

RESOLUTION NO. 2012-1956

**A RESOLUTION ESTABLISHING A POLICY GOVERNING THE USE OF
ELECTRONIC COMMUNICATIONS AND DATA DEVICES BY BOARD
MEMBERS SUBJECT TO THE BROWN ACT DURING PUBLIC MEETINGS**

LAS GALLINAS VALLEY SANITARY DISTRICT

WHEREAS, advances in technology allow the use of electronic messaging, data processing and other functions on portable electronic communications and data devices which are generally intended for viewing primarily or solely by the individual using the device; and

WHEREAS, portable electronic communications and data devices allow electronic messaging, data processing and other functions to be carried out during public meetings by individual legislative body members without necessarily making messages and other information available to other members of legislative body and/or the public; and

WHEREAS, the Board of Directors desires to permit and promote utilization of technology to ensure efficient and effective conduct of the people's business, in accordance with applicable law, and to reduce cost, waste and environmental impacts from printed copies of legislative body agenda materials; and

WHEREAS, the Board desires to ensure full compliance with the mandates of the California Constitution, art. I, §3(b)(1) and the Public Records Act and Ralph M. Brown Act regarding public access to government information and the open and public nature of public meetings and

WHEREAS, the Board desires to ensure that adjudicatory hearings conducted proceed in the manner required by law, including consistent with due process rights of interested parties;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Las Gallinas Valley Sanitary District as follows:

1. The Board permits and promotes the utilization of technology to ensure efficient and effective conduct of the people's business, in accordance with applicable open meetings and records laws, due process rights of interested parties, and other applicable law and District policy, and in the interest of reducing waste, supply costs and environmental impacts.

2. The use of portable electronic communications and data devices, including, but not limited to, laptop computers, cell phones, tablet computers, pagers, and similar devices, by members of Board subject to the Brown Act during the public meetings of the body shall generally be limited to viewing publicly available agenda materials and materials contained in the record before the entire body.

3. Use of portable electronic communications, and data devices by members of the Board subject to the Brown Act during public meetings of the body shall comply with the requirements of all applicable laws and District policies, including the requirements of Article I, section 3, subdivision (b) paragraph I of the California Constitution, the California Public Records Act (Gov't. Code §6250-6276.48), the Ralph M. Brown Act (Gov't. Code §§54950-54963), due process rights of interested parties in Board proceedings, and the following District policies and procedures.

4. Members of the Board subject to the Brown Act may not use portable electronic communications and data devices at public meetings of the body in any manner or for any purpose prohibited by law or District policy. In particular, but without limitation, electronic communications and data devices may not be used at public meetings by Board members in any of the following ways:

a. in violation of the requirements of the Ralph M. Brown Act, such as by sharing communications among a majority of the legislative body privately and separate from the public discussion at the meeting.

b. in violation of the requirements of the California Public Records Act, such as by transmitting to a majority of the legislative body information connected with a matter subject to consideration at the meeting, which information is not available to the public.

e. in violation of due process rights of interested parties at adjudicatory hearings, such as by consideration of information not a part of the hearing record, or by use of an electronic communications and data device so as to result in inattention to the record and/or proceedings before the body.

5. In addition to the restrictions on the use of electronic communications and data devices by Board members under the Ralph M. Brown Act, the California Public Records Act, and the due process guarantees under the U.S. and California Constitutions, members of the Board subject to the Brown Act may not:

a. during a meeting of the body, receive electronic communications from, or send electronic communications to, any person, (including, but not limited to, members of the public, District staff, other Board members, and parties to District proceedings) except as permitted in Section 6, below.

b. use an electronic communications or data device to access the internet or other file-sharing means, except as necessary to access electronic agenda material for that meeting that is similarly available to all members of the body.

6. Members the Board subject to the Brown Act may use electronic communications and data devices at public meetings of the body to receive and send communications regarding emergencies, such as family emergencies. Members receiving/sending such communications should coordinate with the member presiding over the meeting as needed under the circumstances so as to respond to an emergency as needed and to ensure compliance with open Meeting, open records, due process and other applicable laws, rules and policies including this policy.

7. District staff are authorized and directed to ensure that the requirements of this policy are incorporated into the Board policies when such rules are next reviewed and updated. Until such time as the Board policies are next reviewed and updated, this policy shall be deemed incorporated in and applicable to the procedural rules. The Board will conduct its business consistent with the requirements of this policy, and may adopt or enact no rule, policy, procedure or practice that conflict with any of the requirements of this policy. Any such rule, policy, procedure or practice that conflicts with any of the requirements of this policy shall be void and of no effect.

8. This resolution shall become effective on its adoption.

9. All portions of this resolution are severable. Should any individual provision or portion of a provision of this resolution be adjudged to be invalid and unenforceable, the remaining provisions and portions of provisions shall be and continue to be fully effective, except as to the provision(s) and/or portion(s) of provisions that have been judged to be invalid.

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I hereby certify that the forgoing is a full, true and correct copy of a resolution duly and regularly passed and adopted by the Sanitary Board of the Las Gallinas Valley Sanitary District, Marin County, California, at a meeting thereof held on August 16, 2012, by the following vote of the members thereof:

AYES, and in the favor thereof, Members: *Clark, Greenfield, Hoder, Murray, Schriekman*
NOES, Members: *None*
ABSENT, Members: *None*
ABSTAIN, Members: *None*

ATTEST:

Carolyn A. Memmott

Carolyn A. Memmott, District Secretary
Las Gallinas Valley Sanitary District

APPROVED:

Russ Greenfield

Russ Greenfield, Board President
Las Gallinas Valley Sanitary District

(SEAL)

