AGENDA FOR A REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, MARCH 20, 2013, AT 4:00 P.M.
AT THE DISTRICT OFFICE
201 VALLECITOS DE ORO, SAN MARCOS, CALIFORNIA

CALL TO ORDER – PRESIDENT HERNANDEZ

PLEDGE OF ALLEGIANCE – PRESIDENT HERNANDEZ

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 MARCH 20, 2013

PRESENTATION

Tom Wornham, SDCWA Board Chair and Maureen Stapleton, SDCWA General Manager will provide a general update on SDCWA matters.

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 APPROVAL OF MINUTES

A. REGULAR BOARD MEETING – MARCH 6, 2013

Approved minutes become a permanent public record of the District.

Recommendation: Approve Minutes

1.2 WARRANT LIST THROUGH MARCH 20, 2013 – $808,049.24

Recommendation: Approve Warrant List
1.3 FINANCIAL REPORTS

A. WATER METER COUNT – FEBRUARY 28, 2013  
B. WATER PRODUCTION/SALES REPORT – 2012/2013  
C. WATER REVENUE AND EXPENSE REPORT – FEBRUARY 28, 2013  
D. SEWER REVENUE AND EXPENSE REPORT – FEBRUARY 28, 2013  
E. RESERVE FUNDS ACTIVITY – FEBRUARY 28, 2013  
F. INVESTMENT REPORT – FEBRUARY 28, 2013

1.4 BOARD APPROVAL TO SATISFY REQUIREMENTS OF SUBDIVISION MAP AND FOR INSTALLATION OF METERS FOR SAN ELIJO HILLS PHASE 3, PA "K", UNIT 15

Upon installation of meters and all necessary appurtenances, water and sewer service will be available to 28 single family homes within Unit 15.

Recommendation: Approve installation of meters and appurtenances

1.5 SPRING 2013 SPLASH! – VALLECITOS WATER DISTRICT QUARTERLY NEWSLETTER

Recommendation: Approve the Spring 2013 SPLASH Newsletter

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

PUBLIC HEARING

2.1 PUBLIC HEARING TO CONSIDER ORDINANCE NO. 179 OF THE VALLECITOS WATER DISTRICT AMENDING ORDINANCE NO. 178 INCREASING PER DIEM COMPENSATION OF DIRECTORS

Proposed Ordinance modifications relate to District membership and per diem compensation.

Recommendation: 1) Hold Public Hearing  
2) Consider Ordinance

ACTION ITEMS

3.1 CONSIDERATION OF ORDINANCE MODIFYING ORDINANCE NO. 161, REIMBURSEMENT AGREEMENT POLICY

The proposed ordinance would modify Ordinance No. 161 which established the current policy regarding reimbursement for water and sewer facilities.

Recommendation: Consider Ordinance

3.2 VALLECITOS APPOINTMENT TO THE SAN DIEGO COUNTY WATER AUTHORITY BOARD OF DIRECTORS
The District is entitled to appoint one representative on the Board of Directors of the San Diego County Water Authority.

Recommendation: Request Board Direction

3.3 CALL FOR NOMINATIONS TO THE LOCAL AGENCY FORMATION SPECIAL DISTRICTS ADVISORY COMMITTEE VACANCY

Nominations are being solicited for one current vacant position on LAFCO’s Special Districts Advisory Committee.

Recommendation: Request Board Direction

3.4 APPROVAL OF AGREEMENT FOR CONSTRUCTION OF FACILITIES FOR PALOMAR STATION – ARMORLITE DR. AND LOS VALLECITOS BLVD. IMPROVEMENTS (INTEGRAL PROJECT OWNER II, LLC)

The project will construct sewer main extensions in both Armorlite Drive and Los Vallecitos Boulevard.

Recommendation: Approve Construction Agreement

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

REPORTS

4.1 GENERAL MANAGER

4.2 DISTRICT LEGAL COUNSEL

4.3 SAN DIEGO COUNTY WATER AUTHORITY

4.4 ENCINA WASTEWATER AUTHORITY

4.5 LAFCO

4.6 DIRECTORS REPORTS ON TRAVEL/CONFERENCES/SEMINARS ATTENDED

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

OTHER BUSINESS

5.1 MEETINGS

WEF Central Valley Tour
April 17 – 19, 2013 – Begins/ends at Sacramento International Airport, CA

*****END OF OTHER BUSINESS*****
6.1 ADJOURNMENT

*****END OF AGENDA*****

If you have any disability which would require accommodation in order to enable you to participate in this meeting, please call the Executive Secretary at 760.744.0460 ext. 264 at least 48 hours prior to the meeting.

AFFIDAVIT OF POSTING

I, Diane Posvar, Executive Secretary of the Vallecitos Water District, hereby certify that I caused the posting of this Agenda in the outside display case at the District office, 201 Vallecitos de Oro, San Marcos, California by 3:00 p.m., Friday, March 15, 2013.

Diane Posvar
President Hernandez called the Regular meeting to order at the hour of 4:00 p.m.

President Hernandez led the pledge of allegiance.

Present:
Director Evans
Director Ferguson
Director Martin
Director Poltl
Director Hernandez

Staff Present:
General Manager Lamb
Assistant General Manager Scaglione
Legal Counsel Scott
Director of Engineering & Operations Gerdes
Administrative Services Manager Emmanuel
Finance Manager Fusco
Accounting Supervisor Owen
Principal Engineer Gumpel
Capital Facilities Engineer Scholl
Risk Management Supervisor Janus
Water Operations Supervisor Pedrazzi
Public Information/Conservation Supervisor Urabe
Public Information Representative Webb
Public Information Representative Yerman
CMMS Technician Galindez
Engineering Technician Gastar
IT Technician Todd
Executive Secretary Posvar

ADOPT AGENDA FOR THE REGULAR MEETING OF MARCH 20, 2013

13-03-05 MOTION WAS MADE by Director Martin, seconded by Director Poltl, and carried unanimously, to adopt the agenda for the Regular Board Meeting of March 20, 2013.

PRESENTATION

Tom Wornham, SDCWA Board Chair and Maureen Stapleton, SDCWA General Manager jointly provided a general updated on SDCWA matters. Topics included:
- Historical water supply/supply issues/reliability through supply diversification
- Response to 1987-1992 drought
- Diversify supply sources
- Next supply source: Carlsbad desalination project
- Historic investments in infrastructure
- Drivers of SDCWA 2013 rate increases
- Challenging Metropolitan Water District’s rates (litigation)
- Containing SDCWA costs
• Improving long-term cost certainty
• Looking ahead

**ORAL COMMUNICATIONS**

Mr. Darrell Gentry, member of the public, addressed the Board stating he wanted to talk to an issue that is of some concern. Having read the minutes that are part of the agenda this evening to approve, he was quite concerned and distressed. He really wanted to talk about a couple of issues: one is transparency and Board integrity and couple that in with a request to the Board. The integrity issue is of concern to all of you. He knows it is because of the comments that are in those minutes. When you start at page 5 with a discussion that doesn’t end until page 16 of the minutes that means to him that’s a fairly lengthy and controversial discussion. And it centered around integrity and transparency. There are ways in which to address both of those kinds of concerns. He made a request, as a ratepayer in this District, that they encourage themselves as a Board to get into a path or program where they can in fact as Board members, and the public itself, know that they are conducting their business in accordance with a code of ethics. They could adopt ex parte rules for outside communication. There are similar agencies, including the Board of Supervisors, who do that. There are other water board agencies that do similar actions. They could look at ways of which they could deal with, as a policy, how to handle private email exchanges between themselves, or whether they should do that at all. He encouraged the Board to put a request in for their Committee as a Whole discussions, some ideas and some methodology to address the issues of integrity, code of conduct, and transparency. It’s important for all of the ratepayers and they need to know that they are maintaining the integrity and the standards that have been in past Boards. He thanked the Board.

He thanked the Board.

**CONSENT CALENDAR**

President Hernandez stated a request had been made to pull the warrants and the minutes. He asked Director Martin what he would like to ask.

General Manager Lamb requested President Hernandez to ask for a motion and second to approve items 1.3, 1.4 and 1.5. The other two items could then be discussed

13-03-06  MOTION WAS MADE by Director Martin, seconded by Director Evans, and carried unanimously, to approve items 1.3, 1.4 and 1.5 of the Consent Calendar.

1.3  Financial Reports

   A. Water Meter Count – February 28, 2013
   B. Water Production/Sales Report – 2012/2013
   D. Sewer Revenue And Expense Report – February 28, 2013
E. Reserve Funds Activity – February 28, 2013  

1.4 Board Approval to Satisfy Requirements of Subdivision Map and for Installation of Meters for San Elijo Hills Phase 3, PA “K”, Unit 15

1.5 Spring 2013 SPLASH! – Vallecitos Water District Quarterly Newsletter

Director Martin stated that he pulled Item 1.1 because he came in on Friday and got a copy of the minutes but he didn’t have a chance Saturday unfortunately, because he spent three days in Monterey. He stated that he did brush over them and there were a few things on there that he would like to review the tape before he approves that’s what he indeed said, what everybody else said, just to be for the best of his recollection. He didn’t have time to do today. He asked the Board’s indulgence to move the minutes to a future date after he has had a chance. It could be the next meeting, whatever works for staff.

There was no objection by the Board to Director Martin’s request.

13-03-07 MOTION WAS MADE by Director Martin, seconded by Director Evans, and carried unanimously, to reopen the Consent Calendar for discussion on the Warrant List.

1.2 Warrant List through March 20, 2013 - $808,049.24

Director Martin requested clarification with respect to Procopio, Cory, Hargreaves & Savitch LLP on the warrant list to which the General Manager responded.

13-03-08 MOTION WAS MADE by Director Martin, seconded by Director Poltl, and carried unanimously, to approve the Warrant List.

PUBLIC HEARING

PUBLIC HEARING TO CONSIDER ORDINANCE NO. 179 OF THE VALLECITOS WATER DISTRICT AMENDING ORDINANCE NO. 178 INCREASING PER DIEM COMPENSATION OF DIRECTORS

President Hernandez opened the hearing as duly noted and posted. The hearing was opened at 4:45 pm.

General Manager Lamb stated that Ordinance No. 179 replaces and modifies two components of Ordinance No. 178. The first being the purpose of the Public Hearing tonight. Whenever there is a change in rates or compensation to the Board, it has to go through a public notification process. One of those is the posting twice in the newspaper, which has been done and complied with. The second is there must be public hearing allowing the public to address the proposed change. The change predominantly in the Ordinance is the consideration by the Board in increasing per diem, per approved meeting, from $150 per meeting to $200 per meeting. There is a second component of the Ordinance itself, which is not subject to the public hearing but
is the addition of San Marcos Economic Development Council and San Diego North Economic Development Council to the Ordinance.

Mr. Darrell Gentry, member of the public, addressed the Board stating that while it may be a fact that the Board as a whole over the past eight years and even longer has not taken a pay raise, given not only the national but local economy and state of the economy, we would all have to admit it's hardly out of a fragile state current time. Unemployment is still 8.1% in California and even in San Diego and San Marcos it’s still around the 8% unemployment rate, according to the last quarter of 2012. There may be slight improvements and there may be some adjustments, but it indicates a fragile economy, not a solid one, and not one that’s growing. He stated he is here today to ask the Board to reject the proposed change because a couple of the Directors have been recently elected to the position and are still in a probationary period. If they were a private employer, they would clearly be in a probationary period and be looking for performance; in a measurement of performance that was matching up with the employer’s expectations. He stated as a ratepayer, they don’t have a performance matrix on all of them at this point in time. Their increase is representing a fairly significant increase and on a dollar basis it’s certainly not adequate, but would have to tell them that in looking around at many of the water districts, including one of the neighboring districts that just last month rejected any pay change or compensation, that district was Santa Fe Irrigation District. They’re holding to the status quo as far as their Board salaries and compensations are concerned. He stated they’re also signaling a very bad message to the rest of the organization. The employees over the past few years, along with the Board, had to deal with a lot of different changes to maintain a fiscal picture of stability and solvency without dipping into reserves or cutting into replacements. They did that because it was a measure that was important to the ratepayers as well as to the employees. He stated they are not putting themselves in a situation where they are telling their employees they deserve a 33% increase in pay without conducting the performance. He believes that’s an unfair position, not only for themselves, but for other ratepayers and is unwarranted given the newness of the Board. He urged them to reject a pay increase at this time and set it aside for a while. He thanked the Board.

Mr. Michael Hunsaker, member of the public, addressed the Board stating that he is on the San Diego County Taxpayer’s Association, on the Issues Committee and Medical Care Committee. He knows that the San Diego Taxpayer’s Association came out with a negative opinion of the Vallecitos Water District’s Board member compensation. He thought it was a little extreme in that it took five years and totaled it out together and sort of indicated that was maybe the total. In that regard, he’s not too persuaded by what the Taxpayer’s Association did. He stated that he is also on the Medical end of things and is looking at massive increases in medical insurance. These will probably outpace any other pay increase they would get. He would hope that they would publish at the end of the year the total compensation that goes into each Director so they have some transparency. And if the medical insurance cost start getting really bad, as projected, that is an area of concern. As far as the increase from $150 to $200, there has been a delay in increases, but it’s not part of the whole compensation package which should be considered in total. It also sets a very bad image situation when this flap of the Brown Act considerations, it undercuts the credibility of the Board. It appears that the Board members are more concerned about their personal pocket books then the ratepayers. So it’s just bad press. He suggested that, yes they’re contemplation is, more transparency is appropriate. He thanked the Board.
There being no other persons wishing to address the Board, President Hernandez closed the hearing at 4:52 pm. He asked for any questions or discussion from the Board at this time.

Director Poltl stated that what the members of the public spoke about was right on. He is kind of disappointed that they even have to have a discussion at this level, but that is his own perspective. Because by having it at this level, they’ve put the MOU in jeopardy because they have for the past several years been trying to negotiate with their employees. He stated they’re doing that because they are asking the employees to take less. They appreciate the cooperation they have had with the employees, but they’re still trying to close that agreement and they hope they can do that. He apologized for even having this discussion. He stated the other thing is having to do with the point about the medical coverage, which is a good one. What they are getting now as far as per diem is mid-range from all the districts and to say they haven’t had a raise in whatever years, most of them, with the exception of Director Ferguson, have only been there a few minutes; some of them a few months, some a few years and so it’s ridiculous to say that they haven’t had a raise in eight years; it just doesn’t make any sense. He stated that from his perspective he is definitely against it and he would say no.

Director Evans stated that she agreed with the speakers and Jim. When this was brought up, she felt that although it was an opportunity they could legally take, they shouldn’t and she voted no at that time, as well. She stated she would have to decline as well.

Director Martin stated that at that workshop, it was his understanding that the correct way things work here at the water district, a workshop is a committee of the whole and is where they discuss things like this and if they think it’s worthwhile, they send it to the Board and they again discuss it, they have public input. With that in mind, he thinks it worked the way it was supposed to, not that it wasn’t supposed to work this way. He stated it was on the agenda, he was the person to speak up, and of course very nicely the week after this, they had a closed session about an employee’s MOU, which he had no idea about in the last four months. He apologized for not knowing. He stated that he did find out the following week in a Closed Session, which he cannot talk about, where they’re at and it was all brand new information to him. Never before had Counsel or the General Manager let him know what was going on. He apologized for that, especially being in the position that he thinks the employees have been in, that’s a bad position for a Director to bring up. He stated that also that night at the meeting two Directors, namely Director Poltl and Director Evans, spoke against it. And what they’re supposed to do at these meetings is listen to what they say and then make decisions based upon the day and the public notice and the public comment. Based upon that, he thinks they’ve done what they’re supposed to do. So based upon all that, he makes a motion that they do not accept any change in their per diem.

President Hernandez stated there’s a motion on the floor and asked for a second.

Director Evans seconded.

13-03-09 MOTION WAS MADE by Director Martin, seconded by Director Evans, to not accept any change in the per diem.
President Hernandez stated that before they take a vote, he stated he would like to add his two cents to this because there is some question that need to be answered relative to the insurance and future increase. He stated they have taken a position at this Board to put in a minimum amount of insurance. They have other levels that if individuals want to pay for that themselves, they may do so. They are very cognizant of the ratepayers and their concern for the amount of money that is being spent. They have diligently worked with their staff who have been doing an excellent job to maintain costs and inline themselves with what ultimately the Governor said was, he couldn’t remember the year but it’s a couple of years, their staff will be paying all of their PERS and all of their Social Security. They started that a couple of years back. That will be taking place. He stated that he must add that in all of the years that they have been talking with this magnificent staff, they have always given them cost of living. In the year 2000, when it was the last time this was brought up, milk was a $1.56 a gallon; it’s over $3 today. Gas was a $1.87; it’s almost $4 today. This has been discussed as though this were an increase in their per diem. It is certainly not an increase in their per diem; it is a catch-up of the cost of living which they have deferred since 2000. Doing a quick calculation in his head, they have saved the ratepayer by not taking this well over $300,000. Although it seems like a great deal of percentage, this $50 is less than $30,000 a year for the entire Board of cost of living increase. He wanted to make sure that this is known because the direction that has been put by the paper, by some of the writers, this big raise that the Board is getting, it is not a raise, it is a catch-up of the cost of living.

Director Poltl stated that he wanted to comment on that to say that certainly there are ways to, should they, hopefully they will get to the point where they give the employees a raise, they could also have a chance to compliment the per diem as well. But the per diem was never meant to be a living wage, they are to assist to make their time worthwhile whether it’s 20 minutes or 24 hours.

Director Ferguson asked to hear the motion again.

Director Martin asked for a read from the minutes.

Legal Counsel Scott stated that the motion was not to accept any increase at this time.

President Hernandez asked Director Martin if he would mind modifying the motion to exclude the San Marcos Economic Development Council and the San Diego North Economic Development Council so that these could be voted on the one and then discuss the other as a second.

Director Martin stated he didn’t know there was a part of one.

General Manager Lamb stated they didn’t need to; they can just take their vote on this one. If it fails, he will ask for a second motion on the second portion.

Ordinance No. 179 - The roll call vote was as follows:

AYES: Evans, Ferguson, Martin, Poltl, Hernandez
NOES:
ABSTAIN:
ABSENT:
General Manager Lamb stated that as he said at the beginning, the hearing was for the purpose of the ordinance with respect to the per diem. The Board does need to take consideration of Ordinance No. 179 at the normal rate per diem of $150, which is not changed, and to accept Ordinance No. 179 adding San Marcos Economic Development Council and the San Diego North Economic Development Council as approved meetings per previous discussion.

Director Martin stated that he thinks he is the one who is on the San Marcos Economic Development Council and he would not request it, their meetings are on the same day as the Board meeting, so he didn’t think this needed to be put on this.

General Manager Lamb stated that it is an approved meeting and if the meeting does change to a different day, then that would be appropriate.

Director Poltl asked what is on the table.

General Manager Lamb stated approving Ordinance No. 179 adding San Marcos Economic Development Council and the San Diego North Economic Development Council as approved attendance for meetings.

Director Poltl stated that he didn’t feel that they have any value to the water district, he wouldn’t vote for these.

Director Martin stated that he disagreed with Director Poltl and thinks a major part of this Board’s job now and in the future is going to be outreach, public relations, especially when talking indirect potable and direct potable. All these things are going to be coming up; he thinks Directors need to be involved on Boards and others than this for the good of the water district, not for their own good. It would be up to the water district to get the word out and be in positions of authority so when these questions start arising, and they have already started rising, that they can put answers and quell them. He further stated that just this weekend when they were saying it’s so important when the naysayers jump up that we’re able to overcome the naysayers. Where if you’re not there, you can’t overcome it. They need to be with the other leaders in the community, in his opinion.

13-03-10 MOTION WAS MADE by Director Poltl, seconded by Director Ferguson, and carried 2-3, to reject offering per diem for San Marcos Economic Development Council and the San Diego North Economic Development Council.

Ordinance No. 179 - The roll call vote was as follows:

AYES: Ferguson, Poltl
NOES: Evans, Martin, Hernandez
ABSTAIN:
ABSENT:

Director Ferguson requested clarification on the roll call vote.

General Manager Lamb stated the Ordinance passed 3 – 2.
Director Ferguson clarified that it will be for per diem because Hernandez, Evans and Martin voted for it to be a per diem item.

General Manager Lamb responded that's correct.

Director Martin stated that because it was approved doesn't mean they have to take it; they don't have to write it down.

General Manager Lamb stated that is absolutely correct. He further clarified that if they attend more than one meeting per day, they are only entitled to one per diem.

**ACTION ITEMS**

**CONSIDERATION OF ORDINANCE MODIFYING ORDINANCE NO. 161, REIMBURSEMENT AGREEMENT POLICY**

General Manager Lamb stated that at the last Committee meeting, this item was brought before them for the reimbursement agreement policy. The Board did look at the numerous items that were presented for discussion. This item is before them today for consideration and action.

Mr. Michael Hunsaker, member of the public, addressed the Board stating that his is now speaking from the positions of the Property Owners Defense League and of the Twin Oaks Valley Property Owners Association and a number of other people in the Lake San Marcos area. He stated the outlying areas are very concerned about redevelopment and infill development built inside the city from which they will receive no benefit. And they think that any payments, reimbursements for improvements that they don't directly benefit from, is to be avoided. He is very much against the idea of removing the section where reimbursements were to be ineligible for development and redevelopment. He thinks this was an appropriate point that the people who are going to benefit should pay for the benefit and any reimbursements to redevelopment and development are subject to a great deal of manipulation, which concerns them in this day and age. He stated the other item is the reimbursement schedule rate. It has an escalator based on a construction cost index which is not capped. The developers, when they were in the workshops, were complaining about having to pay increased interest rates and were asking for a fixed rate going into the cost of improvements. If that's the case then maybe it would be appropriate to cap that rate to the rate they are being charged. He stated that again, they do not believe they should be paying for someone's voluntary discretion and make involuntary ratepayers pay for the costs. He thanked the Board.

Director PoltI stated that they went over this bit by bit in their Committee meeting; they went through it very thoroughly. He didn’t want him to think they were just seeing it for the first time. He asked General Manager Lamb to explain the 5.3 by the District reimbursement and is a little confused. He remembered the discussion they had, but he thought they all agreed the District was going to pay first.
General Manager Lamb stated that this was the one that the change had been requested by Director Hernandez. Over the last two years they went through the selection was that if the District jointly reached a development agreement or reimbursement agreement with the developer, the way it was written here is because they are committing public funds into a private enterprise. If there were any reimbursements, the District should be reimbursed first. Because the District has taken public funds into a private, the District should get the money back first to make sure the public is protected. What was presented by Director Hernandez was that the District would share the reimbursement to the life of the document on a 50/50 basis. The discussion was brought up on what would be an example that the District would actually share, because there are other provisions where, if the District makes a developer oversize a pipe, his preference is that when they complete it, if the District has the money, a check is written; it is paid off. He provided an example of the last time the District had this scenario - any type of cost sharing or incentive. When the Board was discussing this and this came up if it was even reasonable anymore – would it happen. He concurred at that point that this section be taken out that would not have any impact on the District.

Director Poltl stated that he recalled this now.

Director Martin stated that when he got here, and he didn’t receive it today but he did get it and looked through it, a communication from Integral to Mr. Hernandez. He stated he met with Lance Waite, he thought the last time was about a year ago, and it was on a very specific City project in the City of San Marcos; nothing to do with water whatsoever. He further stated that the first time was about 15 years ago when he was actually going to do some work with the Boys and Girls Club and add a teen center. Over the years he has seen him but he hasn’t talked with him about water. He asked if this was the kind of disclosure that Jim needed him to do for everybody. He stated he will, he doesn’t have a problem with it.

General Manager Lamb stated that he will be addressing this later when they get to item 3.4.

Director Martin stated that he had a question on 3.3. He asked for it to be explained again – all that shows on that was the examples of eligible projects, which are being stricken out.

General Manger Lamb confirmed yes.

Director Martin asked that 3.5, non-eligible, which is being stricken out.

General Manager Lamb confirmed yes.

Director Martin asked that 3.6, “and acquisition” is the only thing being added. Is that something the Board wanted or he wanted?
General Manager Lamb stated that is was actually something that he caught as he was going through it. It did not have the proper name of the document that is associated with the reimbursement agreement, so he just added it in.

Director Martin stated that was fine. He further asked about 5.1, term of agreement, he didn’t know what the blue lines crossed out meant.

General Manager Lamb stated that is the Assistant General Manager’s edits to his changes. He further stated that this is the question that relates to Mr. Hunsaker’s comment. The concern by the Board by taking out the sample projects, the intent was for the homeowner so they recovered it; it allowed them to recover 5 1/2%, but when that is thrown into a developer driven project, 20 years at 5 1/2%, the money coming back is almost tripled. The Board’s direction was to say no, it would be based up an Engineering News Record (ENR), the Los Angeles index. The way the reimbursement is done is the day the Board approves it, if the reimbursement was done eighteen months and three days into it, they would take the ENR index at that point. If it was done at seventeen years, they would take the ENR index at that point. It’s a moving index.

Director Martin clarified that 5.3 wasn’t needed.

General Manager Lamb confirmed yes.

Director Martin asked Legal Counsel that, with the disclaimer he gave, could he vote on this issue tonight.

Legal Counsel Scott responded yes. The disclaimer issue is whether or not it’s a source of income to him personally. He didn’t see that it was an issue on this.

13-03-11 MOTION WAS MADE by Director Martin, seconded by Director Poltl, and carried unanimously, to approve the Ordinance.

Ordinance No. 180 - The roll call vote was as follows:

AYES: Evans, Ferguson, Martin, Poltl, Hernandez
NOES:
ABSTAIN:
ABSENT:

VALLECITOS APPOINTMENT TO THE SAN DIEGO COUNTY WATER AUTHORITY BOARD OF DIRECTORS

General Manager Lamb stated that that as directed by the President, this item was brought forward for discussion. A sample resolution was provided which was copied off of the resolution used by the District when he was placed as the appointment to the Water Authority. This is presented for Board direction.
President Hernandez stated there was discussion early on as to putting a Director on the Board replacing the Manager. That discussion has taken place both here at the Board and at Committee and is being brought forward tonight to see if that nomination wants to be continued, and if so, who and then they will vote on it. He stated he was the one that had nominated Director Evans for that particular position.

Director Poltl stated he doesn’t think that there is a more important position for the member of this District to be on. He doesn’t think there is a more important position than being on the San Diego County Water Authority (SDCWA). With that, that person who is there represents the entire Board, the entire Vallecitos Water District and all of their constituents. Given that, that is the most important position because that’s the people that we buy our water from, that’s the people that make decisions on anything from infrastructure changes, cost of this, that and the other. You have got to know your stuff. You’ve got to have background in the industry, you’ve got to know the culture, what goes on down at the SDCWA, who represents who, there is all sorts of political spat and games that go on down there, and you have got to have a real good background in water. So with that, he would feel that if they had somebody down there who didn’t have that background, that would be a misrepresentation of the Vallecitos Water District. He stated that as long as he’s been here, and before that, it was common practice to send their best person down to those Board meetings, regardless of whether or not they were an elected official. The General Manager went down a lot, those meetings take up a lot of time, they need camaraderie, you’ve got to know history of other districts, how you fit in and what you can and can’t do. He stated that he doesn’t think, from his perspective, that it’s important that they have an elected representative down at the SDCWA. He thinks that what they should have is the best person for the job. So with that, it’s either going to have to be somebody on the Board who has a good background, expertise, time in on the job, or it’s going to have to be the General Manager.

Director Martin stated that he really could not agree with him more. It should be someone with experience that goes down and represents Vallecitos Water District. He agrees with him 100% more. But in lack of that being possible, because people aren’t volunteering to do it, he still does believe that it is a policy maker position, not a staff position and never the two shall mix. He thinks that his understanding is the General Managers have many, many meetings and to use a similitude to what he was told by Committee meetings, that’s where the sausage really gets made. And on the Board, yes you do make friends over years and he understands that in groups like that and that takes time. But you would rather have the most experienced person, he does not disagree, as a policy maker, as an elected official. That is an elected position on his part and his part to represent the people of the City or people of the District, in this case. His nomination, the first time around, was based upon it should be a policy maker. That whoever he or she is, would be the person that Dennis would confide in and work with and he would still do his job as far as Jim behind the scenes. That doesn’t change at all. And the education from that policy maker comes from the General Manager. He stated that he just sees it as an elected official, as a policy maker more than a staff position.
President Hernandez asked Director Ferguson if she had anything to add.

Director Ferguson stated that she didn’t dare comment because she wasn’t asked if she would be interested in the position.

President Hernandez stated that originally he made the nomination to have Director Evans take that and will continue that nomination. Director Martin stated he seconded the motion.

13-03-12 MOTION WAS MADE by President Hernandez, seconded by Director Martin, to nominate Director Evans.

Director Evans stated that she would like to say that although she doesn’t have historical background Jim is talking about, she appreciates what he is saying very much. She stated she asked for this position because she felt it was important and she also felt like she would expect to have a great relationship with their General Manager and be hand in hand with her in whatever decisions had to come forward. She does know that General Managers do have a meeting as well, so there is a lot of work that is done ahead of time. She stated she would like to say that Mr. Hernandez did not ask her about this position. She asked him before she was even seated on the Board and she thinks she can do a very good job. Will she be as great as the person who has all the knowledge about water? No, but there is new people on there. In fact the Board has 47% new members right now. It’s a great time to jump in because they are all in a learning process. She stated she would appreciate his support as her Board member.

Director Poltl stated that his comments were not about her. It’s just merely about the position and the type of person that he thinks it needs down there. And while there may be a lot of new Board members down at SDCWA, he would probably say there is not many that this is their first year in the water industry.

Resolution No. 1417 - The roll call vote was as follows:

AYES: Evans, Martin, Hernandez
NOES: Ferguson, Poltl
ABSTAIN:
ABSENT:

CALL FOR NOMINATIONS TO THE LOCAL AGENCY FORMATION SPECIAL DISTRICTS ADVISORY COMMITTEE VACANCY

General Manager Lamb stated that at the Board meeting where the new Board members were being seated and the committee selections were made, the contact that we had with LAFCO on the replacement of the position for the Special District Advisory Committee, the information provided was that it could be revised or appointed. After staff spoke with LAFCO, they said that it is an elected position and would have to come back to the election committee. If they had had a vacancy and a person that was second that had been nominated for the position, they could move that person into the
vacancy and that would have taken care of it. But in this case, that position had already been moved into another one so they couldn’t have the vacancy position to move it. The item before them today is a nomination form if the Board’s choice was to nominate Director Evans per what the initial Committee appointment was. This nomination would then be transferred to LAFCO. LAFCO indicated they would support that position.

13-03-13 MOTION WAS MADE by Director Martin, seconded by Director Poltl, and carried unanimously, to nominate Director Evans.

APPROVAL OF AGREEMENT FOR CONSTRUCTION OF FACILITIES FOR PALOMAR STATION – ARMORLITE DR. AND LOS VALLECITOS BLVD. IMPROVEMENTS (INTEGRAL PROJECT OWNER II, LLC)

Jason Simmons, member of the public, addressed the Board stating he was representing Integral Alliant Communities. They are the ones building Palomar Station. They have the pipes out there for drainage right now, they are under way, they got their grading permit several weeks ago, and they are on a 16-18 month building schedule to get to first occupancy. He stated this is pretty straight forward. He thanked staff for all their work. He stated he is here mostly to talk about all the other kind of items going on with the District with regard to potential ordinances and what not and ask, he sent a letter separate from the previous letter from Aliant Integral, and just wanted to ask that any future ordinances that might get changed, because they are not going to be taking occupancy for another potential year and a half or longer, would apply to them at that moment. Again, nothing specific at this moment except that he would like to have that consideration. He is not asking them to take any action on that, just to consider it. He stated he could explain a little further or could take questions, if they have them, or could sit down and let them finish.

General Manager Lamb responded there will not be any action taken towards his letter today. It has been taken for information and consideration.

President Hernandez responded to Mr. Simmons stating that it would be most appropriate to let them digest this and put it on a future agenda of any kind and will get back.

Director Martin asked “verbiage unintelligible”. Maybe need to get back to “verbiage unintelligible” at a different time. But how to “verbiage unintelligible” that are in the pipeline, so to speak, are they affected by this ordinance?

General Manager Lamb stated he would get to each of these items because this letter before them today, he started to highlight the part that he needed to address, and he needs to address the whole letter.

President Hernandez clarified if that would be under the General Manager’s portion.

General Manager Lamb stated he would do that now as part of the project. He stated that, as Jason indicated, this is the project adjacent to the District. What they have
before them today is just the recommendation to approve the project. All fees have been paid in accordance with policy. They did in fact pay their sewer capacity fees up front, as indicated here. They have paid all the water capacity fees as required per policy. Based upon that itself, staff would recommend approval of the project.

General Manager stated on the letter, they did receive this last Friday. When it came in, it was forwarded to them by email. He also provided a hard copy to them because some were out of town over the weekend at the WateReuse Conference. He stated he would start with the very beginning; is the statement is that, as they recall, Integral is required to pay the Palomar Station sewer capacity fees to avoid additional fees that may impact their project. General Manager Lamb stated they weren’t required to do anything. They made a decision. This actually came into play with Mr. Simmons Sr. several months back when he was starting to approach the District on a way of getting commitment of capacity without paying the fees. In other words, they wanted to get a commitment from the District for the entire project now without making payment of the fees so that when the ordinance did kick in, they would not be subject to it. There were a variety of conversations that Counsel and himself had with Mr. Simmons towards some options they were talking about. He stated he was speaking to the Chair about that as it was going on - everything from putting up property as collateral to a variety of things. They were offered several alternatives which would be to put the money in the bank, leave it in a trust to where as soon as they pulled the permit, we would get paid. That way we know the money is in fact there. The bottom line is they chose to make payment, so they did pay their sewer fees up front. They were not forced to do it nor were they obligated to.

General Manager Lamb stated that the next one, he’s not quite sure where the information comes from under this “that the understanding of the Board is the process of studying the necessity of the ordinance and at the same time the timing of collection of fees”. He stated that what we’ve been directed to do back in January at the January 7 Committee workshop, there were five items that the Board talked about and they’ve all been brought forward to the Board. The one that they are going through right now they will be hearing again on March 25th is the second part of just the Master Plan and the determination of how the fees were collected. He stated that he has not been directed to provide anything with respect to rescinding an ordinance. There was no conversation on timing of payment of fees. That has not actually come to discussion until the recent discussion with the Chair and the City of San Marcos. That came up as a topic in that conversation. Had not discussed that in any other meeting and that he will be meeting with the City Manager on Friday to go over the topics for the joint meeting. That’s an item of discussion there. So where that information is coming from, he doesn’t know.

General Manager Lamb stated that as far as the hearing scheduled for March 20 to consider the fate of this ordinance, again he isn’t sure and cannot tell them where this information came from. We received a letter on the 15th yet they indicate they will be participating in the workshop scheduled on the 11th. Again he isn’t sure of the timing or how that information came into the letter.
General Manager Lamb stated in the 3rd paragraph, given the project’s building schedule would require approval at the March 20 and the payment of the water capacity fees. We agree that payment is required in accordance with current policy. When the Board took action two years ago modifying the timing of the payment of the capacity fees, one of the issues was when you have a development like this, it has a master meter. For one year, this serves all the area. Whey they pay the fees, they have to pay for the meter for the whole project. You can’t pay for five gallons per minute when you pull one building permit the way we allow the sewer. Sewer can be paid in phases. That is what the Board approved. If they are going to pull a building permit for 15 units, they pay the sewer fees for 15 units. You can’t do that when you have a master meter; you have to pay for the meter. The policy requires when you want approval of the project, you guys are putting the service in, as far as the project your pay the fees. Again, he is not quite sure where it says “it puts them in a difficult position”, that’s compliance with policy. They actually had the fee amounts and all that information back in February of last year. This is not something new that has just come up. They have paid all their sewer fees to comply with the ordinance. That may well be repealed. Again, there are statements made in the letter, he has not been directed by the Board to consider repealing any ordinance, so he is not quite sure where that information comes from. They did pay their $1.3 million as required for their project, as required by policy. And they indicate that they’ve been forced to pay and comply with ordinances that should change within two months if approved by the Board. Again, he doesn’t know where this information is coming from. He has not been directed to bring any ordinance back before the Board for consideration of repeal or modification. He stated then they get into the issue of whether its competitive disadvantage. To be honest, that’s the development’s issue on whether or not they’re competitive.

General Manager Lamb stated that “we respectfully request that you repeal the densification ordinance at your March 20th meeting” was not on the agenda, has not been proposed. He did send a letter to Mr. Waite on October 20th of last year, from him, indicating that we have received payment in full and he would no longer be subject to any future densification fee because he has complied with the policy in effect at the time, therefore, he’s committed. There is no impact. So why there’s a request to withdraw that densification policy, he isn’t quite sure. He stated then the next item “postpone payment of the capacity fees until the Board has had the time to consider the new trigger points for payment of fees”, this is the fourth time he’s said that with this letter, nothing has been directed to him in April or May of this year to bring that policy back to the Board. It has not even been discussed by the Board; it’s only been brought up as a topic of discussion at the joint meeting between the Chair and the Mayor when that meeting took place.

General Manager Lamb stated that with respect to the Board, if they decide again to withdraw it, there is nothing to withdraw nor does it affect Palomar Station because they have in fact paid the fees and they do have a commitment letter from him, signed by him, indicating that it no longer applies to their project because they paid them ahead of time. They just “verbiage unintelligible” the District “verbiage unintelligible”. He stated to the Board he’s not sure if they have any questions on the letter, but he believes the letter turned in today is very similar, they are asking for the construction. If the Board at
some point, he will tell right now, the policy of the District, once fees are paid, they are nonrefundable, nontransferable. Especially when you have the project sitting right next door and it does have a commitment with building permits being issued. He stated that staff would be happy to answer any questions if they have any questions. Staff recommended approval of the project.

13-03-14 MOTION WAS MADE by Director Martin, seconded by Director Poltl, and carried unanimously, to approve the construction agreement.

REPORTS

GENERAL MANAGER

General Manager Lamb stated that he provided the Board a disk with a copy of the Master Plan and capacity fee workshop presentations made through all the two years’ worth of meetings with the developers, the BIA and everybody else. They have the minutes that were taken at each one of those meetings plus statements and answers back. The sign-in sheets for who attended the meetings were also provided. This will give them an idea of who was there, what was asked, what our response was, and that builds at each one. If you look at all those PowerPoint presentations, you will again see history in each one and then they go from there. Because we were always going back and answering questions and telling how we go there. At the last Committee meeting, after going through a few of the presentations, the meeting was adjourned after being into the meeting over four hours. It has been adjourned to the 25th. He stated the Committee meeting is scheduled for 1:00 p.m. and asked if the Board could modify and make it at 12:00 instead of 1:00. He stated that Counsel has requested as he has a commitment in the afternoon.

The consensus of the Board was to modify the meeting time to 12:00 p.m.

General Manager Lamb, referring to the presentation by Maureen Stapleton and Tom Wornham, stated that what they didn’t do on one of the slides was show them the value of the projects. What the ESP and what has been built in San Diego County since 1998ish, when they approved ESP, it’s been about $2.7 billion dollars in six projects. The one, someday if they ever get the chance, and if they will still let them take tours, is the hydroelectric station at Lake Hodges. It has ten stories below ground and is a very impressive project.

DISTRICT COUNSEL

Legal Counsel Scott reported on a current ruling by a Santa Clara Judge that the City of San Jose must provide the City officials’, including the Mayor and City Council members’, all private text messages, emails or other electronic communications about City affairs including between each other. This ruling requires them to produce private emails and text phones under a public records request. This is not an appellate decision yet, and the City will likely appeal it, but the City Attorney couldn’t say whether they were going to appeal it or not. The City Attorney did note that it has statewide
implications and could be troubling on both practical and privacy grounds.

Legal Counsel Scott also reported on the City of Bell’s elected officials stating they were convicted of multiple counts of misappropriation of public funds.

Director Martin addressed Mr. Scott stating that he understood someone told him that they received a memo from him today.

Mr. Scott responded yes, it’s confidential and hope they had an opportunity to read it and follow the advice.

SAN DIEGO COUNTY WATER AUTHORITY

General Manager Lamb stated that Director Evans also attend the last Board meeting. The Board is reviewing the Cost of Service Study (COSS). The Managers’ meeting was held on Tuesday. The second phase of that meeting included Finance staff for discussion on the COSS. They have a very good consultant on board.

General Manager Lamb stated that with respect to Director Evans, the way the appointment at the Water Authority goes, it does not take formal action on behalf of the SDCWA Board. They will acknowledge at some point that she meets the condition of serving on the Board. The resolution will get sent down to the SDCWA right away. She will be sworn in by the General Manager and Clerk of Board. Once she is sworn in, she is then the representative of the District. The next meeting is on the 28th. If she sworn in before then, she will take her seat on the 28th.

ENCINA WASTEWATER AUTHORITY

Director Poltl reported on the Policy and Finance Committee meeting. Discussion topics included meeting dates for the upcoming year and review of 2012 Comprehensive Annual Financial Report. He stated their Accounting Department has been outsourced and has had great success; it’s been a good move for them.

President Hernandez reported on the Capital Improvement Committee meeting. The meeting included approval for final acceptance of numerous projects, RFP being initiated for major rehabilitation of pipes and items on the facility, RFP for qualifications for their full fuel funding - primarily fats, oils and grease, biosolids being packaged to Home Depot. The product will eventually become a retail product on the shelves.

LAFCO

None.

DIRECTORS REPORTS ON TRAVEL/CONFERENCES/SEMINARS ATTENDED

Director Martin provided an oral report on his attendance to the WateReuse Conference
March 17–19. The conference focused on public outreach, direct and indirect potable reuse, and regulatory affairs. President Hernandez stated that he received a letter from Congressman Duncan Hunter identifying himself as the new representative.

President Hernandez requested the Public Information/Conservation staff as well as all staff involved to step up to the podium.

Director Evans commented that one of the things she was impressed, and Hal mentioned that they talked all about this outreach and she was so impressed coming away with it. She stated our District does an amazing job, the three are doing versus some who have so much money. She stated they are very forward thinking in what they are already approaching. She is very proud.

President Hernandez presented the Public Information/Conservation staff with the WateReuse Association’s California Agency of the Year award bestowed on the District for the Water Academy tours. President Hernandez had accepted the award on behalf of the District at the WateReuse Conference.

OTHER BUSINESS

None.

ADJOURNMENT

There being no further business to discuss, President Hernandez adjourned the Regular Meeting of the Board of Directors at the hour of 6:00 p.m.

A Regular Meeting of the Vallecitos Water District Board of Directors has been scheduled for Wednesday, April 3, 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