Governing Board adoption of DRAFT Annual Operating Budget for Fiscal Year for Fiscal Year 2024 and Fiscal Year 2025.

Executive Officer Edmund Sullivan provided a presentation and report.

Public comment opened at 4:25 p.m.

Hearing no requests to speak, the public comment closed.

Action: On a motion by Board Member Spring and seconded by Board Member Armendariz approving the recommended action. The motion passed by the following vote: Ayes 7 (Armendariz, Arenas, Carman, Eisenberg, Ho, Rocha, Spring); Noes 0; Abstain: 0; Absent 4 (Candelas, Keegan, Keyon, Marques).

10. **SANTA CLARA VALLEY HABITAT PLAN AMENDMENT UPDATE**

Recommended Action: Receive the Santa Clara Valley Habitat Plan Amendment Update Report.

Program Manager Gerry Haas provided a presentation and report.

Report received.

Public comment opened at 4:52 p.m.
Annie Yang was called to speak.
Hearing no further requests to speak, the public comment closed.

FUTURE IMPLEMENTATION BOARD INITIATED AGENDA ITEMS:

None.

ADJOURNMENT

There being no further business, Chair Carman adjourned the meeting at 4:56 p.m.

MINUTES PREPARED BY:



Kim Mancera, Deputy Secretary