REVISED
AGENDA FOR AN ADJOURNED COMMITTEE MEETING OF THE WHOLE
SPECIAL BOARD MEETING OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
MONDAY, MARCH 25, 2013, AT 12:00 P.M.
AT THE DISTRICT OFFICE
201 VALLECITOS DE ORO, SAN MARCOS, CALIFORNIA

CALL TO ORDER – PRESIDENT HERNANDEZ

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.

DISCUSSION ITEMS

1. PRESENTATION ON 2008 MASTER PLAN AND CAPACITY FEE STUDIES

*****END OF DISCUSSION ITEMS*****

OTHER BUSINESS

*****END OF OTHER BUSINESS*****

CLOSED SESSION

2. CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (ONE CASE)
   Urban Villages v. Vallecitos Water District
   San Diego Superior Court Case No. 37-2012-00102327

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 1:00 p.m., Thursday, March 21, 2013.

Diane Posvar
President Hernandez called the Committee meeting to order at the hour of 12:03 p.m.

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

Staff Present: General Manger Lamb
              Assistant General Manager Scaglione
              Legal Counsel Scott
              Director of Engineering and Operations Gerdes
              Administrative Services Manager Emmanuel
              Principal Engineer Gumpel
              Capital Facilities Engineer Scholl
              Water Operations Supervisor Pedrazzi
              Executive Secretary Posvar

Others Present: Rick Gittings
                Michael McDonald
                Paul Metcalf

**ORAL COMMUNICATIONS**

Mr. McDonald said he didn’t have any statement but asked if it’s possible, in the course of the presentation, should questions arise, as members of the audience could they raise their hand and ask a question.

President Hernandez requested the members of the public hold their questions until the end of the presentation.

**COMMITTEE ITEMS**

President Hernandez requested, with consent of the Board, that the Closed Session item be moved to first item.

The consensus of the Board Committee was to move the Closed Session item to first on the agenda.

**CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a)**
**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (ONE CASE)**
Urban Villages v. Vallecitos Water District
San Diego Superior Court Case No. 37-2012-00102327
The consensus of the Board Committee was to move into Closed Session pursuant to Government Code Section 54956.9(a).

REPORT AFTER CLOSED SESSION

The Board Committee reconvened to Open Session at the hour of 12:49 p.m. The Board Committee took no action in Closed Session.

PRESENTATION ON 2008 MASTER PLAN AND CAPACITY FEE STUDIES

President Hernandez stated that this item is a presentation only and that if any member of the public has a statement relative to the presentation, now would be the appropriate time. However, if they have questions, he asked they wait until the end. He further requested they submit their question in writing at this time so they can be addressed following the presentation. No questions were submitted.

Principal Engineer Gumpel facilitated the presentation on the 2012 Capital Facility Fees conducted at the Workshop held on January 25, 2012. The presentation including the following topics:

- VWD’s Capacity Fee History
- Water, Wastewater, and Recycled Water Master Plan
- Summary of Meetings
- 2008 Master Plan vs. 2002 Master Plan
- Master Plan Workshop Highlights
- What is a Capital Facility Fee
- Capital Facility Fee Background
- Calculation of District’s Capital Facility Fee
- Water Capital Facility Fee
- Water Capital Facility Fee Components
- Water Capital Facility Fee Calculation
- Survey of S.D. County Water Authority Member Agency Water Capacity Fees
- Wastewater Capital Facility Fee
- Wastewater Capital Facility Fee Components
- Wastewater Fee Calculation
- Wastewater Flows Update
- Survey of San Diego County Area Wastewater Capacity Fees
- Capital Facilities Fees Recap
- Effects of Density Increases
- Wastewater Density Impact Fee
- Calculation of Wastewater Density Impact Fee
- Impact Fee Approach
  - Examples: Lago de San Marcos, Campus Pointe II, The Quad at CSUSM
- Next Steps
General discussion took place during this presentation.

Principal Engineer Gumpel facilitated the presentation on the 2012 Capital Facility Fees conducted at the Workshop held in February 1, 2012. The presentation including the following topics:

- Master Plan Workshop Highlights
- Calculation of District’s Capital Facility Fee
- Water Capital Facility Fee Calculation
- Survey of S.D. County Water Authority Member Agency Water Capacity Fees
- Wastewater Fee Calculation
- Survey of San Diego County Area Wastewater Capacity Fees
- Capital Facilities Fees Recap
- Impacts of Land Use Changes
- Calculation of Wastewater Density Impact Fee
- Impact Fee Approach
- Next Steps
- Final Changes Including BIA Recommendations

General discussion took place during the presentation.

The presentations were provided for information only.

President Hernandez asked the members of the public if they had any questions.

Mr. MacDonald stated that he thinks they would like to save it for a Board meeting and be able to make it with sort of a PowerPoint which he thinks will make it more understandable what their position is.

General Manager Lamb addressed Mr. MacDonald stating that he was directed by the Board to bring forward a presentation on how staff got here. He stated Mr. MacDonald is aware that he has litigation against the District. For him bringing forward a presentation to defend himself, he would have to recommend to the Board that the presentation not be accepted due to the litigation. He further stated that unless he hears some other action for himself to come forward to the Board again in the future, he doesn’t have anything else for him.

Mr. MacDonald responded to General Manager Lamb stating that he is saying that they can raise an issue in this meeting before the Board even though they have litigation pending, but they can’t have a full Board meeting. He stated they are here today to hear what the presentation is and would like to be able to respond to the information that was presented today. It seems to him whether they do it today when they’re not prepared to make a presentation because they wanted to hear what staff had to say, versus doing it at a Board meeting, seems to him it’s the same group of individuals that
would be present to hear the presentation. It seems somewhat arbitrary to say they can talk today when they’re not prepared or they can talk at the next Board meeting when they are prepared.

General Manager Lamb responded to Mr. MacDonald stating they have the right to comment now; the Board does not have to get into a conversation back and forth on it. This is a discussion of an existing policy that is taking place. If they were to come forward to the Board at some point in the future, they could do that in open session, as a public comment. Unless there is something agendized as a topic of discussion, this would not be a topic on the agenda for them to make a presentation. It would be up to the Board to do that. He stated he believed Counsel and himself would tell the Board not to place it on the agenda due to being in litigation. What Mr. MacDonald would be doing is discussing ongoing litigation in a public forum and he would not support that with the Board.

Mr. MacDonald asked if the Board would have a problem if they were to make a more detailed presentation at a public Board meeting.

General Manager Lamb recommended the Board get feedback from Counsel.

President Hernandez stated yes he’s getting feedback from Counsel but he thinks originally he had mentioned that if there were questions, they would prefer to have those delivered so that they could review them and get answers. He stated they are still holding that opportunity open to them, but if he heard them correctly, in addition to that they would like potentially to have a presentation either before the Board or at this Committee meeting to state a case or state some information. He asked Mr. MacDonald if that is what he was hearing.

Mr. MacDonald responded correct.

General Manager Lamb addressed Mr. MacDonald asking him if he has never seen the information before.

Mr. MacDonald responded they have but they were not aware of exactly what was going to be presented at this meeting.

General Manager Lamb asked Mr. MacDonald but he has seen all this when it was provided to him in the past.

Mr. MacDonald stated that is correct.

General Manager Lamb addressed President Hernandez recommending that if Mr. MacDonald wants to do something, that he ask Mr. MacDonald to write him a letter requesting that and then forward the request to Counsel for his opinion.
Mr. MacDonald asked to then make a brief presentation of what their position has been relative to this densification ordinance.

President Hernandez clarified asking right now.

Mr. MacDonald responded yes and Mr. Metcalf stated very brief. Mr. Metcalf stated they have met with staff a lot and can think of one thing that both staff and they agree on is that the process should be fair. They have no disagreement there. They feel that the way it’s being calculated may have missed something. Maybe they have missed something. One of James’ slides showed that a conveyance and Outfall; that there were no fees left to be collected there. They were all in the CIP.

Principal Engineer Gumpel responded that Outfall is at buildout.

Mr. Metcalf stated Outfall is buildout by 2050.

Principal Engineer Gumpel responded there is no date.

Mr. Metcalf stated o.k, buildout. There is a potential for conveyance perhaps to increase a little bit. They just saw one of the ways here with perhaps the interceptor needed to go from 40 – 42, or something like that so they understand. Then they went to densification fees and they said the densification is the only area, the only reason for densification fees is treatment. Treatment is the whole ball game; that’s what has to be underwritten. If there is no more money needed for conveyance and Outfall, and the only thing that’s needed for densification is treatment, then what happens to the Outfall and the conveyance fees that are collected from the densification? So they had 1,000 units and now they have 3,000 units; there is 2,000 more units. If the Outfall and the conveyance is already paid for, what happens to the extra fees that were collected at that point?

Mr. Metcalf stated one of the other questions, something that he just learned today, was about the Encina Treatment. If you buy a share or something like that, and it’s 24% instead of 22%, then actually all the ratepayers have to underwrite that cost increase until, if he is correct, until the units that would be densification come on and spread it out again. So it would go up in a spike and then it would be spread out over the long run. That’s the way in a very simplistic way that they understand the situation.

Mr. Metcalf stated that one of the ways that they feel is the fairest way to solve the problem and what they think will change the ballgame, as Dennis put it that the luck of the draw here, sometimes you come in at the wrong time and so the fee is higher, they think that what most possibly, most likely and when the 2013 Master Plan, plus or minus, they think that when that new Master Plan comes on that what staff will find is…. Mr. Metcalf showed a graph at this time stating this is a stretcher of densification fees, the conveyance fee, and the land Outfall fees. These land Outfall fees and conveyance fees are the current fees that they pay and the other column is the proposed fee for the
densification. Blue is treatment, conveyance is red and land outfall is green (referencing the chart). What they think will happen when the 2013 Master Plan comes out, and staff uses the same matrix that is used in order to get this fee structure in the first place, is this. That what they’ll find is there will be an incremental increase, but what will happen is the treatment will occupy a big portion of that fee whereas these two (referred to the chart) which have already been paid for by the existing buildout, will now be amortized over more units and therefore the size of that will shrink. So the fee isn’t going to go down and they’re going to probably add a little incremental portion here to the fee but it won’t be the $31.83. It would be perhaps something more like $500. So that’s their belief at this point and is the basis of their understanding and why they’re at odds.

Mr. MacDonald stated they have actually had Dexter Wilson look at the information from the Vallecitos Water District which shows that if the density created by the University District and other similar projects were incorporated as part of the planning, that because of the fact that the densification fee is not properly accounting for the Outfall and the conveyance, that taking the total amount of capital costs that the standard fee, based upon increase density of units which will come on line, would stay about the same and possibly even reduce the overall standard fee slightly. In which case, the District will be generating enough fees with their standard fee that they don’t need a densification fee. With their standard fee, they generate enough fees to pay for the capital costs that are being projected.

Director Martin asked if it would be too much to ask the gentlemen to submit to the Chairman in writing and ask their questions and have staff respond; is that normal?

General Manager Lamb responded that is the litigation. He just gave his side of the litigation in an open session.

Director Martin stated so we in the future could have a closed session to ask about that?

General Manager Lamb responded absolutely. He further stated he will be bringing it forward in a closed session that it can be discussed.

General Manager Lamb suggested to Mr. MacDonald that he put it in writing and send it to the Chair and an appropriate response will be done.

President Hernandez confirmed to Mr. MacDonald that he send a letter to him relative to the last comment and he will connect with the attorney.

Mr. MacDonald stated he would like to make an observation. One of comments that was there was lots of communication going on back and forth between the District and the BIA. And the issue is yes there were a lot of meetings. Most of the meetings were prior to the Atkins Study and that the assumptions, up to that time, all of sudden change and which was one of the motivations of hiring Atkins as a consultant to relook at the
assumptions. When the Atkins Study came out, there was not the same opportunity to
have the same give and take, contrary to what was said. They twice went before the
Board and said they had some serious concerns about the assumptions that were
made, much along the lines of what they just said. And they were ignored and they
have not been responded to. So it concerns him a great deal when staff is saying he
can make a presentation to the Board in writing but then it goes into closed session and
they can’t have an ongoing conversation of this nature.

General Manager Lamb responded to MacDonald stating he is suing the Water District.
He doesn’t know how to make that any more clear; he is suing the District over a fee
structure. He further stated he disagrees; very clearly Atkins was brought on in a
planned process, Atkins was not brought on to change or look at modified assumptions.
Atkins was brought into the process in a normal fashion of when this stuff is done. They
disagree with one another, that’s the bottom line here. He stated Mr. MacDonald has
an opinion and he disagrees with it with everything the District has done. That’s where
it’s at. He is not going to recommend to this Board that they come before him and
discuss litigation in an open session. This is not an issue of hiding something or not
willing to discuss anything. The District is being sued by him. He surely isn’t going to
recommend to elected officials and legal counsel that they sit in an open meeting and
discuss it. He stated to Mr. MacDonald that if he directs a letter to the Chair and the
Chair directs him to come back to talk about some other thing that he wants him to look
at, he will be more than happy to meet with him and do what the Board directs him to
do. He stated to Mr. MacDonald that he is not going to ask the Board to meet with him
in public and discuss a lawsuit. That is out of the realm of reasonable.

Mr. MacDonald stated they will present a letter to the Board with their position.

Director Ferguson clarified to the President that he would want the letter presented to
him and not the Board.

President Hernandez confirmed to Mr. MacDonald to send the letter to him and he will
get it to the attorney and will get directed appropriately.

Director Martin stated that he thinks the entire Board should be presented the letter if
that’s who he wants to send it to.

General Manager Lamb stated that usually a letter is written to the Chair and then the
Chair will pass it out to the Board.

Director Evans clarified he will write it to the Chair and the Board of Directors.

General Manager responded yes.
OTHER BUSINESS

Director Martin stated that they talked about an MOU in closed session not too long ago. He would like to bring that back for another closed session ASAP. He asked the Chairman to please agendize it and in open public. The next available time they can do it.

ADJOURNMENT

There being no further business to discuss, President Hernandez adjourned the Board Committee meeting at the hour of 3:35 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