

REC'D BY CLERK RECORDED 04/02/2013

**MINUTES OF THE
CITY OF SANTA FE & SANTA FE COUNTY
BUCKMAN DIRECT DIVERSION BOARD MEETING**

February 7, 2013

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor Chris Calvert, Chair, at approximately 4:05 p.m. in the Santa Fe City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll was called and the following members were present:

BDD Board Members Present:

- Councilor Chris Calvert
- Commissioner Kathy Holian
- Ms. Consuelo Bokum
- Commissioner Miguel Chavez [late arrival]
- Councilor Patti Bushee, alternate [late arrival]

Member(s) Excused:

- Councilor Carmichael Dominguez

Others Present:

- Nancy Long, BDD Board Consulting Attorney
- Steve Ross, County Attorney
- Erika Schwender, Acting Facility Manager
- Gary Durrant, BDD staff
- Brian Snyder, City Public Utilities
- Rick Carpenter, City staff
- Pego Guerrerortiz, County Utilities

[Exhibit 1: Sign-in Sheet]

3. APPROVAL OF AGENDA

[Exhibit 2: Agenda]

Upon motion by Commissioner Holian and second by Member Bokum the agenda was unanimously [3-0] approved. [Commissioner Chavez and Councilor Bushee were not present for this action.]

4. APPROVAL OF CONSENT AGENDA

Commissioner Holian moved approval of the Consent Agenda and Member Bokum seconded. The Consent Agenda was approved without opposition. [Commissioner Chavez and Councilor Bushee were not present for this action.]

5. APPROVAL OF MINUTES: January 3, 2013

Commissioner Holian moved to approve the minutes as published. Her motion was seconded by Board Member Bokum and passed by unanimous [3-0] voice vote. [Commissioner Chavez and Councilor Bushee were not present for this action.]

6. MATTERS FROM STAFF

ERIKA SCHWENDER (Acting Facility Manager): Chairman Calvert, member of the Board, I would like to give you a brief update on the hiring procedures that are currently taking place at the BDD. We successfully now engaged two new BDD operators. They started working for the BDD this week. We have one additional BDD operator position that is vacant and will be posted within the next week.

The safety and training officer position has closed and we have invited four candidates to participate in the work-use testing, and we gave those eligible candidates to complete this process because we have two out-of-state candidates and two in-state candidates. So we anticipate possibly scheduling interviews for that position in early March.

The facility manager position also closed yesterday and HR is in the process of evaluation the applications. That is all I would like to say.

CHAIR CALVERT: Thank you.

CONSENT AGENDA

- 7. **Update and discussion of BDD Operations (Gary Durrant)**
- 8. **Request for approval of contract Amendment No. 3 to the PSA between the Buckman Direct Diversion Board and Harwood Consulting, LLP for specialized legal, environmental and permitting services for the amount of \$25,000.00 plus \$2,046.87 (NMGRT @ 1875%) for a total amount of \$27,046.87 (Rick Carpenter)**

INFORMATIONAL ITEMS

9. Presentation and status update on collaborative efforts between the BDD Project and NM Wildlife Federation for habitat restoration near the BDD intake along the east bank of the Rio Grande (Rick Carpenter and Todd Caplan)

RICK CARPENTER (City Staff): Thank you, Mr. Chair. Good afternoon, members of the Board, staff thought it might be time to give a brief update on the efforts for habitat restoration that we're required to do pursuant to the NEPA environmental documentation, primarily seven acres of riparian habitat down near the river. That has been temporarily suspended pursuant to an appeal of a related EA that the New Mexico Wildlife Federation is advancing, however, work that's unrelated to the riparian habitat, Mr. Chair, continues. And with that I'd stand for questions.

CHAIR CALVERT: Okay. Anybody have any questions?

COMMISSIONER HOLIAN: Mr. Chair, I have a question.

CHAIR CALVERT: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Rick. So are all efforts on hold right now while the appeal is going forward?

MR. CARPENTER: Mr. Chair, Commissioner Holian, no, not all efforts. Efforts that are directly related to the habitat restoration and the river that's indirectly related to the appeal, that is on hold. But the other things that we're doing, we're continuing with our technical support and cooperation with the federation and with BLM and with the Forest Service. The project that we call water for cows, which is putting up the fencing and the new drinker for the cattle and the wildlife, that is progressing as well. So where we can proceed we are proceeding, Commissioner.

COMMISSIONER HOLIAN: It mentions here in the memo that the forestry treatments are going forward. Are they occurring now as well?

MR. CARPENTER: Commissioner Holian, the Wildlife Federation's forestry treatments are scheduled to move forward as soon as the appeal is resolved, assuming it is resolved. The Buckman Direct Diversion portion of the forestry treatments will not be able to move forward because we've now missed our window of opportunity for this winter, so we'll have to wait till the next season rolls around, late fall of next year, to start our part of that.

COMMISSIONER HOLIAN: Okay. Thank you, Rick.

CHAIR CALVERT: Any other questions? Thanks, Rick. Welcome, Councilor Bushee and Commissioner Chavez.

COUNCILOR BUSHEE: I still have a question on #9.

CHAIR CALVERT: Go ahead.

COUNCILOR BUSHEE: The appeals that have been thrown in the mix, did you give an answer to that? Wasn't 9 the restoration project? The park, or whatever you call it?

CHAIR CALVERT: Yes.

COUNCILOR BUSHEE: So did you answer a question about where the appeals were at on that?

CHAIR CALVERT: Go ahead, Rick.

MR. CARPENTER: Mr. Chair, Councilor Bushee, the appeal is still under review from the Forest Service, has been under review for a few weeks now. I believe within about a week or so that answer should come out of the Forest Service. I don't know the exact date but we're all sort of in a holding pattern until then.

COUNCILOR BUSHEE: Okay, and then what? So they give a response, either a green light or a not?

MR. CARPENTER: That's correct.

COUNCILOR BUSHEE: Okay, and then there are no further opportunities for folks who have concerns?

MR. CARPENTER: As far as legal procedures concerned, my understanding is the appellants have the right to file a legal motion in federal district court, but I would leave that to legal counsel to comment on.

NANCY LONG (Contract Attorney): Yes. Mr. Carpenter is correct that the Forest Service is the first agency that receives the appeal and reviews it. They are set to issue their recommendation or decision at the end of next week, I believe. At the end of that time there would be a time period within which the decision to approve the mitigation efforts could be approved.

CHAIR CALVERT: If that were the decision, yes.

MS. LONG: As a court appeal, yes.

COUNCILOR BUSHEE: Thank you.

CHAIR CALVERT: Thanks, Rick.

10. BDD Project wins National Design-Build Honor Award

MR. CARPENTER: Thank you, Mr. Chair.

CHAIR CALVERT: Congratulations, because you were in charge of that project.

MR. CARPENTER: Well, the design-build portion of this project and the decision to go design-build as opposed to design-bid-build does date back probably eight years ago or so. But we do believe the project had a lot of successes due to the design-build delivery method and the Design-Build Institute of America also agrees, obviously, and in November at their national conference they did offer this award up, the national honor award for the Buckman Direct Diversion project. So staff also wants to thank the Board for all the support through that process as well and we wanted to make sure the Board was aware of this national award.

CHAIR CALVERT: And I think something – whatever we have – should probably be displayed at the Buckman in the lobby there.

MR. CARPENTER: I don't think we have a case, but if we start racking up awards we ought to find a trophy case I guess.

CHAIR CALVERT: Okay.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR CALVERT: Yes, Commissioner Holian.

COMMISSIONER HOLIAN: Well, first of all, congratulations to you and to staff. It's really an achievement. But I was just wondering, have you put out a press release or anything like that?

MR. CARPENTER: No, Commissioner, we have not.

CHAIR CALVERT: Do we have that new position yet?

MS. SCHWENDER: Well, for the first part, it has not been publicly posted in the local papers but in some of the professional publications there was mention of the award and the second part, no, we do not have that position posted yet. We're currently working on finalizing the job description for that position.

CHAIR CALVERT: Okay. Well, maybe we could work with either the City or the County's people to get that out to the papers and they will aid you in doing that.

MS. SCHWENDER: We will take care of that, Mr. Chair.

COMMISSIONER CHAVEZ: Mr. Chair.

CHAIR CALVERT: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Rick, on a national level, thinking back over the kind of bumpy road that the BDD has gone down, it was interesting. I was thinking back and there were two federal agencies that were scratching their heads about what to do with the sediment. That was the Interstate Stream Commission and the Bureau of Reclamation. And I think it took two trips to DC that I remember to get those two agencies to talk to each other more than they had in the past. So maybe to those agencies it would be good to get the message that we're moving along and that we have received these awards, because we're going to be working with them for many years to come, but I think the success of our project here should mean something on a national level. I just thought I'd throw that in there.

MR. CARPENTER: Thank you, Commissioner Chavez. That's a great suggestion. A lot of those same people are still in those same offices and we work with them. We'll make sure that they're aware of it.

CHAIR CALVERT: Along those lines, if I may, I think we should send a note to our delegation with this notice and thanking them for their participation in the process as well, because they did help. Yes.

BOARD MEMBER BOKUM: We should also thank our partners. They know about the award, don't they?

MR. CARPENTER: I hope on a staff level they do. I know we've been talking about it but I don't know if elected officials –

BOARD MEMBER BOKUM: I didn't mean elected officials; I mean the design-build contract.

MR. CARPENTER: That's a good suggestion too and I'll make sure that those parties are informed.

BOARD MEMBER BOKUM: For those of us who were around for it, we're thrilled.

CHAIR CALVERT: Yes, Councilor Bushee.

COUNCILOR BUSHEE: I just wanted to thank you, Rick, particularly, for your leadership. I know you came back to the City for that project and it was impressive when I got to tour it with some of the folks from the Office of the State Engineer, back a year or so ago, I guess. It's a pretty impressive facility and I think that was yeoman's work to see that through, all of the various processes that were involved.

MR. CARPENTER: Thank you, Councilor.

CHAIR CALVERT: Thanks again, Rick.

season as well. Weather is really unpredictable. We don't anticipate, unfortunately, to get that much snow, but on the other hand, for operations purposes we do need to be prepared for that.

COMMISSIONER CHAVEZ: Okay. Thank you, Mr. Chair.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR CALVERT: Yes, Commissioner Holian.

COMMISSIONER HOLIAN: The \$197,000 for repair and maintenance system equipment – what would that include?

MS. SCHWENDER: The line items, the way I spelled them out right now are actually a summary of various services that we would be recruiting in those categories. For example, one item under that category would be the purchase and installation of isolation valves that would allow us to isolate certain ponds from the raw water basin, so we can perform maintenance in those ponds. So similar projects, parts for projects that we can already purchase now and then install in the next fiscal year would be included under that item.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER CHAVEZ: Follow-up.

CHAIR CALVERT: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: On Commissioner Holian's question, and not for this meeting but it may be more for my own background, but could you break down each of these? Put that in writing, the breakdown that you just described, an itemized list for each of these areas?

MS. SCHWENDER: We'd be happy to provide you with an itemized list for each of those areas.

COMMISSIONER CHAVEZ: It will help me in the future.

MS. SCHWENDER: Would you like us to provide that as a follow-up via email? Or would you really like to wait until the next Board meeting?

COMMISSIONER CHAVEZ: Either. Whatever. Either or both.

CHAIR CALVERT: Email I think would work. So what's the pleasure of the Board?

COMMISSIONER HOLIAN: Mr. Chair, I move for approval of the budget adjustment.

BOARD MEMBER BOKUM: Second.

CHAIR CALVERT: Okay. Is there any further discussion?

The motion passed by unanimous [5-0] voice vote.

12. Election of Chair and Vice-Chair of the Buckman Direct Diversion Board

CHAIR CALVERT: Which brings us to the weighty issue of the election of chair and vice chair of the Buckman Direct Diversion Board. Nancy.

MS. LONG: Mr. Chair, members of the Board, this is an annual task that you all have and that is electing your chair and vice chair. Your rules of order for the Board provide that the chair and vice chair shall be from the two separate entities and that they shall rotate each year. So this last year we've had a City Councilor. Chairman Calvert has been the chair. So this year your chair must be from the County and the vice

chair would be from the opposite entity, the City. And I would recommend that your motion electing the chair and vice chair also include that the new officers will take up their duties at the next Board meeting so that the current chair may finish out the meeting.

CHAIR CALVERT: Okay. Member Bokum.

BOARD MEMBER BOKUM: Mr. Chair, I nominate Kathy Holian to be our next chair, in accordance with the rules of order that require that it be a County Commissioner.

CHAIR CALVERT: Okay. I'll second that nomination.

BOARD MEMBER BOKUM: And my motion includes the recommendation that we begin the next meeting in accordance with the suggestion.

CHAIR CALVERT: Okay. Is there any discussion?

COMMISSIONER HOLIAN: Mr. Chair.

COUNCILOR BUSHEE: Should we do the vice chair at the same time?

CHAIR CALVERT: Should we do it in one or two motions here?

MS. LONG: You may do it in one motion if you wish.

COMMISSIONER HOLIAN: Mr. Chair, I will accept the nomination but I would very much like, if possible, for Councilor Calvert to be the vice chair. I am chair of the Board of County Commissioners as well and I think I'm going to need extra help in this position, so it will be a great help to me if someone could be the vice chair who has experience with this Board.

BOARD MEMBER BOKUM: I will include that in my motion. If we're going to combine them I accept that as a friendly amendment.

CHAIR CALVERT: Likewise.

CHAIR CALVERT: Okay. So we have a motion for chair and vice chair for the next year. Any further discussion on this?

The motion passed by unanimous [5-0] voice vote.

MATTERS FROM THE PUBLIC

CHAIR CALVERT: Is there anybody in the public wishing to address the Board? Please come down.

ELANA SUE ST. PIERRE: My name is Elana Sue St. Pierre. I'm spokesperson for Health Water Now ASAP. It's a network of healthcare advocates, child advocates that are looking for the health and safety of pregnant women and children. We have been coming to the Board meetings since 2006 and we're seeing new faces. Thank you all for being here and congratulations on the award. I know it's been a lot of hard work.

Healthy Water Now is one of the appellants for the restoration project and our concern is – some of you were not here last time that I spoke, is that in the information that we had been given there is a broad general statement that the contaminants that are found are background. And there are at least eight or nine measurements that are not background. And we are concerned that the testing and the information that is being provided to the public is minimized.

On the 14th – we're also concerned about worker safety and that there hasn't been enough sampling done. If you haven't seen our appeal we did provide it last month. So I

would really ask that you read this. We met with Sandy Hurlocker on the 14th of January and we talked about many, many different things, and during the conversation he asked – because one of the things that we are asking for is that there be signs, so that if there is going to be no cleanup, if it doesn't meet current statutes, that this is not hidden. And that as technology changes that the public are aware and that a pregnant woman and her family would be informed to go into the park area knowing what is there. I won't even say a risk because some people are saying it's not a risk. But to be informed.

I, as a parent, went in there in 2007, after spending a year on the board and hearing really a lot of alarm around the slough area where the contaminants were found three to four foot deep. And I went out very cavalier, thinking, oh, this is a safe area, with my son, who at the time was eight years old. He had waffle tennis shoes on, and we were hiking through there, and there were areas where there was scum of clay, the alluvial material that contaminants can stick to. And after we came up to the area where they were digging the hole where these contaminants were buried I suddenly had the realization that, oh, my God, I've taken my son to an area where there's nuclear waste, and I literally backed out and woke up.

And as we were going out I was having all sorts of wonderings, what have I brought my son into? And when we got back to town we had the privilege of having a Geiger counter, and I did my shoes and they were fine. Did some other people's shoes, and when we got to my son's shoes, the Geiger counter started screaming like crazy, and I felt really, really nauseated, and I threw the shoes away.

Now I wish today that I had the ability to test those shoes and find out what was really there. But this is where my concern came from. I work with pregnant women and children that don't have Geiger counters, and I know, today, new testing equipment is being established that can re-evaluate every test that's been done, and there might be something new found. And this Board has the ethical and moral responsibility to keep this information public and on top and in front. And so does every forest ranger, every Department of Energy person. And this is why I'm coming to you.

Sandy Hurlocker asked that we would create a sign. At first I said no, and I went back and I talked to people in Health Water Now and they said we're being asked to help. If not us, who? So we created a letter. It's created with the intention of respecting the statutes that are currently here, and respecting that all statutes change. Smoking standards change. Seatbelt laws change. Arsenic levels change. You used to be able to make green lumber in water and they found that you can't do that anymore. The contaminants that are lying within the eight-acre area have not been adequately tested. We met with a health physicist. He agreed that more testing – that when we showed him the map he couldn't say where it began and where it ended. And until we know where it begins and where it ends the job isn't done.

So this is part of our appeal, and I've brought you the letter that we have, and thank you for your time. *[Exhibit 3]*

The other area that I'd like to talk about briefly is this money that has turned up. Wow, when did money turn up? We the public, Health Water Now, would like some of that money allocated for testing the sediment ponds where it's accumulating, it's being emptied, it's accumulating, to make sure that those sediments, that the levels are not changing, that there isn't a concentration happening there. We would also like more frequent real-time testing of what's coming through, including the radioactive testing.

We'd also like to see an upgrading of the early warning system because the eight-acre area immediately around the BDD is not included in that early warning system so we would like to see funds allocated for that. Thank you very much.

CHAIR CALVERT: Thank you. Is there anybody else who would like to address the Board? Please come down.

JONI ARENDS: Good afternoon. My name is Joni Arends. I'm with Concerned Citizens for Nuclear Safety. I sent you a copy of the appeals from Healthy Water Now, from the multiple chemical sensitivity task force, from Basia Miller and from CCNS this morning, [Exhibit 4] and I also sent a link to the *Green Fire Times* article, and I brought some copies. [Exhibit 5] It was written by Basia Miller right here and I would like to pass those out. And we are one of the appellants in this, in issues we have been talking to the forest service about since the Buckman was first proposed through the National Environmental Policy Act process in 2002. We've recently written a letter to Secretary Martin with the Environment Department, citing sections of the consent order that would be applicable to contamination found off-site and the need for investigation of the area with the latest technologies for determining the levels of the radionuclides in the area.

So I believe this is on page 35 of the *Green Fire Times*.

CHAIR CALVERT: Okay. Is there anybody else to address the Board? Please come down.

MICHAEL AUNE: My name is Michael Aune. I've been here before you many times and I'm asking you to consider doing a joint resolution between the City Council and the County Commission and it's because of all the destructive floods that have occurred previously after the Las Conchas fire – Dixon orchard, Bandelier, Santa Clara Canyon. And I'm asking what the cost would be to rebuild, repair, restore the San Juan/Chama project in today's dollars if a similar flood or fire damage occurs in that area. [Exhibit 6]

And my review of the situation was kind of verified this past Thursday, a week ago today when I testified after the State Engineer's Office, before the New Mexico Senate Finance Committee. After I provided that testimony Director Lopez of the Interstate Stream Commission basically verified the accuracy of the statements I provided, the documentation I provided, that there is a potential risk for the San Juan/Chama project, and to his knowledge and the State Engineer's knowledge no one has actually addressed that or plans to address that. And that is in testimony before the Senate Finance Committee.

And I just want to read the gist of it into the record so the public knows what this says. It's a joint resolution requesting that the United States Bureau of Reclamation provide the City of Santa Fe and Santa Fe County with a full and detailed report of the operational conditions and status of all tunnels, diversions, pumping mechanisms, storage facilities and related infrastructure associated with the San Juan/Chama project, requesting the United States Bureau of Reclamation to establish and implement proactive best-management practices to maintain and preserve the infrastructure of the San Juan/Chama project in southern Colorado prior to any potential forest fire and resultant debris flow and flooding, requesting the United States Forest Service to establish and implement best-management practices to minimize watershed damage in all areas where

the citizens of Santa Fe and Santa Fe County depend on the life-sustaining element of water that originates within the National Forest.

All the whereases cite studies by groups such as the Bureau of Reclamation, the US Geological Survey – I don't need to read any of those things, your own City Hydrologist report for the City of Santa Fe, so I'm not going to talk about those. But I'm just asking you to please consider this. There is similar legislation; it's a memorial that's being introduced in the House of Representatives that's basically asking our United States congressional delegation to do the same kind of stuff. They're going to go to Washington, DC and you can imagine the bureaucratic process that's going to involve, to get the United States Forest Service, the Department of Agriculture, the Bureau of Reclamation and the United State Department of the Interior, then come back to New Mexico. And what I'm asking you to do is to take some steps now as a joint resolution, just asking them to provide you this information. Because I don't think anybody has it at the present time. Thank you.

CHAIR CALVERT: Thank you. Okay. Is there anybody else to address the Board?

MATTERS FROM THE BOARD

CHAIR CALVERT: Are there any matters from the Board?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR CALVERT: Yes.

COMMISSIONER HOLIAN: Last time we had an update from Rick Carpenter about precipitation predictions and water resources, specifically the San Juan/Chama water resource, and he mentioned at the time that there was going to be a meeting in Albuquerque. I think it was in mid-January about this topic. And I just wondered if you have an update on what happened at that meeting.

MR. CARPENTER: Commissioner, that's correct. There was a meeting in Albuquerque. At that meeting at that time they basically reiterated that the flows, the deliveries from that project would be about 80 percent of normal, a 20 percent reduction. We went over some of the numbers that went into that calculation and talked about what some of the processes might be for allocating those flows or maybe saving some of them for next year should next year be as dry or drier, and also what some of the shortage sharing processes might be. Nothing was really resolved; it was more getting questions on the table than answers.

To get answers a second meeting has been scheduled which is for March 18th, so we will be attending that as well and we'll be happy to report back to the Board. I would also offer though that since that meeting that was in Albuquerque that watershed has received a couple or really big snowstorms. There's nothing formal that's come out of the Bureau of Reclamation but informally their modelers are starting to suggest that that 80 percent may not be quite so bad. It may actually be more close to the 100 percent allocation.

But the system as a whole is so stressed that if we don't get snow, precipitation and/or monsoonal activity that's well above normal, next year may likely be as challenging as this year.

COMMISSIONER HOLIAN: Thank you, Rick.

CHAIR CALVERT: Anybody else on the Board?

NEXT MEETING: Thursday, March 7, 2013

ADJOURNMENT

Having completed the agenda, Chair Calvert declared this meeting adjourned at approximately 5:05 p.m.

Approved by:

Chris Calvert
Chris Calvert, Board Chair

Respectfully submitted:
Debbie Doyle
Debbie Doyle, Wordswork

FILED BY:

GERALDINE SALAZAR
SANTA FE COUNTY CLERK

ATTEST TO:
Yolanda Vigil
YOLANDA VIGIL
SANTA FE CITY CLERK



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BUCKMAN DIRECT DIV MIN
PAGES: 12

I Hereby Certify That This Instrument Was Filed for
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Of The Records Of Santa Fe County

Marella Salazar
Deputy _____ Witness By Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM