



**Silicon Valley Clean Energy Authority  
Board of Directors Meeting**

Wednesday, December 14, 2016  
7:30 pm

Santa Clara County Board Room  
70 West Hedding Street, 1<sup>st</sup> Floor  
San Jose, CA

**MEETING MINUTES**

**Call to Order**

Chair Sinks called the meeting to order at 7:35 p.m.

Chair Sinks led the salute to the flag.

**Roll Call**

**Present:**

Chair Rod Sinks, City of Cupertino  
Vice Chair Rob Rennie, Town of Los Gatos  
Director Jeannie Bruins, City of Los Altos  
Director John Harpootlian, Town of Los Altos Hills  
Alternate Director Anthony Eulo, City of Morgan Hill  
Director John McAlister, City of Mountain View  
Director Joe Simitian, County of Santa Clara  
Director Howard Miller, City of Saratoga  
Director Jim Griffith, City of Sunnyvale  
Director Liz Gibbons, City of Campbell

**Absent:**

Director Daniel Harney, City of Gilroy  
Director Burton Craig, City of Monte Sereno

**Public Comment on Matters Not Listed on the Agenda**

No speakers.

**Adoption of Resolutions Commending Directors Harney and Harpootlian for Their Dedicated Service to SVCEA**

MOTION: Director Miller moved and Alternate Director Eulo seconded the motion to adopt resolutions commending Directors Harney and Harpootlian for their dedicated service to SVCEA. The motion carried unanimously with Directors Harney and Craig absent.

Chair Sinks presented a plaque of recognition to Director Harpootlian and commended Directors Harpootlian and Harney for their participation and service to SVCEA.

## **Consent Calendar**

Director Bruins requested to pull Item 1d and noted a revision to Item 1c, Approve Agreement with Ad-Vantage Marketing Inc. for Print and Mail Notices to Customers in SVCE Service Territory, to correct a typo in the agreement on page 1 under "Compensation to Contractor" to read "three hundred eighty nine thousand nine hundred thirty six dollars".

MOTION: Director Bruins moved and Director Miller seconded the motion to approve the Consent Calendar with the exception of Item 1d and including the noted revision to the agreement in Item 1c.

Chair Sinks opened public comment.

No speakers.

Chair Sinks closed public comment.

The motion carried unanimously with Directors Harney and Craig absent.

### **1a) Approve Minutes of the November 9, 2016, Board of Directors Meeting**

### **1b) Approve Amendment to Agreement with MIG, Inc. for Community Engagement Support Services**

### **1c) Approve Agreement with Ad-Vantage Marketing Inc. for Print and Mail Notices to Customers in SVCE Service Territory**

### **1e) Approve Amendment to Engagement Letter with Troutman Sanders LLP**

### **1f) Adopt Resolution Providing for Certification to Facilitate Provision of Loans to SVCE**

### **1d) Adopt Resolution to Approve Agreements with PARS for Employee Retirement Benefits**

CEO Tom Habashi and Chair Sinks responded to Board questions.

Chair Sinks opened public comment.

No speakers.

Chair Sinks closed public comment.

MOTION: Director Miller moved and Alternate Director Eulo seconded the motion to adopt resolution 2016-12 authorizing the Chief Executive Officer to execute an agreement with the Public Agency Retirement Services ("PARS") to provide both a mandatory 401(a) Defined Contribution Plan and voluntary 457(a) Deferred Compensation Program for Silicon Valley Clean Energy Authority's ("Authority") employees.

The motion carried unanimously with Directors Harney and Craig absent.

## **Regular Calendar**

### **2) Executive Committee Report**

Chair Sinks reported Executive Committee meeting discussions included a closed session negotiation on a recommendation for CEO Habashi's contract which will be discussed in more detail during the closed session item later in the evening.

Chair Sinks opened public comment.

No speakers.

Chair Sinks closed public comment.

### **3) CEO Report**

CEO Habashi provided the CEO report including updates regarding newly hired staff. CEO Habashi introduced Andrea Pizano, Board Clerk/Executive Assistant, Don Bray, Manager of Account Services, Don Eckert, Director of Administration and Finance, and Pamela Leonard, Community Outreach Specialist.

CEO Habashi reported the status of Los Altos Hills' decision to default to GreenStart for residents and businesses with City facilities potentially opting-up to GreenPrime. CEO Habashi stated that the cities of Cupertino, Morgan Hill, Saratoga, and Sunnyvale have signed on for GreenPrime for City facilities and that the cities of Mountain View and Campbell had previously elected to opt-up to GreenPrime.

Director McAlister requested a memo to the Board listing current employee salaries relative to the approved salaries in the rate schedule.

Chair Sinks opened public comment.

No speakers.

Chair Sinks closed public comment.

### **4) Approve Board Ongoing Meeting Date, Time, and Location**

Board Clerk Andrea Pizano introduced the item recommending changing the meeting location to Cupertino Community Hall, located at 10350 Torre Avenue, in Cupertino, California effective February 1, 2017. CEO Habashi and General Counsel Stepanicich responded to Board questions.

Chair Sinks opened public comment.

No speakers.

Chair Sinks closed public comment.

MOTION: Director Bruins moved and Alternate Director Eulo seconded the motion to approve Resolution 2016-14 amending the ongoing date, time, and place for regular meetings of the Board of Directors.

The motion carried unanimously with Directors Harney and Craig absent.

### **5) Appoint Board Treasurer/Auditor and Board Secretary**

CEO Habashi presented the staff report and responded to Board questions. General Counsel Greg Stepanicich and Director of Administration and Finance Eckert provided additional information. Board members expressed interest in an Audit/Finance Committee and Risk Oversight Committee. CEO Habashi stated these committees would be formed.

Chair Sinks opened public comment.

No speakers.

Chair Sinks closed public comment.

MOTION: Director Bruins moved and Director Gibbons seconded the motion to appoint Don Eckert, Director of Administration and Finance, as the Board Treasurer/Auditor and Andrea Pizano, SVCE Board Clerk/Executive Assistant, as the Board Secretary.

The motion carried unanimously with Directors Harney and Craig absent.

### **6) Approve Security Agreement between SVCEA and River City Bank; Account Control Agreement between SVCEA and River City Bank; Inter-creditor and Collateral Agency Agreement between and among SVCEA, River City Bank and up to three of the suppliers listed**

**below with an asterisk; and approve Power Supply Confirmation Agreement with up to six of the suppliers listed below**

**Potential Supplier Names:**

1. **3 Phases Renewables Inc.**
2. **\*Energy America, LLC**
3. **\*Exelon Generation Company, LLC**
4. **Morgan Stanley Capital Group Inc.**
5. **Powerex Corp. (Powerex Corp., doing business in California as Powerex Energy Corp.)**
6. **\*Shell Energy North America (US), L.P., a Delaware limited partnership**

CEO Habashi provided the staff report and responded to Board questions. Steve Hall, Troutman Sanders LLP, Brian Goldstein, Pacific Energy Advisors, John Dalessi, Pacific Energy Advisors and General Counsel ~~Stepanicich~~ Stepanicich provided additional information and responded to Board questions.

Chair Sinks opened public comment.

Bruce Karney, Carbon Free Mountain View, provided information regarding California State Senate Bill 286 and spoke regarding Power Charge Indifference Adjustment (PCIA) and his projections for 2018.

Chair Sinks closed public comment.

MOTION: Director Miller moved and Director Bruins seconded the motion to adopt Resolution 2016-15 delegating authority to the Chief Executive Officer to:

- (A) Execute Confirmations in connection with the previously authorized EEI Master Agreements with one or more power suppliers, with terms consistent with those contained in the attached Confirmation agreements for a term of up to 57 months, subject to the condition that the average cost of power purchased in aggregate under all of the Confirmations shall not exceed a cost threshold of \$50 per MWh; and
- (B) Execute an Inter-creditor and Collateral Agency Agreement, Security Agreement and Deposit Account Control Agreement with River City Bank, and in the case of the Inter-creditor and Collateral Agency Agreement, with the participating power suppliers, with terms consistent with those contained in the attached agreements, and transfer funds to the designated account held at River City Bank sufficient to meet contractual obligations under the foregoing agreements.

Director Gibbons encouraged a projection and forecast from staff that presents the range and highs/lows similar to an update to the chart included in the presentation given for the item. CEO Habashi stated future updates will be presented to the Board.

CEO Habashi stated that there will be a future workshop which will focus on regulatory and legislative issues.

The motion carried unanimously with Directors Harney and Craig absent.

## **7) Presentation on Customer Notification**

Don Bray, Manager of Account Services, and Misty Mersich, Communications Manager, presented the item and responded to Board questions.

Board members provided comments and feedback regarding consideration of insert advertising, the process for notification of enrollment for solar customers, consideration of a reduced word count, consideration of a subsequent mailer for solar customers, clear phone contact information for those without access to the internet, font size, clearer indication of who the mailer is from, and inclusion of key SVCEA messages.

CEO Habashi stated the Board and members of the public can send additional comments to Manager of Account Services Bray and staff will make edits and email a proof of the mailer to the Board prior to its distribution to residents.

Chair Sinks opened public comment.

Bruce Karney suggested sending a separate mailer to solar residents and provided suggested edits to the mailer presented.

Chair Sinks closed public comment.

### **Public Comment on Closed Session**

No speakers.

At 9:58 p.m. the Board adjourned to Closed Session in Room 157 following a five-minute recess.

### **Convene to Closed Session, Room 157**

Conference with Labor Negotiator  
Agency Representative: Rod Sinks, Chair, Board of Directors  
Unrepresented Employee: Chief Executive Officer

The Board reconvened from Closed Session at 11:49 p.m. in the Board Room with Directors Simitian, Harney and Craig absent.

### **Report from Closed Session**

General Counsel Stepanicich reported the Board met in Closed Session regarding the approval of an amended and restated employment agreement for the Chief Executive Officer.

### **Approval of Amended and Restated Employment Agreement for Chief Executive Officer**

General Counsel Stepanicich summarized the direction given by the Board:

Changes to the *Salary* provision, Section 5, replace the last sentence that reads "EMPLOYEE's salary may be adjusted periodically to reflect cost of living increases and merit increases" with "As part of the annual performance evaluation in 2017 and thereafter, the Board of Directors will give consideration to an increase in compensation."

Changes to the *Bonus* provision, Section 7, "EMPLOYEE shall receive a performance bonus" will now include "...in the amount of \$6,000 paid by December 31, 2016, and an amount of \$6,000 thirty days after SVCEA commences electricity service to its customers."

The *in lieu payment* in Section 8, refers to \$12,000 payment per year to 457 deferred compensation plan in lieu of medical coverage; the direction of the Board was to make that consistent with existing benefits paid to employees with a request for General Counsel to conform the language to say that the \$1,000 per month could be paid into a flexible benefit plan or in the case of the CEO, paid into the deferred compensation plan as directed by the employee.

Director Bruins requested a friendly amendment to include a change in the language under *Benefits*, Item 8b, to list the same holidays provided to employees.

General Counsel Stepanicich asked that he be given authorization to change the wording of the agreement to more precisely conform to the direction of the Board.

MOTION: Director McAlister moved and Director Gibbons seconded the motion to approve the amended and restated employment agreement for Chief Executive Officer per General Counsel's amendments.

The motion carried with Director Bruins dissenting and Directors Simitian, Harney and Craig absent.

#### **Board Member Announcements**

Director Bruins requested "Future Agenda Items" or "Direction from the Board" be included on future agendas for effective meeting management. Director Bruins requested a proposal from staff regarding what committees/advisory bodies are needed and when.

Vice Chair Rennie reported that he, Director Gibbons, and Communications Manager Mersich presented at the League of Women Voters and he and Communications Manager Mersich gave a presentation to the Kiwanis Club in Los Gatos. Vice Chair Rennie also reported that he has scheduled a rotary club presentation after Christmas and is also looking into other rotary clubs in other cities.

#### **Adjourn**

Chair Sinks adjourned the meeting at 11:57 p.m.