

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
October 13, 2021**

The Board of Directors of West Valley Sanitation District of Santa Clara County, California, convenes this day in regular session at 5:00 p.m. Pursuant to the provisions of California Governor's Executive Orders No. N-25-20 and N-29-20, which suspend portions of the Brown Act, this meeting will be conducted by teleconference only. No physical location will be available for this meeting. Members of the public may participate in this meeting on Zoom at <https://zoom.us/j/97539642687> or by calling in at 1-669-900-6833 and entering Meeting ID 97539642687# when prompted. This meeting agenda is available online at <http://www.westvalleysan.org/>

Roll Call

1. Present: Directors – Paul Resnikoff, Maria Ristow, Mike Wasserman, Yan Zhao, and Rowena Turner, Chairperson.

Staff: Jon Newby, District Manager and Engineer; Edward H. Oyama, Director of Engineering and Operations; Laura McKinney, District Counsel; Tom Boer and Ann Marie Mortimer, Litigation Counsels; and Lesha Luu, Secretary.

Oral Communications

2. None.

Written Communications

3. None.

Public Hearings

4. None.

Unfinished Business

5. None.

Consent Calendar (Items to be taken in one motion)

6. Previous meeting minutes. Approve the minutes for the Regular Board of Directors Meeting on September 8, 2021.

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
October 13, 2021**

7. Treatment Plant Advisory Committee meeting minutes. Accept the minutes for the Regular Meeting of the Treatment Plant Advisory Committee of the San Jose/Santa Clara Regional Wastewater Facility on June 10, 2021.
8. Payment of invoices. Approve the payment of invoices for September 9, 2021 to October 13, 2021.
9. Acceptance of Sewerage System – Tract 10441, Oka Road, Los Gatos. Adopt Resolution No. 21.10.16, RESOLUTION ACCEPTING SEWERAGE SYSTEM INSTALLED BY SUMMERHILL N40 LLC., A CALIFORNIA LIMITED LIABILITY AND COMPANY, AND SITUATED WITHIN THE WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY, STATE OF CALIFORNIA, described as:

Tract: 10441
Location: Oka Road, Los Gatos
Constructed by: Summerhill N40 LLC., a California limited liability company.
10. Sky Oaks Way Septic Abandonment Project – Brown and Caldwell Task Order 18-03, Amendment #1. Authorize the District Manager to issue Amendment #1 to Task Order 18-03 to Brown and Caldwell in the amount of \$60,698 for a total task order amount of \$334,896 for the Sky Oaks Way Septic System Abandonment Project.
11. Vasona Park Sanitary Sewer Rehabilitation Project – Brown and Caldwell Task Order 21-01. Authorize the District Manager to issue Task Order 21-01 to Brown and Caldwell for a not-to-exceed amount of \$299,406 for design services associated with the Vasona Park Sanitary Sewer Rehabilitation Project.
12. 2019 Multi-Year Sewer Condition Assessment Project – Contract Change Order No. 2. Authorize the District Manager to execute Change Order No. 2 for the 2019 Multi-Year Sewer Condition Assessment Project to National Plant Services in the amount of \$175,514.
13. Implementation of AB 361 to allow virtual meeting. Adopt Resolution No. 21.10.17, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WEST VALLEY SANITATION DISTRICT AUTHORIZING TELECONFERENCE MEETINGS PURSUANT TO ASSEMBLY BILL 361 EFFECTIVE OCTOBER 13 THROUGH NOVEMBER 13, 2021.

Motion by/Second by: Wasserman/Resnikoff to approve the Consent Calendar Items 6 to 13.
Motion passed by the following vote:

AYES: Resnikoff, Ristow, Turner, Wasserman, Zhao
NOES: None
ABSENT: None

New Business

14. Consideration of application for relief from fees – New ADU at 212 Marchmont Drive, Los Gatos. Adopt Resolution No. 21.10.18, A RESOLUTION FINDING THAT THE APPLICATION OF

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
October 13, 2021**

SECTIONS 10.090 AND 10.120 (SEWER CONNECTION FEE AND TREATMENT CAPACITY FEE) TO THE CONSTRUCTION OF AN ACCESSORY DWELLING UNIT AT 212 MARCHMONT DRIVE, LOS GATOS, CALIFORNIA, IS JUST AND EQUITABLE AND DENYING THE PROPERTY OWNER'S APPLICATION FOR RELIEF THEREFROM. The District Manager reported, on August 23, 2021, the District received a request from Joe Sordi, a property owner in Los Gatos, seeking relief from the assessed ADU sewer connection and treatment capacity fees. The District Code allows the Board to adjust a fee it determines to be "unjust or inequitable because of special circumstances" upon the application of a property owner. Government Code section 65852.2(f)(2)(5) provides that a special district may assess "a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square footage or the number of its drainage fixture unit (DFU) values. The district's fees are set based upon the Board's guiding principles dated in October 2017, whereas rates and fees do not differentiate costs within a customer class and are set to reflect actual cost of service. This guiding principle ensures equity among classes and prevents one class of customers from subsidizing another. In addition, complete cost recovery prevents rate payers from subsidizing connection and capacity impacts fees. Staff has reviewed the owners request and found the ADU fee complies with GC § 65852.2(f)(5), that the fee is consistent with the board's guiding principle where Fees do not differentiate costs within a customer class and are set to reflect actual cost of service. In conclusion, the property owner's request fails to identify any basis for the Board to adjust the fees due to unjust or inequitable application of such fees based on special circumstances.

Joe Sordi commented on the benefits and importance of the accessory dwelling unit (ADU) to the community, the District's fees imposed on the ADU discouraged property owners who are considering building an ADU in the District's service area, and the District's ADU fees is highest, about 53% of SFR fees, when comparing to other agencies in the region.

Ann Brask commented regarding the number of ADUs installed by her company in the District's service area and the fees imposed by the District are disproportionate to wastewater burden produced by an ADU on the District's sewerage systems.

All Board's questions and concerns were satisfied by staff.

Motion by/Second by: Ristow/Wasserman to adopt Resolution No. 21.10.18, finding that the application of fees is just and equitable and denying the application for relief of fees. Motion passed by the following vote:

AYES: Resnikoff, Ristow, Turner, Wasserman, Zhao

NOES: None

ABSENT: None

15. Proposed amendments to Chapters 1 and 7 of the District's Ordinance Code corresponding to the Joint Audit of the sewer use for the service areas of the San Jose/Santa Clara Regional Wastewater Facility. A. Introduce Ordinance No. 154, AN ORDINANCE OF THE WEST VALLEY SANITATION DISTRICT BOARD OF DIRECTORS, AMENDING CHAPTERS 1 AND 7 OF THE DISTRICT'S ORDINANCE CODE CORRESPONDING TO THE JOINT AUDIT OF SEWER USE FOR THE SERVICE AREAS OF THE SAN JOSE/SANTA CLARA REGIONAL WASTEWATER FACILITY. B. Schedule second reading and adoption of Ordinance No. 154 for November 10, 2021.

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

BOARD OF DIRECTORS MEETING

October 13, 2021

Motion by/Second by: Wasserman/Resnikoff to approve the introduction of Ordinance No. 154 and schedule second reading and adoption for November 10, 2021. Motion passed by the following vote:

AYES: Resnikoff, Ristow, Turner, Wasserman, Zhao

NOES: None

ABSENT: None

16. Budget Modification for Fiscal Year 2021-2022. Accept the amendments and approve the Modified Budget for Fiscal Year 2021-2022.

Motion by/Second by: Wasserman/Turner to accept the amendments and approve the Modified Budget for Fiscal Year 2021-2022. Motion passed by the following vote:

AYES: Resnikoff, Ristow, Turner, Wasserman, Zhao

NOES: None

ABSENT: None

CLOSED SESSION

17. The Board adjourns at 5:43 p.m. to closed session - Conference with Legal Counsel – regarding existing litigation. (Pursuant to Government Code § 54956.9) Name of case: *County Sanitation District, West Valley Sanitation District, Cupertino Sanitary District, and The City of Milpitas v. The City of San Jose, The City of Santa Clara, and Does 1 Through 50, Inclusive*, Santa Clara Superior Court Case No. 18CV325480. The Following directors were present: Rowena Turner, Yan Zhao, Paul Resnikoff, Maria Ristow, and Mike Wasserman.

Reconvene in Open Session

18. The Board reconvenes in open session at 6:25 p.m. Nothing to report out.

Directors' Items

19. There were no Director's reports, announcements, and questions.

20. There was no District Manager's Report.

Adjournment

21. There being no further items of business, the meeting was adjourned at 6:26 p.m. The next Board Meeting is scheduled for November 10, 2021, at 5:00 p.m.

**WEST VALLEY SANITATION DISTRICT
OF SANTA CLARA COUNTY, CALIFORNIA**

**BOARD OF DIRECTORS MEETING
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Signature on File

ROWENA TURNER, CHAIRPERSON

Attest:

Signature on File

Secretary