

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

**May 19, 2020**

This special meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor JoAnne Vigil Coppler, Chair, at 4:00 p.m.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, and pursuant to the New Mexico Attorney General's Open Government Division Advisory during COVID-19, public entities are authorized to conduct virtual meetings.

[For clarity purposes, repetitive identification and confirmations of those on the phone have been eliminated and/or condensed in this transcript.]

Roll was called and the following members were present:

**BDD Board Members Present:**

Councilor JoAnne Vigil Coppler, Chair  
Commissioner Anna Hansen, Vice Chair  
Commissioner Anna Hamilton  
J.C. Helms, Citizen Member  
Councilor Carol Romero-Wirth

**Member(s) Excused:**

None

Tom Egelhoff, Las Campanas [non-voting]

**BDD Board Alternate Members Present:**

Ken Kirk [Las Campanas alternate]  
Peter Ives [Citizen Alternate]

**Others Present:**

Rick Carpenter, BDD Facilities Manager  
Nancy Long, BDD Board Consulting Attorney  
Mackie Romero, BDD Finance Manager  
Bernardine Padilla, BDD Public Relations Coordinator

**Other Present** (cont.):

Randy Sugrue, BDD Operations Superintendent  
Jamie-Rae Diaz, City Administrative Assistant  
Greg Shaffer, County Attorney  
Joe Abeyta, City IT  
Jesse Roach, City Water Division Director  
John Dupuis, County Utilities Director  
Bernadette Salazar, City Human Resource Director  
Sara Smith, County Liaison  
Shannon Jones, City Public Utilities Department Director  
Marcos Martinez, City Assistant Attorney  
Alex Puglisi, City Environmental Compliance Specialist  
Monique Maes, City Public Utilities Contract Administrator

**3. APPROVAL OF AGENDA** [*Exhibit 1: Agenda*]

CHAIR VIGIL COPPLER: Do I have any changes from staff?

RICK CARPENTER (BDD Facilities Manager): Madam Chair, no. Staff has no changes.

CHAIR VIGIL COPPLER: Okay. BDD Attorney, Nancy Long, do you have any changes?

NANCY LONG (BDDDB Attorney): No, Madam Chair, I do not.

CHAIR VIGIL COPPLER: Committee members, do you have any changes? Commissioner Hansen.

COMMISSIONER HANSEN: I would like to move to approve the agenda.

CHAIR VIGIL COPPLER: Okay. Do I hear a second?

MEMBER HELMS: Second.

CHAIR VIGIL COPPLER: Okay. Any further discussion?

**The motion passed by unanimous [5-0] roll call vote.**

**MATTERS FROM THE PUBLIC**

CHAIR VIGIL COPPLER: Ms. Diaz, were there any comments submitted?

JAMIE-RAE DIAZ (Administrative Assistant): There were no comments from the public submitted.

CHAIR VIGIL COPPLER: Mr. Carpenter.

MR. CARPENTER: I am not aware of any comments.

CHAIR VIGIL COPPLER: Okay. Commissioner Hamilton.

COMMISSIONER HAMILTON: It's not important. I actually thought the Consent Agenda was next, but it matters not to me.

CHAIR VIGIL COPPLER: You are correct. Okay. Never mind. So we don't have any Matters from the Public so I will go back to approval of the Consent Agenda.

**APPROVAL OF CONSENT AGENDA**

**7. Request for Approval of Amendment No. 3 to the Legal Services Agreement with Snell and Wilmer, LLP for Professional Services for FY 19/20 to Increase Compensation in the Amount of \$400,000 Exclusive of NMGRT**

CHAIR VIGIL COPPLER: Do I have any changes from staff?

MR. CARPENTER: Madam Chair, there are no changes from staff.

CHAIR VIGIL COPPLER: Ms. Long, do you have any changes?

MS. LONG: No, Madam Chair.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: I would move to approve the Consent

Agenda.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: Seconded.

CHAIR VIGIL COPPLER: Any discussion from anyone else.

**The motion passed by unanimous [5-0] roll call vote.**

**INFORMATIONAL ITEMS**

**6. Presentation of Fiscal Impacts to the Current and Future Budget of the Buckman Direct Diversion**

MACKIE ROMERO (Finance Manager): Madam Chair, members of the Board, this report is to communicate to the Board and the partners the fiscal impacts of the current pandemic. I have provided a report and a quick summary. The summary first looks at the current year analysis. So as for the current fiscal year ending June 30, 2020, I have projected the following savings to our operating budget. The City issued furloughs and reduction of overtime will have an estimated savings of about \$70,000. Cancellations of trainings and delay of non-essential purchases, a savings of about \$48,000. There was a delay of our security upgrade which was to be issued as an RFP. This wasn't really related to COVID. It just had to do with timing and not having our contracts administrator position filled early in the year, but that was a savings of about \$310,000. And then other potential non-COVID related savings of about \$390,000.

And so these budget savings may allow potential opportunities to carry forward these savings maybe to the next year's budget with approval from the partners and approval of the Board, so I just wanted to mention the savings that are in the budget for this year.

As for the upcoming fiscal year 20/21, the Board has recommended to the partners a budget of \$10,286,503, which includes the yearly contributions to the major repair and replacement fund. This request is about \$36,000 less than this year's adopted budget.

So I did reach out to the partners requesting communication on any changes to their water predictions and their ability to provide funding for the budget that was recommended by the Board. I didn't receive a response from everyone but I did receive a response from most partners. We don't anticipate any large reductions to the projected

water calls. However, we know the City of Santa Fe is currently evaluating budgetary reduction options which will likely affect the BDD fiscal year 20/21 operating budget. I know Jesse is here and he maybe can comment on the work that staff has been doing in projecting incoming cash flow and the changes to water consumption as it related to commercial and residential customers and how that affects BDD's budget.

However, knowing that there is going to be a potential reduction to our budget, BDD staff will begin to evaluate the individual line items within our recommended budget to determine what is essential and what expenses can be delayed. And my hope is that we can bring this up for discussion. We'll discuss with the partners to make sure that everybody agrees and then discussion with the Board. As always any changes to the budget have to get adopted by the Board, but we can bring this back in June for further discussion.

So we know the fiscal impacts to our government and the community are unprecedented but we are confident that we can continue to provide the highest standard in drinking water with planned analysis, cooperation, and communication with the partners and the Board. So if there's any questions about my presentation.

CHAIR VIGIL COPPLER: Before I take questions, I wanted to know, Jesse, if you have any additional information you'd like to bring forward.

JESSE ROACH (City Water Division Director): Thank you, Madam Chair, members of the Board. I have looked a little bit at the amount of water that the City of Santa Fe has delivered through meters for this calendar year as compared to the year 2019. I can say that from about March 13<sup>th</sup> through late April we saw about a 40 percent decline in consumption/delivery to the commercial sector, but that was offset by a 17 percent increase in the larger residential sector, so for that period of time the water deliveries between 2019 and 2020 were essentially unaffected, the total water deliveries.

I can't speak to, at this time what the change in use by sector means to our bills, and I can't speak to – I think I would defer to Director Jones for comments on what some of these things may mean to our projected revenues. I can only speak to the water use at this time.

CHAIR VIGIL COPPLER: Okay. Mr. Jones do you have anything to add?

SHANNON JONES (City Public Utilities Department Director): I think the only thing that I would add is – so we are monitoring the current situation. The City of Santa Fe Utilities, the main driver for the water division that is not funded by GRT is in the deferred payments from customers. Right now we are moving I think cautiously with a possible 20 percent decrease in revenue. So again, we're monitoring that very closely. The other utilities that I manage do have portions of GRT in there but the water is not one of those. Thank you.

CHAIR VIGIL COPPLER: Okay. Comments from the Board.  
Commissioner Hamilton.

COMMISSIONER HAMILTON: Thanks.

COMMISSIONER HANSEN: I think also, Commissioner Hamilton, we also should hear from – excuse me, Madam Chair. John Dupuis from the County to find out if we have any decreases. But go ahead, Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you. I have a few specific questions. The security upgrade delay, is that – that was on this year's FY 20 budget. Is that correct? I couldn't hear you, Mackie, but I think I saw you mouth "That's correct."

So if that was delayed for other reasons, that is still in the budget. So if that's going to not be implemented that has to come before the Board to make a budget change or to deliberate whether that's substantial or not and whether that's appropriate to delay? Maybe that's not really a question, but these are listed as potential areas of savings.

MR. CARPENTER: Madam Chair, maybe it would be more appropriate if I weighed in on that if I could.

CHAIR VIGIL COPPLER: All right.

COMMISSIONER HAMILTON: Thank you.

MR. CARPENTER: So the bulk of that has to do with a relatively antiquated security system for our gates and the software that supports it. It's a lot more complex than you might think, and costly. We have been working to find ways to make it work and we're okay for now. It's not an ideal situation. I wouldn't want to delay it for along time. But security as it stands now is not compromised.

COMMISSIONER HAMILTON: So what are the other \$390,000? There's no itemization of that. So we have to be able to discuss that eventually. Do we know what they are, and in particular, my understanding was that you all would look at making recommendations with respect to which of these things are essential. So I kind of anticipate this will be something that is in a more thorough presentation in June with respect to the budget. So I'm not trying to put you on the spot, but what does that \$390,000 deal with?

MS. ROMERO: So Madam Chair, members of the Board, the \$390,000 were savings that had to do with the comp study, so a lot of the vacant positions were reduced at lower ranges than what we had originally budget. So that is a majority of that savings. We have some additional savings in electricity. Just the bills came in lower than what we had projected. And other line item projections – we projected things to come in higher than they were, and so that's what that lumped up group is.

As far as the RFP, I think that's still something that is essential and needs to get done. One option would be that we've done this in the past. We carved out – asked the Board, if we could go ahead and carry that funding forward to next year so that we can continue with the RFP and get that completed. So those are some ideas or options.

COMMISSIONER HAMILTON: And then with respect – so the evaluation of the BDD budget, which is separate from any of the prior budget, and the revenue source is different. The revenue source comes from the partners. You make some indirect reference to investigating revenues but in order to review this budget by June we need to actually get all the partners to estimate whether they're going to make reductions in the payments to BDD. And that needs to be done for this fiscal year, the remaining, because if I'm not mistaken, not everything has been billed to the partners for FY 20. And then separately, projected for FY 21.

So do the City and the County think we can get that?

MS. ROMERO: So Madam Chair, you are correct. The billings are not done and I will get those completed so I can meet with the partners and see if they anticipate any reason why those bills can't be paid in the current fiscal year. And then as far as the next fiscal year, you're right. BDD would like to get the budget adopted by July 1<sup>st</sup>. The JPA states that the BDD Board should adopt the budget by July 1<sup>st</sup>.

COMMISSIONER HAMILTON: Yes.

MS. ROMERO: Then we fall back on the current year budget, and so I again will have to work with the partners to try to see what that reduction is going to be and so that we can take some kind of budget for your approval. It doesn't mean that we can't change it if something comes up in a month or two or we have to make some adjustments to the budget. But my hope is that we can bring something at least to review in June and then to adopt in July.

COMMISSIONER HAMILTON: Yes. And so I just wanted to put on the record that that's the information I think we need. And while none of us have crystal balls I think we need to do the best we can to give an estimated budget knowing that we have the option of changing it. So we really only have – we have two or three weeks before the June meeting to try to estimate what the BDD revenues are and what the distribution of essential and less essential expenditures, in terms of purchases and contracts and what not, so the Board can recommend budget modifications accordingly. And I have probably some other questions with the last item but I think I will leave them till that time.

COUNCILOR ROMERO-WIRTH: Madam Chair.

CHAIR VIGIL COPPLER: Okay. Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: So I'm not sure what that means, the timing for the BDD budget, given the timing for the City's budget. The City will be submitting a placeholder budget with the Department of Finance and Administration which is this year's budget. We are conducting budget hearings the middle of July and probably won't have a budget till some time closer to the end of July. I don't know what that means in terms of knowing what we are able to do with BDD. So I just throw that out there so that you all know.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: The City clearly does have to make its own decisions including on timing. And I know DFA is being fairly flexible in filing and what not. But I have, as a Board member, I think it's completely critical for BDD to stay on the schedule as necessary, and I think it's possible for all the partners, even though there are some uncertainties and areas of their budget, to at least have the discussion about whether they're discussing what they're considering doing with the payments that they make to BDD.

I think it's arguable that nobody is anticipating reduction in service from BDD. Nobody is anticipating that it's going to allow us to reduce water service. That doesn't mean we don't have to consider financial impacts and the problems of each partner and be respectful of those. However, I really feel like starting the conversation with each partner being forthcoming on what they're considering, so that BDD knows how to estimate budget impacts, knowing that can be revised. So this is in no way intended to be a gottcha on either part. This is in my mind strictly working together, being respectful of all the partners, pressures which are huge. But we have to start the discussion. If there are big financial strains and there is any anticipation of not paying BDD, there are processes that have to be then implemented and we have to actually look at the budget rationally, but as a separate issue.

So I feel like – I also wonder if it might not be necessary if we have some initial budget information that you're needing, to frankly have potentially, another special meeting in June to be able to have further budget discussions because of the uncertainties.

CHAIR VIGIL COPPLER: Thank you, Commissioner Hamilton. Your points are well taken and I would encourage Mr. Jones, Mr. Carpenter, Mr. Roach and Ms. Romero to work together to come up with some of the – at least discussion points based on Commissioner Hamilton’s suggestions.

Okay, so now I’m going to – Commissioner Hansen asked if John Dupuis might have something to say, so I’m going to call on your, Mr. Dupuis. Do you have anything to add? I don’t know if he’s there. I can’t unmute him. So there you go.

COMMISSIONER HANSEN: So what I was wondering from Mr. Dupuis is whether or not our water is down like the City, but if he’s not there he can’t answer those questions we’ll just get it in the June meeting.

JOSEPH ABEYTA (City IT): Let me work on it real quick.

MEMBER HELMS: Could I ask something?

CHAIR VIGIL COPPLER: Yes.

MEMBER HELMS: Is this leading to a vote on something? I can’t quite figure out whether this is just for information, and it’s all interesting and I’m listening. But are we focusing on coming to grips with something and what is it, and there are many questions I have which have not been answered but I don’t want to gum up the discussion unless we’re aiming at something. Are we?

CHAIR VIGIL COPPLER: Mr. Helms, this is an informational item. So we’ve got John Dupuis next. I don’t know. We’ll go to you after for your questions.

MR. DUPUIS: This is John.

CHAIR VIGIL COPPLER: Do you have anything to add to the discussion?

MR. DUPUIS: I would just reiterate what Shannon Jones described earlier regarding our revenue sources and also what Mr. Roach has provided in terms of the deliveries. We’re seeing very similar circumstances where we don’t have much of a change in the delivery that we make, and also the revenue stream, we do have a slight decline, but it isn’t a substantial percentage. But it is a high number of unpaid accounts versus what is typical.

CHAIR VIGIL COPPLER: Okay. Thank you. Back to Mr. Helms. Do you have questions on item 6?

MEMBER HELMS: I have a lot of questions but if we’re just having a general purpose discussion I don’t want to slow things down, but if we’re going to vote on something I’d like to know what it is and then tailor my questions to that.

CHAIR VIGIL COPPLER: Okay. What we are discussing now is under item 6, Informational Items and we are not voting on anything there, so strictly this is information purposes and everyone who’s contributed to the discussion so far has done so, so if you have any questions feel free to ask them now or you can refrain.

MEMBER HELMS: Refrain.

CHAIR VIGIL COPPLER: Okay. Thank you. Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you. I had a question – it might be rhetorical; it might be something that can be answered by the partners at the June meeting when we discuss budget again. But I’d like to see some discussion of how revenue reductions to each partner when they send out water bills, which I suppose is predictable impact from the economic crisis, impacts how each partner is intending to handle that with respect to then what they pay to BDD.

CHAIR VIGIL COPPLER: Okay. Does Mr. Roach or Mr. Jones, do either of you want to comment?

MR. ROACH: I believe on the financial questions I will again defer to Mr. Jones. I would reiterate I think we know we are seeing a difference in water use by sector. I don't right now know what impact that will have on the bills that go out but we also are expecting that the bills that get paid will be the big impact.

CHAIR VIGIL COPPLER: Okay. Mr. Jones, do you have anything to add.

MR. JONES: I think the only thing I would add and I believe what Commissioner Hamilton was requesting is we are monitoring daily. We're bringing in benchmark data, getting real time data formatted on how we monitor these for the June BDD meeting, that we'd be happy to provide an update with the latest information that we have trending on that.

CHAIR VIGIL COPPLER: Okay.

MEMBER HELMS: I have a question.

CHAIR VIGIL COPPLER: Yes.

MEMBER HELMS: I'm hearing that the possibility of paying bills is going to be tied to income, and that brings up the question, what income, and after all, the water company generally produces income. But there's a second question of whether you allocate whatever general funds you have in different directions. And I would simply like to say that no service in this community is of more importance than the water, and I do not believe we should be shortchanging the water company because of a drop in revenue that could be re-allocated. There are service in the community I think that could take a hit for a while but I don't think water is one of them, and I think we should be focusing on that topic, not just financial detail but how we allocate whatever it is we have.

CHAIR VIGIL COPPLER: Good point. Thank you. Do you have any other comments or questions, Mr. Helms?

MEMBER HELMS: No.

CHAIR VIGIL COPPLER: Okay. Any other discussion on item 6? Any questions of Mackie Romero? All right.

## **DISCUSSION AND ACTION**

### **8. Discussion and Possible Action Regarding Possible COVID-19 Effects on BDD Operations and Budget Issues, Including Recent Employee Furloughs at the BDD**

CHAIR VIGIL COPPLER: I will add that earlier this afternoon we received a letter for Erin McSherry, the City's Attorney and I don't know if all of you have had a chance to review it but I'll introduce that to this discussion. So I'll open it up for comments, questions. Commissioner Hamilton.

COMMISSIONER HAMILTON: Well, since you mentioned Erin's letter first, I have some specific questions about that.

CHAIR VIGIL COPPLER: Okay. And I just want to state that Marcos Martinez is representing the City Attorney's Office and is here attending this meeting. Okay. Thank you. Continue.

COMMISSIONER HAMILTON: So one of the points is all City employees have to be treated the same. My question is what the basis for that is. One



point I want to make is the source of money to BDD is entirely separate from the source of money to the City. So was it even considered that BDD is a separate operating unit? Budgets? It's not just the budget, the source of money that pays their salaries. So was there discussion with the unions about whether they would accept BDD being treated separately?

CHAIR VIGIL COPPLER: Mr. Martinez, do you want to address that?

MARCOS MARTINEZ (Assistant City Attorney): Thank you, Councilor Vigil Coppler and thank you, Commissioner Hamilton for the question. I don't believe there was a specific discussion about that with the union. I think the reason why the employees had to be treated the same and I just want to say that Bernadette Salazar is also attending this meeting, who is the City's HR Director and she can help me fill in the gaps. But it's because they're all part of the same – they all are subject to the same union contract, the AFSCME contract and that's why all employees need to be treated the same that are subject to that contract.

COMMISSIONER HAMILTON: So the idea, the fact that the funding sources are separate didn't enter into this?

MR. MARTINEZ: No. I'm not quite sure I follow what you mean by the funding sources being different.

COMMISSIONER HAMILTON: BDD budget is separate, it pays the BDD personnel separately. It's a separate budget. Revenue sources are different. That's the point.

MR. MARTINEZ: Right. But the revenues are from the constituent entities.

COMMISSIONER HAMILTON: Yes, but it is a separate budget, so that's the basis for the question. I have some further questions.

CHAIR VIGIL COPPLER: Okay. Go ahead.

COMMISSIONER HAMILTON: The PMFSA gives specific requirements for performance for the project manager. Were those considered? And I can read them to you. Are those being considered when the idea of furloughs were considered? I have a reason for asking that. The City, as project manager, under PMFSA, is not only obligated to implement the budget the way the Board sets it out but is also obligated to an OMRR&R according to prudent utility water practices. Were those factors? That is pertinent to BDD and those have to be considered in the staffing of BDD. Staffing was set in the budget. So I'd like to know how you guys, how the City considered that in doing across the board furloughs.

MR. MARTINEZ: Well, perhaps Shannon or Bernadette can help me on this but the BDD is not the only water facility that the City operates, and so the City had to consider how the City operates Canyon Road, all of the wells as well. And the same interests that affect those operations would be at play here.

COMMISSIONER HAMILTON: So rather than consider their obligations as specifically a project manager, BDD under the guidelines set out in the PMFSA, the City is just considering it like any other City department. So potentially there's a breach of PMFSA obligations if the City's not considering them at all.

MR. MARTINEZ: Well, I don't want to encourage this sort of line of reasoning or jumping to that conclusion because I think it's rather serious, kind of a serious statement to make.

COMMISSIONER HAMILTON: I'd be happy to ask a slightly different question. If the City is project manager of BDD, furloughing BDD people, and the only information that was actually provided in the packet materials was with respect to the operators. So one part of my question is, what's happening with other BDD staff? But the main part of the question is what services are being foregone. We set out a budget to act accordingly. We've reviewed that budget and all the staff was needed, and we're now cutting it my ten percent. I assume services are going to drop by ten percent. So I'd like some information on that.

CHAIR VIGIL COPPLER: Mr. Jones, you're raising your hand. Do you want to respond?

MR. JONES: Madam Chair, yes. I'd like to see if I could actually maybe help a little bit. I do hear what Commissioner Hamilton is saying and if it pleases the Board, there is consideration that was given. We do operate the BDD facility as an extension of the Water Division. So the City did take on the project management role, and how they meet their obligations per that contract is assign City staff within the Water Division to execute to the best of their abilities. So the question that you're alluding to about the level of service operation repair and maintenance consideration was given, not just to the BDD but to all services that Utilities provide. So staff was directly that the furlough would be across the board, that it would fair and consistent across the classifications, but they were also directed that the level of service shall not be impacted. And again, the example that was specifically directed to my division directors was when the individual driving the trash truck down the street has only picked up half the street and the time has come from him or her to take off, they finish picking up the street.

At a treatment facility, whether water, wastewater, BDD – anywhere, if an operator calls in sick or on annual leave, another operator will fill that shift. So again, the level of service was not to be impacted. We do take that very seriously. The way we operate and maintain the system, we do take very seriously, so the managers were challenged with developing a scheduling and working within those constraints of how they do that with the direct understanding that service would not be impacted.

So when service is not impacted but the guidelines of the furlough time were not met, then we would just be looking at the justification of why that occurred and is there something that we can do different. And so that was the level of commitment of what was communicated to the managers of the Water Division and Utilities. And so I hope that does answer some of your questions.

CHAIR VIGIL COPPLER: Commissioner Hamilton, if I may, I'd like to follow up just on a question to Mr. Jones. We did receive a letter, I can't recall from whom, but I recall that it said something – it was from an employee operator who said that with the furloughs it resulted in an employee or employees that were left to perform the work in the absence of other who don't have the training to adequately cover the BDD plant. And they also mentioned another area in this but we're only talking about BDD today. Can you explore that and I do know that there are various positions and qualifications required for several levels of operators. So how do you plan when you have various degrees of expertise to fill in and maybe that employee was trying to bring something to our attention with regard to having someone man a BDD plan who did not have adequate training. Go ahead, Mr. Jones.

MR. JONES: I believe the answer to that is if there was an official course devised by City staff that that would have come through the chain of command and that would have been an official statement of the City as project manager. So I'm just – I want to make sure I didn't miss the point that whether it's a concerned citizen or whether it is an official statement from the City, because I do delineate those differently.

But ultimately to answer your question, I think in any job trade or classification, right? There is different levels of various experience. On any team there's strengths and there's weaknesses and our ability to manage through that training within our fields is ongoing. We strive to be smarter each day. But I think the simple answer that I would put is that even here in the meeting we have is Randy Sugrue, who is our operational supervisor and manager of that – so again, I'm talking probably 20 years of experience in this, was put on our BDD startup team. So I would be challenged to find anyone that has more experience than him and he's the individual that's at the helm.

So while again, there may be opportunities to train and grow, given that throughout the day I also know that he is available by phone or my contact to any of his operators and in addition, Jesse I know has made available other system operators that are across the Canyon Road that are also there 24/7 that also have means of direct communication, and along with myself. My contact information is also with the operators and I live about two miles from the Buckman Direct Diversion. So these are resources that they have available and again, if we have any doubts about our staff and their ability to perform their functions we would be addressing that, and I'm telling you that I do not have those doubts or concerns and we do have the resources available to support them to be successful.

COMMISSIONER HAMILTON: With all respect, I understand that your intent is to run the systems well. And I also understand the City looked for and feels it gains efficiencies by running BDD in conjunction with other City water facilities. Nevertheless, the BDD is not just another City water facility. It is a facility jointly owned by the partners that serves all the partners and its operation is guided, and the obligations of the project manager are guided by the PMFSA which say the City needs to provide all necessary staff, materials and supplies necessary to operate and maintain the project, consistent with Board funding and according to the BDD Board's staffing which plan, which can be amended.

And so two points. One is that sufficient information has to be provided for the Board to accept or not recommended changes and staffing, and with respect to that, I've worked in consulting for way more than 40 years and somehow, when somebody tells me well we're going to cut 10 percent or 20 percent. We're not going to impact services. You can rest assured we're not going to impact services. That's always meant that I have to work that extra ten or 20 percent uncompensated and that's in this case not necessarily an acceptable approach.

Logic tells me if we budgeted what was needed for BDD to operate, and we can cut that ten percent without noticing anything – it's not that we can't manage. The decision is made with input from you as project manager and with City and County and Las Campanas as partners – that's a story that we can absorb a ten percent thing and here's what we can do to accommodate. That's not what I'm asking. And so I really want that distinction made.

Maybe for the moment I'll leave it there and let other people ask some questions.

CHAIR VIGIL COPPLER: Okay. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you. So I'm going to make this a little more simple. I feel that the problem here is that you did not come to the BDD Board and talk to us about the furloughs. A number of us also sit on SWMA. SWMA is also City employees. They're part of one of the City unions. They did not get furloughed at all, because they are an enterprise zone and yes, they have a union contract and yes, it is a separate union contract under a City union contract. They are a section of Local 390 or something like that. I don't know the number exactly, but they are another section of that.

So they were not furlough. But the main thing is that this is something that is not something that the City can arbitrarily do by themselves to furlough BDD employees without speaking to the Board. And we've had this issues over years of the City not coming to the Board at times when they need to come to the Board to – we might have agreed. We still might. Whatever the situation is. But the fact that it was not brought in front of the Board, your decision for our employees goes against our agreements. And so that is the issue that we are discussing here or one of the issues that we are discussing here.

CHAIR VIGIL COPPLER: Ms. Salazar.

BERNADETTE SALAZAR (HR Director): Madam Chair, Commissioner Hansen, I'd like to clarify that the SWMA union is completely separate from the City and it's a completely separate local, so they are not a City union.

COMMISSIONER HANSEN: But they are considered City employees because you provide insurance to them. They are under your insurance plan, and you do all their finances for them and you do the HR for them. I know it's a different setup and I think in some ways it's a better setup because it is actually more autonomous. But at the same time, that being irrelevant, the main thing is that the City, when they furloughed needed to talk to the BDD Board.

CHAIR VIGIL COPPLER: Right. I get your point. But I do believe Ms. Salazar is correct that those are not City employees. Right? Can you expand on that?

MS. SALAZAR: Madam Chair, yes. So we are the fiscal agent for SWMA, but they are not City employees, like the way BDD employees are City employees, and they are covered under the City union agreement of Local 3999. So that's the difference.

COMMISSIONER HANSEN: And they use your health insurance, and they use a number of other things. I know it's a different setup. It might be more to our advantage to be under that kind of setup.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: So we're talking about whether SWMA is different from the City and the fact that BDD employees are City employees doesn't change the fact that the project has to be managed according to what's laid out in PMFSA. But there's a piece of information I want to also get on the table and that has to do with all of our expenditure freezes. These are all things that impact successful operation of BDD and budget decisions. And as I read before, the obligation is to operate under the budget the way it's laid out by the Board, or come to the Board for changes. And so what is the intent in terms of – I know the City has its plan for doing equivalent across the board cuts. Is there an intention of looking at BDD that way?

CHAIR VIGIL COPPLER: Mr. Jones or Mr. Carpenter, do you want to address that question?

MR. JONES: Okay, I'll start and if Rick has some follow-up I'll definitely yield to him. I would say that yes, the intent of the Public Utilities Department would also look at the Buckman Direct Diversion's budget and that is typical for us to review that budget and to also make recommendations so that it would also be scrutinized along with every other budget. I think to also add, akin to the consideration for non-essential purposes, as we move into the end of the fiscal year I would also go out on a limb to say that that is normal financial and fiscal practice, right as we get to the end of the fiscal year that purchases do decline, allowing time for those to be processed, received and receipted. So I think that that's typical.

But even in those times of the slow-down, if there is an essential item, something that is mission-critical that has to be done, whether it's other emergency or whether we push it through urgent or make other resources available, again, that is our intent that that's how we've acted in the past and that would be my intent going forward. So I don't really see that as too much of a change.

COMMISSIONER HAMILTON: Well, you know, in normal times, those levels of decisions are decisions that occur for different reasons within the budget as it's presented and approved by the Board – recommended by the Board and approved by both partners. This is not what we're talking about. And so I will simply state for the record that there is no question that each partner separately and us jointly as partners in the BDD have challenges that we have to look at. But the City as manager of BDD should not be looking at the BDD budget and making unilateral changes. Those things need to be recommended and brought to the Board, and that goes for this year's budget. That goes for next year's budget and that goes for decisions having to do with how savings in BDD can and should be – what the options are for using those, that is anything that has to do with any delayed maintenance or contracts that are delayed because we want to be fiscally conservative, against any potential BDD revenue shortfalls, not to make up the problems with independent City or County budgets.

The City and the County both have their own budget shortfalls. The discussion that's relevant from that is for the City and the County to evaluate how their budget shortfalls might be impacting whether they think they're going to be capable of paying into BDD, and if they're going to default on something, putting that forward. The City doesn't need to be looking at a BDD contract that might be able to be delayed against their specific City shortfall because one thing does not transfer to the other.

My feeling is that as Board members – the Board is set up as two City Councilors and two County Commissioners and a fifth person. We each have responsibilities to bring and to understand the needs and responsibilities for each of our entities, but with a primary responsibility of assuring that BDD meets its goals of serving clean water and doing it in a fiscally responsible way. We're primary responsible as a Board to BDD, and that's defined very well in the PMFSA.

So all the things that you said are true. They're very logical things that we have to go through, but we can't short-circuit the process by thinking the City because it's the project manager can make those decisions and then take those savings. That's inappropriate. And so that's what I'm trying to clarify here. That has to do with the City, and part of my question about the furloughs of personnel actually has gone unaddressed –

the non-operators. Even within BDD there are staff positions that are more critical and less critical. The City has chosen to say everybody is equally essential. That's very nice and egalitarian. But from a practical point of view, it's probably – in my professional opinion; it's one person's opinion – it isn't necessarily justifiable.

I can recognize that a public outreach person might be hugely important and generate huge value for BDD. It may not be as immediately critical as an operator or a facility manager or a financial person when we're in a position of having to do budgets and looking at other kinds of problems, like late audits.

So I would like to hear what other people have been considered furloughed by the City at BDD.

CHAIR VIGIL COPPLER: Commissioner Hamilton, can you be more specific on your question there?

COMMISSIONER HAMILTON: Part of it was a statement for the record, but the question had to do with all the BDD employees, what their furlough status is and what decision that was based on. We've been given information in the packet about operators and not about anybody else. And all of the people, any furloughs that impact BDD impact our budget and frankly impact our staffing that was set out to come back BDD to be discussed. So I was asking – I'd like some information on what the City has done in that regard.

CHAIR VIGIL COPPLER: Mr. Jones, did you have your hand up?

MR. JONES: Yes, Madam Chair, Commissioner Hamilton. So actually, when the furloughs were laid out there was a sliding scale. So it was from four hours a week or eight hours for a pay period up to 16 hours per pay period. I did meet with HR. We went through. We did look at BDD along with their counterparts, not just through the Water Division but through Utilities, and we put that at the most essential. So at the lowest level of the furlough that we could communicate. So even BDD non-operational staff is on the eight-hour furlough, along with all their counterparts and the rest of Public Utilities. There are positions within the City that went as high, I believe, as 16 hours, but that is not utility staff or not BDD staff.

CHAIR VIGIL COPPLER: Mr. Roach.

MR. ROACH: I would just add to that is the reason extra information was provided for the operators is because they work a 36/48 schedule and everybody else is, if they're not called out that way is working a 40-hour a week schedule and so they're schedule becomes 36 hours/36 hours.

COMMISSIONER HAMILTON: As a Board member, I feel like the rationale that's used to establish staffing for BDD has to do with the essential nature of some of the operations and meeting all the requirements that we assure the public that we are going to provide. And it is in my estimation a poor management decision to furlough everybody across the board when you know that the facility operator, the financial director and operators are far more critical to meeting the goals of BDD than some other kinds of staff. So I think that it's necessary for that kind of information to become part of our discussion about budget at the next meeting.

CHAIR VIGIL COPPLER: Thank you. Any other comments?

MEMBER HELMS: Yes.

CHAIR VIGIL COPPLER: Okay, Mr. Holmes.

MEMBER HELMS: Leaving the overarching sort of theoretical considerations aside, which frankly I think are more important and more interesting to me, but there's a specific question I have and I'm not sure to whom I direct it. But we've been talking about a \$390,000 savings items and there was some discussion of what was in it but I didn't fully grasp was in it, but let's assume it's something serious and we could actually achieve it. Does Buckman, that is to say the Board, have the authority to use \$70,000 of that savings to pay off the furloughs and get our staff back? I mean we're looking at \$390,000 here, \$70,000 there, it's a big surplus to me and maybe I'm missing something. I'd like to have an answer.

COUNCILOR ROMERO-WIRTH: Madam Chair.

CHAIR VIGIL COPPLER: Yes.

COUNCILOR ROMERO-WIRTH: I'd like to read the City Attorney's letter into the record, because to date, I don't think we've fully taken into consideration this letter that was set to the Board this afternoon.

CHAIR VIGIL COPPLER: Okay.

COUNCILOR ROMERO-WIRTH: So this says: Dear Members of the Buckman Direct Diversion Board, Chairwoman Vigil Coppler asked me to write to you regarding the scheduled vote by your Board on the City's furlough plan. I am not writing to provide legal advice to the Board; rather I write to describe why the City employees who operate BDD are subject to the City's recent vote on furloughs. I also want to make sure the Board knows that the furlough of City employees, including those who operate the BDD does not interfere with the Board's separate and distinct authorities such as budgeting and contracting.

Last year the City and County amended the BDD's Project Management and Fiscal Services Agreement – it's what Commissioner Hamilton keeps referring to as the PMFSA – to address concerns over the City Manager's supervisory authority over the BDD facility manager. The PMFSA also governs other rights and responsibilities of the City Manager over City employees who operate BDD. Article 6, Subsection O was specifically revised in relevant part as follows: All project staff shall be employees of the City, including the facilities manager who shall be responsible for reporting to the BDD Board, and the City Manager for the day to day operations of the project and for supervising all other project staff. Consistent with the City charter only the City Manager can hire, fire, and discipline the facilities manager.”

Then it goes on to say, “The parties do not intend to create any third party beneficiaries to this agreement and nothing herein is intended to create or affect the rights or obligations of any City employee, including the facilities manager in conflict with the City charter.”

Then our City Manager goes on to say, “The PMFSA is consistent with the City's charter which requires that the City Manager have management rights over all City employees other than the City Clerk and City Attorney. Because City employees operate the BDD they are subject to City personnel rules and the City's AFSCME agreement. The City followed its rules in implementing the furlough treating similarly situated organizational units similarly, and bringing the plan to the City's governing body for a vote. To the extent possible, during the financial crisis that was caused by the public health emergency, the City also followed the process outlined in the City's AFSCME agreement. The City employees who operate the BDD are subject to the same personnel

rules, union agreements and policies as other City employees. Because the last step for implementing a furlough vote is a vote by the City's governing body, a vote of the BDD, either supporting or opposing the City's furlough, would not affect the furlough already implemented for the City employees who operate the BDD. To avoid confusion to the public, and for the City employees that operate the BDD, the manner could be tabled indefinitely."

I would just say – I just want to reiterate a point that was made by Mr. Jones, which is he said that the City employees who operate BDD are an extension of the Water Division. Now, it's my understanding that sometimes we have Water Division employees – and maybe Mr. Jones can confirm this – who fill in when we don't have the City employees who are normally dedicated to BDD available, to make sure – to Commissioner Hamilton's point – that we maintain the level of service.

So again, I think the point is these people are City employees, they operate the BDD, and it's this strange hybrid governance system we have that's kind of created this situation that we're in. So I understand what you're saying, Commissioner Hamilton, but I think there's this little nuance here which is that these employee who operate the BDD are City employees. They've been referred to several times as "our employees" as through they're BDD employees, but they're really City employees who operate the BDD, which is a joint effort of the City and the County. And I just want to put that information, as Commissioner Hamilton said earlier, into the record so people have a better understanding of what's going on here.

COMMISSIONER HAMILTON: Madam Chair, may I respond to that?

CHAIR VIGIL COPPLER: Before you go, Commissioner Hamilton, I just want to state that early on when I introduced this agenda item I did introduce and state that we received this letter and introduced it into the record. Thank you for reading it. I think that was helpful because maybe some people hadn't received or – I know some people here hadn't received it, but maybe they didn't read it. So thank you for that. Okay, Commissioner Hamilton.

COMMISSIONER HAMILTON: Yes. And thank you. And I want to say that I completely respect the fact that BDD employees are City employees. Nothing in there actually challenges the fact that in the PMFSA, that same section, 6.O, it also stated that the obligation of the project manager, whoever it is, is to provide necessary staff, materials, and supplies necessary to operate and maintain the project consistent with Board funding. That is consistent with the staffing levels that were established by Board direction, clearly with partner inputs. And so the issue the City maybe being faced with having to treat everybody in the Water Department the same doesn't obviate the need for the project manager to take those recommended changes and bring it to BDD and say, this needs to be evaluated in prospective of our obligation to perform, not only within budge but also within standards of operation as specified in a later section. And that's what I'm concerned with and that's as yet to be done, and I think that needs to be done by June when we talk about the budget, and as a result I have a problem with the furloughs being done unilaterally. And the City lawyer may say that it makes any Board action irrelevant. I respectfully disagree.

CHAIR VIGIL COPPLER: Okay. Any other comments? Mr. Roach.

MR. ROACH: Thank you, Madam Chair, members of the Board. I just wanted to add a couple of thoughts to this discussion. One, I feel like the Board sets the



budget. The budget is a plan that we try to work to under normal conditions, and when those conditions change or we find efficiencies then we may vary from that plan, but as long as we are meeting the terms of the PMFSA then that remains a management option that is helpful to us. And I do encourage the Board, as they think about this issue, in my position in the Water Division, I don't know how I would manage my employees if some employees have a different set of management than others. It would make my position very difficult. Thank you.

CHAIR VIGIL COPPLER: Let me call on Peter Ives, since you haven't had an opportunity to speak. Thank you.

PETER IVES: Thank you, Madam Chair, and I certainly appreciate the discussion that we do live, as they say in interesting times, which I just generally describe as the new abnormal.

In looking at the materials that were circulated for this meeting, specifically under item 8, it seemed to me there's a letter in there from Mr. Roach to the Board, or rather from Rick and Jesse, to the Board on the effects on BDD operations and budget, which concludes with possible action the City of Santa Fe as fiscal agent recommends approval of the City's furlough plan as it pertains to the budgetary impact of the Buckman Direct Diversion, but then attaches a water operation memo and schedule which reflects those matters and also notes at the end of that communication that the schedule change will become effective on Saturday, May 30, 2020, and in Jesse's piece he does ask, or states that the City of Santa Fe as fiscal agent recommends approval of the City's furlough plan as it pertains to the budgetary impacts to the Buckman Direct Diversion.

That same memo also notes that the BDD is fully staffed and therefore these changes will not affect the service level that the BDD provides to its partners and the BDD Board. So I suppose I'm struggling a little bit. There's obviously a great deal of discussion with regards to duties and obligations under the – and forgive me; I hate all the acronyms: PMFSA, if I'm saying that correctly. Forgive me if I'm not – which unfortunately didn't get circulated and I certainly haven't looked at in preparing for any discussion or participation in this, so it's hard for me to comment on any failure or not to comply with obligations under that. But if the issue is bringing this matter before this Board for a determination, it would appear that item 8 accomplishes that, as it does ask for approval of the City's furlough plan.

So I'm just sort of struggling to understand, because it would seem that the effort has been to try and accomplish just that if that is in fact a correct statement of obligations under PMFSA. And I just wanted to state all that from one who read the materials earlier today and was trying to prepare for this meeting. So thank you, Madam Chair.

CHAIR VIGIL COPPLER: Okay. Thank you, Mr. Ives. Commissioner Hamilton, and then Councilor Romero Wirth.

COMMISSIONER HAMILTON: Well, I respectfully disagree. The City has done its budget evaluation. BDD has not done an appropriate evaluation. They started, and I really appreciate what Rick and Mackie have done so far, but there is not a statement of any anticipated revenue changes from payments from the partners, this year or next year, and there is not a complete evaluation of what kinds of items under other expenses are essential or less essential – notice I'm not talking about that we have in the budget any discretionary spending, plus that's why I have reiterated that the budget assessment for BDD is separate. The Board obligation is to get this information and then

evaluate what benefits and costs are gained from considerations of personnel changes and expenditure changes.

We still need information. Neither the City nor the County have weighed in on how they intend to change, if at all, revenue put into BDD. And until that happens I have no intention on voting one way or the other on furloughs that impact – I respect that this is a problem. This is what Councilor Romero-Wirth was alluding to. You get into subtleties where you respect that they're City employees, and the City has made a decision to treat all employees the same. But the City is obligated to fulfill the PMFSA, which is harder to say, but FOPA, the other agreement, always sounds like a mistake, so I think that one's much worse.

But nevertheless, I recognize that this gets to be difficult, but it doesn't change the necessity of doing it. And with respect to I think both Dr. Roach and Mr. Jones, or Mr. Jesse or whatever, alluded to, yes, budget decisions are re-evaluated, and there is no reason think that as five really responsible Board members we don't both appreciate that and fully intend to do that evaluation. But not outside of the process where that is within the context of the BDD budget, the costs and the benefits are evaluated.

CHAIR VIGIL COPPLER: Okay. Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Commissioner, I don't disagree that we need to, and it sounds like we will be looking at our budgets. Both the City and the County will be looking at their budgets and what's happening there. That will inform what we can do in terms of meeting our obligations for BDD. As somebody stated, I think it was Mr. Helms, stated earlier, water is absolutely an essential service, a vital service. We have to make sure that we are doing right by this utility that is a joint project of the City and the County.

I think at our last meeting Mr. Jesse, Dr. Roach – just to put a little levity into this conversation – did apologize for not looping in the BDD as this was happening, the BDD Board. All I can tell you is we are living in extraordinary times. This public health emergency is exceptional. The City had to act very quickly in order to do what it needed to do to stop the hemorrhaging of our budget for this fiscal year. I think as we go into the conversations about the budget for this fiscal year and next, for the BDD, certainly one factor is what has happened with City employees that operate the BDD and so that will be taken into effect. I have to say that I agree with the City Attorney that if this Board were to say we don't accept the furloughs, that has no bearing on the City furloughs. The City has acted according to its rules about its employees. So there's really – I guess we would note that the BDD Board didn't like it if that passed, but it has no effect on those furloughs.

Now, we will have to take that into consideration and we move forward with the analysis that you rightly suggest needs to happen and I think that we're going to be having more conversations about how this pandemic has affected both our entities, both these governmental entities' budgets and how we are going to provide the essential service that is the BDD. So with that I'll yield the floor.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

C: So in that regard, if it is an unresolvable dilemma that the City feels they have to treat all their employees the same including BDD but has no problem failing to also meet its obligation under the PMFSA then that's going to become another

conversation we're going to have to have. I just don't think I can be any more clear about that.

MEMBER HELMS: Madam Chair.

CHAIR VIGIL COPPLER: Mr. Helms.

MEMBER HELMS: I know what Romero-Wirth said and she's absolutely correct. I read the letter myself earlier today. It's crystal clear and there's no doubt that what she says is right. But unfortunately it's not good for Buckman, and I think it points directly at the next action I think we should take and that is to vote on removing with the project management from the City and setting ourselves, Buckman up as the project manager. We should manage our own outfit. We can do it. We can just vote for it.

It hasn't been so easy to do because the City has a lot of power, obviously, but the proper structure for such an organization is to run its own affairs and that means to hire itself as a manager. That's all.

CHAIR VIGIL COPPLER: Thank you, Mr. Helms.

COMMISSIONER HAMILTON: I don't necessarily disagree.

CHAIR VIGIL COPPLER: Before you go on let me call on Commissioner Hansen.

COMMISSIONER HANSEN: So thank you, Mr. Helms. So part of the reason that I brought up SWMA was just that point. Their employees were not furloughed and they still have different certain agreements with the City. They are considered City employees – no, they're not? Ever?

COMMISSIONER HAMILTON: No.

COMMISSIONER HANSEN: Okay. That's good. That's good. I'm happy to hear that. I'll use that as a later argument. But I want to know why BDD union employees do not constitute a separate organizational unit, under the referenced CBA. Given among other things the City's contractual obligations under the PMFSA and separate funding.

CHAIR VIGIL COPPLER: Who wants to take that question? I'm not really sure. Can you repeat your question?

COMMISSIONER HANSEN: Why do BDD union employees not constitute a separate organizational unit under the referenced CBA, given among other things, the City's contractual obligation under the PMFSA and separate funding? So it's separate funding for Buckman.

COUNCILOR ROMERO-WIRTH: Maybe Nancy Long would like to weigh in on that. Or Bernadette.

MS. LONG: Madam Chair, Councilor Romero-Wirth, I have not reviewed the CBA that the City has and the definition of different organizational units, but I would think Bernadette may be able to answer that question on how organizational units are defined, and I think the Commissioner's question also went to the impact of the PMFSA and the obligations there, and how that might affect organizational unit definition under the collective bargaining agreement.

MS. SALAZAR: Madam Chair, so the collective bargaining agreement includes eligible classifications consistent with the Public Employees Bargaining Act, and because BDD employees are City employees they fall under that definition, therefore making them eligible to become AFSCME Local 3999 union-covered employees.

CHAIR VIGIL COPPLER: Okay. Commissioner Hamilton.

COMMISSIONER HANSEN: I wasn't really done.

CHAIR VIGIL COPPLER: Okay. I'm sorry. Commissioner Hansen, you weren't done.

COMMISSIONER HANSEN: I have another question for Bernadette. Did City management ask AFSCME if it would concur in treating BDD union employees as a separate organizational unit for the purpose of the furloughs?

MS. SALAZAR: Madam Chair, Commissioner Hansen, I'm sorry. Can you repeat your question?

COMMISSIONER HANSEN: Did City management ask AFSCME if it would concur in treating BDD union employees as a separate organizational unit for purpose of the furloughs?

MS. SALAZAR: Madam Chair, Commissioner Hansen, no. When we talked with AFSCME we talked as a whole for their entire bargaining unit and we do have other employees who are also in different funding sources, so we talked about the employees as a whole, and then looked at different organizational units as described earlier.

CHAIR VIGIL COPPLER: Commissioner Hansen, are you done?

COMMISSIONER HANSEN: I have one more question. Assuming that the City had no choice but to treat BDD union employees as the same as other City employees, how does that relieve the City of the contractual obligations under the PMFSA to implement the BDD budget, provide necessary staff consistent with BDD Board funding and staffing plan, and perform OMRR&R in accordance with prudent water utility practices and the BDD Board approved operations manual?

CHAIR VIGIL COPPLER: And who's that question directed to?

COMMISSIONER HANSEN: Anybody who wants to answer it.

CHAIR VIGIL COPPLER: That was a long question. I'm not sure I even got it all. Do you want to repeat it and make it a little bit shorter?

COMMISSIONER HANSEN: Assuming that the City had no choice but to treat BDD union employees as the same as other City employees, which you seem to have established, how does that relieve the City of the contractual obligations under the PMFSA to implement the BDD budget, provide necessary staff consistent with BDD Board funding and staffing plan, and perform OMRR&R in accordance with prudent water utility practices and the BDD Board approved operations manual? I know that's a long question, but I think they have something to do. So Bernadette? I think it's also similar to what Commissioner Hamilton has been getting at, just asked in a different way.

CHAIR VIGIL COPPLER: Ms. Salazar.

MS. SALAZAR: I'm going to defer over to Director Jones. I think a lot of it is operational, if I understand your question correctly.

COMMISSIONER HANSEN: I assume I'm not going to get an answer today but I will make sure that all these questions are sent to the Board and hopefully I will get an answer at some later date.

CHAIR VIGIL COPPLER: All right. Thank you. Commissioner Hamilton.

COMMISSIONER HAMILTON: So while I might agree with the second half of what Mr. Helms suggested, I respectfully disagree, which is agreement with the City legal counsel's letter that are vote will make no difference in the furloughs.

Furloughs impact the BDD budget. BDD budget and associated staffing levels are set and then approved by the partners. And the project manager is obligated to operate the BDD within those constraints or bring necessary changes back to the BDD Board.

So things are being treated right now like an apology was all that was necessary. I'm sorry we didn't talk to you. It was just an oversight, but we have the right to do this. And I respectfully say that's not true. You can operate BDD. It can be integrated closely with other water operations. There are technical reasons to do that. But when it comes to changing those operations, that information has to be brought back to the Board. And in addition – that's one point I feel on its surface should be obvious. And this is skirting around answers the City is giving, is like, okay, yeah, but I didn't know about it so you can just approve it and then we can make any other changes we want. And that's going to be a problem. That's what breaches PMFSA.

So I take this very seriously. I think this is critically important that operation of BDD be a process between the partners be understood and respected. The other thing that actually gives me some concern, and respectfully I hate to say that this was something Councilor Romero-Wirth said, that the City had to move quickly to stem hemorrhaging. That's fine with the City budget. That cannot be the case with BDD. It's not the City's place to stem perceived hemorrhaging at BDD, which wasn't happening, or on the other side, think that they're going to use BDD savings to plug the City hole. That's not going to happen.

And I know that's not what you implied, but having to move quickly is just no excuse. It's not a reason or a justification for not going through the process and coming and discussing budget issues. And if that had been done, then the issues of having to ask your partners for revenue estimates and how that was going to be handled – revenue which is completely different than what the City revenue and the County revenue is, and what expenses and savings could be done.

And I guarantee that this Board is responsible enough to have done a good job of that. And if we're not, then maybe we should be replaced. If the City can't manage the project, then maybe the City should be replaced. Both things can happen. So breach on one side or the other. And I know where it is right now. And it could be fixed easily. We can all talk and fix this. But it can't just be, well, sorry, and then go back to doing it the way it was. This is a serious issue and this is going to be ongoing because it is a very, very serious challenge we're all presented with. And in my personal philosophy we will do this better together than apart.

COUNCILOR ROMERO-WIRTH: Madam Chair.

CHAIR VIGIL COPPLER: Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: I want to clarify something. Any savings to BDD is not being used to plug the City budget. It may be used, however, to help with what the City may end up being able to or not being able to do on its side to run BDD. But this is exactly why what you're saying, we need to do the analysis. We need to have these conversations and I completely agree with you in that respect. All this did though was these people who are City employees who operate BDD are on our side and we had to do something on that side.

Now, I'm not saying apologies are going to fix this. This is a structural issue and we're going to have to look at how this particular piece of the budget, what we need to do. Now, it's my understanding that our resolution allowed for only four-hour furloughs

if it was needed for operations. So this may be something we need to look at as we do this analysis of the BDD's budget in the June meeting, is if the furloughs are too much and they're affecting the operations, then as part of our resolution we have the ability to back them out and make them only four hours.

So again, I think – I agree with you. Let's go forward. Let's do the analysis. But we have to realize that these employees are on the City side and they are our responsibility, and there's a good side to that too, because they are an extension of the Water Division. So if something happens at BDD – it's not fully staffed for some reason and we need to bring over other Water Division employees to help make sure that that facility is running without any interruption in service or level of service, we can do that. So that's a good thing.

COMMISSIONER HAMILTON: Yes.

COUNCILOR ROMERO-WIRTH: And right now, this other side, not such a great thing and we're going to need to see how that works within the budget. And that's a conversation that we need to have. Maybe something structurally needs to happen or maybe we can work within this new situation that we're in. So I think we've heard your point loud and clear and I think the conversation needs to go forward. We need to do the cost/benefit and the budget analysis that you're suggesting, but one factor in that is what has happened with City employees, and we'll have to see if that's going to be a long-term problem and what we do about that.

CHAIR VIGIL COPPLER: Commissioner Hansen, and then Commissioner Hamilton.

COMMISSIONER HANSEN: I appreciate Jesse's letter and apologizing, but this is a historical problem. The City considers BDD their property. BDD is a joint property. The City, County and Las Campanas are all partners. So that has to be at the forefront of any decisions going forward. And so part of the reason I feel – I myself am upset and Commissioner Hamilton is because of the historical nature of this continually happening and thinking that you do not have to consult the County. That's all I have to say.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: So Councilor Romero-Wirth, I appreciate what you're saying, and I do appreciate and recognize that most of my point has been recognized, about having to do the analysis. The point about the BDD staff being City employees – everybody needs to think of the fact that they are City employees because the City is the project manager, but the staffing is directed by the budget that's approved through the Board and then by the partners. And so that does make a differentiation between those City employees and everybody else. Because you could certainly argue that changes have to be made for lots of other employees that would breach the PMFSA. And so that fact has to be recognized. And my feeling is that the idea of these furloughs cannot be as a result – evaluated until we get the rest of this analysis like at the June meeting.

So I now the City Attorney suggested that we table this indefinitely; that's totally unacceptable to me. But I don't see voting on it one way or another until June when we get this analysis further.

CHAIR VIGIL COPPLER: Further discussion?

COUNCILOR ROMERO-WIRTH: If I could just clarify. Our resolution says that furloughs can be – that they are four hours and they can be less if it impacts the operation. I would also just reiterate that the City is facing a \$150 million budget shortfall for FY 21 and the situation that we're in is very serious and I look forward to the conversation that we'll have in June.

CHAIR VIGIL COPPLER: All right. Yesterday it was \$100 million. Now we're \$50 million added?

COUNCILOR ROMERO-WIRTH: Sorry. \$100 million. Well, actually, the worst case scenario is \$150 million. Right now we're going with least case and that's \$100 million. So sorry.

CHAIR VIGIL COPPLER: No, no. I got you. It could very well end up being there. Okay. One more comment from everyone who wants to. We've spent a lot of time here and I think it's very valuable time. Commissioner Hamilton, is your hand up? Okay, go ahead.

COMMISSIONER HAMILTON: No. I would just support waiting until this matter – a deeper budget analysis is on the agenda for the next meeting.

COUNCILOR ROMERO-WIRTH: So can we just agree to take no action? We won't table it but let's just take no action. The agenda says possible action, so let's just not take any action. And I defer to our ample stable of attorneys here as to whether we can just take no action or whether we actually have to table it.

CHAIR VIGIL COPPLER: It says discussion and possible action. So Nancy.

MS. LONG: Madam Chair, you are not required to take any action and you don't have to agree not to take any. So it's just a possible suggested action by the memo.

CHAIR VIGIL COPPLER: Okay, but I think we all understand that there's some more analysis that has to go into the furloughs and we don't have the information yet. I want to say that I think this was a healthy discussion to have. We've had this kind of discussion at various meetings. I've been on this Board for going on my second year and various issues have come up kind of related to the fact that there doesn't seem to be equal representation in terms of courtesies and information given to the Board.

And this is one, which I think is more serious. I agree that it's not just something we can say, oh, okay, never mind, as Commissioner Hamilton kind of alluded to. But it's a healthy discussion because I'm glad that many people from the City are attending this meeting. I think you've probably heard loud and clear that BDD does have authority given to it in the project management agreement, whatever you want to call it. I agree that the City does have authority over City employees, but they don't have – I don't believe the project management agreement gives the City the unilateral authority to make changes without presenting to the Board. It doesn't mean the outcome will be any different, but frankly, it's a matter of courtesy, number one. It's a matter of professional respect, and it's a matter of even understanding what the project management agreement says.

And I don't want it to be like, hey, we'll just take our toys and go home, i.e., City employees. I think we have to all work together and we have to all be definitely aware of what the BDD Board consists of, what our by-laws or whatever we have governing us,

the PMFSA, and go from there. And so maybe this discussion will help all of us learn that before we do anything with BDD, this Board deserves the respect, the partners, all of us, deserve the respect of any changes that are made that affect anything that's in the PMFSA. So from here on out, I think we all need to be paying a lot more attention to what the requirements are of this Board and not take it lightly.

I kind of thing that because BDD is so far away it's out of sight, out of mind. And we all know, employees are 70 to 80 percent of the budget, generally. So that doesn't mean the City has 70 to 80 percent of authority on the Board. We are all equal partners. And so I hope that this has been a positive effect going forward. I think we can straightened these things out as we move through the budget process, and those of you that are going to be working on the budget, be mindful that BDD has a budget and we prepare it alongside the City's budget. And we're all here, not necessarily to vouch for the organizations from where we came, but to vouch for BDD. That is our charge. It's not to do one or the other. I know I've seen votes on this Board that go across the lines, and that's good. That's a healthy organization. So thank you all for being respectful of one another. I look forward to working again with all of you in preparing this budget. These are hard times. They're hard times for us, and although our County partners haven't mentioned it but I know there's hard times for you coming up. So as they say, we're all in this together, right? So we've got to row this boat somehow and we've got to keep the BDD running and running chemically sound and giving us the clean water that we need for all of our residents, both city and county. And Las Campanas.

So that's my lecture. If there's no further action what I understand is that we're going to come back next month with the budget preparation and we ask those of you who are City employees to come back with the City's projections, the information that we'll need to make a determination about what kind of budget we prepare for the future. So is that a deal? It's not a vote, Ms. Long, it's a deal.

## **MATTERS FROM THE BOARD**

CHAIR VIGIL COPPLER: Yes, there is other matters. Anyone have any matters? Okay. Seeing none, I will adjourn the meeting and we will prepare the agenda for the next meeting that we will have soon. So thank you all.

## **ADJOURNMENT**

Having completed the agenda and upon motion, Chair Vigil Coppler declared this meeting adjourned at approximately 5:47 p.m.

Approved by:

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JoAnne Vigil Coppler, Board Chair



Respectfully submitted:

Karen Farrell, Wordswork

**ATTEST TO**

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YOLANDA Y. VIGIL  
SANTA FE CITY CLERK

