CALL TO ORDER – PRESIDENT HERNANDEZ

PLEDGE OF ALLEGIANCE – DIRECTOR FERGUSON

ROLL CALL

In the case of an emergency, items may be added to the Agenda by a majority vote of the Board of Directors. An emergency is defined as a work stoppage; a crippling disaster; or other activity which severely imperils public health, safety, or both. Also, items which arise after the posting of the Agenda may be added by a two-thirds vote of the Board of Directors.

ADOPT AGENDA FOR THE REGULAR MEETING OF JANUARY 2, 2013

ORAL COMMUNICATIONS

Persons wishing to address a matter not on the Agenda may be heard at this time; however, no action will be taken until the matter is placed on a future agenda in accordance with Board policy.

NOTICE TO THE PUBLIC

All matters listed under the Consent Calendar will be voted upon by one motion. There will be no separate discussion of these items, unless a Board member or member of the public requests that a particular item(s) be removed from the Consent Calendar, in which case it will be considered separately under Action Items.

CONSENT CALENDAR

1.1 FINAL ACCEPTANCE OF WATER AND SEWER IMPROVEMENTS FOR SAN ELIJO HILLS PHASE 3, P.A. “K”, Unit 18 (SAN ELIJO HILLS DEVELOPMENT COMPANY)

San Elijo Hills Development Company has completed the installation of water and sewer facilities for their project.

Recommendation: Final Acceptance
1.2 FINAL ACCEPTANCE OF WATER AND SEWER IMPROVEMENTS FOR SAN ELIJO HILLS, PHASE 3, P.A. “K”, UNIT 19 (SAN ELIJO HILLS DEVELOPMENT COMPANY)

San Elijo Hills Development Company has completed the installation of water and sewer facilities for their project.

Recommendation: Final Acceptance

1.3 WINTER 2013 SPLASH! – VALLECITOS WATER DISTRICT QUARTERLY NEWSLETTER

Recommendation: Approve the Winter 2013 SPLASH Newsletter

*****END OF CONSENT CALENDAR*****

ACTION ITEMS

*****END OF ACTION ITEMS*****

REPORTS

2.1 GENERAL MANAGER

2.2 DISTRICT LEGAL COUNSEL

2.3 SAN DIEGO COUNTY WATER AUTHORITY

2.4 ENCINA WASTEWATER AUTHORITY

2.5 LAFCO

2.6 DIRECTORS REPORTS ON TRAVEL/conferences/SEMINARS ATTENDED

*****END OF REPORTS*****

OTHER BUSINESS

3.1 MEETINGS

WEF Executive Briefing – Changing Currents
March 14-15, 2013 – Doubletree Hotel, Sacramento, CA

*****END OF OTHER BUSINESS*****
4.1 CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.95 LIABILITY CLAIM – CLAIMANT: Sandhya Tippur

*****END OF CLOSED SESSION*****

5.1 ADJOURNMENT

*****END OF AGENDA*****
ADOPT AGENDA FOR THE REGULAR MEETING OF JANUARY 2, 2012

13-01-01 MOTION WAS MADE by Director Evans, seconded by Director Martin, and carried unanimously, to adopt the agenda for the Regular Board Meeting of January 2, 2013.

ORAL COMMUNICATIONS

Mr. Michael McDonald addressed the Board stating that they currently have a lawsuit against the Vallecitos Water District concerning the densification fee. He stated that his partner, Gary Lovett, and himself are not litigious by personality and this is the first lawsuit in the 30 years in this business that he has ever had to originate himself.

Mr. McDonald stated they were forced into a position to file the lawsuit because they had so many days, according to statute, to file a lawsuit or they lost their ability to challenge the densification ordinance. He stated he would like the water district to pull, defer or stand still for a period of time any additional legal action either by them and also allowing them to push in the short-term additional legal action until such time they have
the opportunity to sit down with the District’s staff and any consultants they might want
to bring in. They feel their position, which they have made known to the District, is
correct and that it’s simply an issue of arithmetic; there isn’t a complex legal issue here.
They would like to be able to sit down with staff and their consultants to find out if the
District feels they are wrong for them to come back and show them where they are
wrong with their calculations and their assumptions. That is what he would like to do
during this period of time where meanwhile we just hold off on either the District
spending more money or they’re spending more money to see if they can resolve in
their mind an issue of arithmetic. He thanked the Board.

President Hernandez clarified to Mr. McDonald that the Board cannot take action on this
issue and directed Mr. McDonald to speak with staff and legal counsel on this matter.

Mr. McDonald asked if it was possible for the Board to recommend to staff and counsel
of the District that they defer this issue until such time they can set up a meeting and
have this conversation.

Legal Counsel Scott stated that this item is not on the agenda, therefore, the Board
cannot take any action. Mr. Scott stated he has been in discussions with their attorneys
on this subject and feels some progress is being made. This issue will be brought back
to the Board for discussion and direction.

Director Evans addressed Mr. Scott stating she didn’t understand why the Board cannot
take action. She stated they could say that this item would be placed on the next
agenda. She further asked what is happening with this particular litigation between now
and the next meeting if the Board just says thank you very much.

Mr. Scott indicated that nothing would happen by the next meeting. Discussions have
already taken place with their counsel that we are postponing continuation of this
matter. General discussion continued on the process of the litigation and ongoing
routine matters. During this discussion Director Martin also requested clarification on
the process as well as he and Director Evans being updated on the litigation in general.

Mr. Scott stated that the General Manager has scheduled this item to be placed on the
January 16 Board agenda for Closed Session discussion.

Director Martin asked if this item could be place on the January 7 Board Committee
meeting agenda.

President Hernandez stated that the January 7 agenda is very full and will consume the
majority of the day. He stated that it would be more practical to schedule this on the
January 16 agenda due to the fact the next meeting amongst the attorneys is scheduled
on January 18.
Director Evans asked if there is an item on the January 7 agenda not as critical as this litigation that could be postponed in order to add this item to the agenda. She further stated that she and Director Martin have not been brought up to speed on this issue.

Mr. Scott stated that he would be more than happy to meet with both and give them a status update on the issue.

President Hernandez stated that the full fee issue will be brought back to the Board for discussion at a future meeting.

Additional discussion took place on the litigation process during which General Manager Lamb stated that the litigation is in discovery phase and counsel has the latitude to allow Mr. McDonald additional time before anything is filed from a statutory standpoint between now and January 18; no action needs to take place at this time. He further re-emphasized that this item will be on the January 16 Board meeting agenda under Closed Session for an update to the Board as well as direction from the Board.

Mr. McDonald stated that he hoped that if for some reason they have not been able to jointly have the conversations and analysis of the District’s decision, their position and hopefully things can be resolved, but if can’t that they still have the opportunity on the 16th if they want to come back here as the plaintiff to ask for some type of additional tolling agreement at that stage so it’s more of just an open mic situation, but there is an agenda item so can be reviewed by the Board.

General Manager Lamb reclarified that this is pending litigation and that the only action that will take place is the Case Management Study meeting scheduled on January 18. He stated that there is an item on the January 7 Board Committee meeting agenda to discuss the policy priorities and the status of the fee and to update the Board on how the fee was developed. He further clarified that he has added a Closed Session item to the January 16 Board meeting agenda for discussion with the Board and to address what Mr. McDonald is requesting now. This cannot be discussed in open session due to the fact it is litigation; litigation is a Closed Session item.

General Manager Lamb further stated he didn’t see any problem with staff considering the request or the validity of it. This doesn’t mean that between now and then, or even after that, that staff wouldn’t have time to discuss this; however, it needs to done under the protection of litigation.

Mr. McDonald stated that the only issue he has is the response from District’s counsel of which there are 147 different items. If they get to the 16th and nothing has happened, and that means by the 18th they have to respond, the likelihood of being able to respond in detail to 147 items means they have to start way before the 16th. His concern is that theoretically the 16th is being postponed. They can’t wait until just the 16th and then say they are starting the additional responses being requested by the District’s counsel.
Mr. Scott stated that Legal Counsel Jackson discussed this issue with Mr. McDonald’s counsel today and they are working on reasonable accommodations; counsel is not trying to ambush Mr. McDonald.

General Manager Lamb further stated that District’s counsel did send a letter to Mr. McDonald’s counsel asking how many days he wanted for an extension so that it could be granted.

Director Martin asked if at any time has the Board been involved in this issue other than Closed Session or if the Board has ever met with the applicant. He further asked what the process is before it going to attorney vs. attorney.

General Manager Lamb stated that over 27 public meetings were held in which the Board was involved in all with the exception of approximately 8 meetings that were held directly between staff, the consultant and the development community. All the others were held as public workshops. Special Board meetings were held just to discuss the fees. The Board has been updated several times on the status of the litigation as it goes along.

Director Martin clarified again that this item is not on the January 7 Board Committee meeting agenda.

General Manager Lamb stated that he and President Hernandez met and that as the Chair, President Hernandez requested him to present numerous policy issues for discussion at this meeting. He re-clarified that staff will schedule a meeting to discuss the entire fee history with the Board. He also re-clarified that litigation is discussed in Closed Session.

Director Evans asked for clarification on what was actually being placed on the January 16 Board meeting agenda.

Mr. Scott stated that the litigation issue will be placed on the January 16 agenda as a Closed Session item. The Board will have the opportunity to consider the litigation issue in Closed Session.

Mr. Michael Hunsaker addressed the Board stating that he tries to attend as many LAFCO meetings as he can. He missed the last meeting but noticed in the minutes that there was a very interesting new law set up on uses, annexations and reorganizations. One of the issues that he has is that it seems there are quite a few mandatory agreements LAFCO loses control of if two or more agencies decide to do some sort of reorganization consisting of annexations and dissolutions alone. The question he asked the Board to address is whether an agency might be a city. He stated there are some cities who are very avarice and want to establish municipal water services and generate revenue streams through them. There is also some question of reorganization as to whether or not unincorporated annexations may be bundled into this very complex 21
page bill. No one has really looked at it. From what he can see it is supposed to be a cleanup job with the single subject, but it turns out it goes all over the map. There doesn’t seem to have been any real consideration as to unintended consequences. He requested some consideration as to just what this LAFCO law means.

He thanked the Board.

General Manager Lamb asked Mr. Hunsaker what law he was referring to. Mr. Hunsaker responded AB 2698. General Manager Lamb clarified what he was asking for is if this bill somehow gives a city the right to unilaterally take over a utility. He further asked Mr. Hunsaker what his exact concern was. Mr. Hunsaker stated that it is not unilateral from what he can read. He then cited a theoretical example to express his concerns. His ultimate concern, theoretically, is that the LAFCO Board would have no authority to approve or disapprove a reorganization of agencies.

General Manager Lamb stated that staff will look into the bill and follow-up with Mr. Hunsaker.

CONSENT CALENDAR

13-01-02 MOTION WAS MADE by Director Poltl, seconded by Director Evans, and carried unanimously, to approve the Consent Calendar as presented.

1.1 Final Acceptance of Water and Sewer Improvements for San Elijo Hills Phase 3, P.A. “K”, Unit 18 (San Elijo Hills Development Company)

2.2 Final Acceptance of Water and Sewer Improvements for San Elijo Hills, Phase 3, P.A. “K”, Unit 19 (San Elijo Hills Development Company)

2.3 Winter 2013 SPLASH! – Vallecitos Water District Quarterly Newsletter

ACTION ITEMS

None.

REPORTS

GENERAL MANAGER

General Manager Lamb reported on an alarm that occurred this afternoon at the Meadowlark Reclamation facility which was the result of a chorine related issue. Staff responded with the Haz Mat team. The incident was considered a Class B level incident (full suit-up not required). It was determined to be a fitting which was connected to the chlorine cylinder.
DISTRICT COUNSEL

Legal Counsel Scott reported on a recent Attorney General decision related to the San Diego County Authority and the member agencies’ right to vote on various matters.

On December 27 the Attorney General came down with an opinion as follows: 1) if a Director of a County Water Authority is an officer of the member agency that he or she represents, then the Director may not vote on a contract between the member agency and the Authority; 2) a Director of a County Water Authority who represents a member agency of the Authority may participate in actions related to a contract between the member agency and the Authority other than voting on the contract. What this means is that if there is a contract between another member agency and the Authority that touches on your interest, you can still vote on it. 3) a Director of a County Water Authority who represents a member agency of the Authority may vote on an action coming before the Board of the Authority in which the member agency has a financial interest, if the action is not a vote on a contract between the member agency and the Authority. What this means is that as a representative of the Water Authority, you can vote on anything except for a contract between your agency and the Authority.

SAN DIEGO COUNTY WATER AUTHORITY

General Manager Lamb stated that the next Board meeting will be held on January 24.

ENCINA WASTEWATER AUTHORITY

Director Poltl stated that the next Policy and Finance Committee meeting will be held on January 6.

LAFCO

Director Evans stated that there is a meeting on the 18th, however, she is interested in attending the CASA Conference on this same date.

DIRECTORS REPORTS ON TRAVEL/CONFERENCES/SEMINARS ATTENDED

President Hernandez noted that written reports were provided. The reports are on file.

OTHER BUSINESS

None.
CLOSED SESSION

CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.95
LIABILITY CLAIM – CLAIMANT:
   Sandhya Tippur

13-01-03 MOTION WAS MADE by Director Ferguson, seconded by Director Poltl, and carried unanimously, to move into Closed Session pursuant to Government Code Section 54956.95.

REPORT AFTER CLOSED SESSION

The Board reconvened to Open Session at the hour of 4:38 p.m. The Board, in Closed Session, directed the General Manager to deny the liability claim.

ADJOURNMENT

There being no further business to discuss, President Hernandez adjourned the Regular Meeting of the Board of Directors at the hour of 4:39 p.m.

A Regular Meeting of the Vallecitos Water District Board of Directors has been scheduled for Wednesday, January 16, 2013, at 4:00 p.m. at the District office, 201 Vallecitos de Oro, San Marcos, California.

James Hernandez, President
Board of Directors
Vallecitos Water District

ATTEST:

Dennis O. Lamb, Secretary
Board of Directors
Vallecitos Water District