

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

May 7, 2020

This 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-1, 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
Tom Egelhoff, Las Campanas [non-voting]

Member(s) Excused:

None

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
Randy Sugrue, BDD Operations Superintendent
Kyle Harwood, BDD Counsel
Greg Shaffer, Santa Fe County
Jamie-Rae Diaz, City Administrative Assistant
Jay Lazarus, Glorieta GeoScience
Joe Abeyta, City IT

Alex Pulgisi, Environmental Compliance Specialist.
Jesse Roach, City Water Division Director
Gary Giron, County Public Works Director
John Dupuis, County Utilities Director

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

CHAIR VIGIL COPPLER: I want to alert the Board that we have two item 13s and they are both the same item. We originally had a different item as number 12, but it is not here. So we will be determining the course of action for the former agenda items number 12 at a future called meeting, whether it is a special meeting or the next Board meeting. I just wanted you to know that we do understand that we have two item 13s. Rick, would you agree with that?

RICK CARPENTER (Facilities Manager): I think that's the appropriate course of action.

CHAIR VIGIL COPPLER: So are you withdrawing item 13?

MR. CARPENTER: Yes.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: On my consent agenda I have 12 and 13. I don't have two 13s.

CHAIR VIGIL COPPLER: I realize some do have a different agenda. However, we have to go by the one that was published.

COMMISSIONER HAMILTON: And we didn't get the same agenda?

CHAIR VIGIL COPPLER: You may have gotten an earlier planning agenda. But the actual one that was published to the public is the one we have to go by. All right, I hope I made that clear.

COMMISSIONER HAMILTON: No, I am confused.

CHAIR VIGIL COPPLER: Well, we have two item 13s and it's the same item and on the public agenda there is no item 12.

Do I have a motion to approve the agenda as amended?

COMMISSIONER HAMILTON: Madam Chair, I think we need – I am confused. I'd like to know what is on the consent agenda; if you could read those items. If I can't see those items, I don't know what I'd be approving. I don't understand which items are still on consent and which have been removed. You can't just give the numbers because if our list is different – I'm not sure we're actually –

CHAIR VIGIL COPPLER: All right. Just to backtrack a bit, our action items right now, we're on item number 3, approval of the agenda. So going through the consent items on the published agenda, we have two item 13s which are the same and the item reads,

Request for approval of Amendment No.1 to Professional Services Agreement with Glorieta GeoScience, Inc. to extend term of agreement and rollover contract balance to FY20/21

So we have that duplicated on the public agenda as 13 and 13. We have no item 12.

COMMISSIONER HAMILTON: Okay.

COMMISSIONER HANSEN: Madam Chair.

CHAIR VIGIL COPPLER: Yes, Commissioner Hansen.

COMMISSIONER HANSEN: On my agenda it says that this was received at the City Clerk's Office on April 28, 2020, time 4:45 and I have a 12 and a 13; so does that mean that that page somehow – the agenda was not the same agenda that was sent out to myself and Commissioner Hamilton?

CHAIR VIGIL COPPLER: I'm not dealing with the paper agenda. I don't know. Mine is what has come off of the City's website and that has two item 13s. So what you have, is not what the public has. And I don't know where the glitch was and at this point it is moot because we're dealing with published information right now.

COMMISSIONER HAMILTON: Are you free to say what item is being postponed to a future meeting?

CHAIR VIGIL COPPLER: Nancy, I'll rely on you. Can you respond?

NANCY LONG (BDD Board Counsel): Yes, Madam Chair, the item that appears on your paper agendas and also on mine but somehow didn't make – somehow there was some glitch that happened on the agenda that was posted on the City of Santa Fe's website which the public accesses. We just learned of this the very last minute today. The item that is on our agendas and that we may need to call a special meeting for or consider it at a future meeting as the Chair indicated is the request for approval of amendment number 3 to the legal services agreement with Snell & Wilmer to increase compensation in the amount of \$400,000.

COMMISSIONER HAMILTON: Okay, thank you. So that's being dropped. So with those changes, I will move to approve the agenda.

CHAIR VIGIL COPPLER: Do we have a second?

MEMBER HELMS: Yes.

COMMISSIONER HANSEN: I have a question. So does that mean there is nothing on the consent agenda; is that correct?

COMMISSIONER HAMILTON: There is one item.

CHAIR VIGIL COPPLER: One item number 13.

COMMISSIONER HANSEN: Okay, thank you.

The motion to approve the agenda as amended passed by unanimous [5-0] roll call vote.

4. APPROVAL OF CONSENT AGENDA

13. Request for approval of Amendment No.1 to Professional Services Agreement with Glorieta Geoscience, Inc. to extend term of agreement and rollover contract balance to FY20/21

Commissioner Hansen moved to approve. Commissioner Hamilton seconded.

COMMISSIONER HANSEN: I just want to state that I really appreciate James Bearzi being on these technical meetings that I have been attending with LANL on the MDC. So I just want to make sure that that is recognized as part of his contract because I find it very helpful to have him on those meetings. So I'm just making that clear that I am requesting to make sure that James Bearzi continues to attend the LANL technical meetings that meet once a month for two hours.

CHAIR VIGIL COPPLER: Okay, great. Thank you very much for that. Any other discussion before we vote on approving the consent agenda.

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

5. APPROVAL OF MINUTES: March 5, 2020

Commissioner Hansen offered the following corrections:

Page 1: The Chair and Vice Chair were misidentified

Page 13, middle of the page, it should read “they use raw water,”

Page 18, where Commissioner Hamilton states she will be attending an EPA meeting it should read April not March.

Commissioner Hansen moved to approve as corrected. Commissioner Hamilton seconded and the motion passed by roll call vote with Councilor Romero-Wirth abstaining since she was not present at the March meeting.

MATTERS FROM THE PUBLIC

CHAIR VIGIL COPPLER: Rick, will you be reading that?

COMMISSIONER HANSEN: Madam Chair, I suggested that Kyle read it when he gives his presentation since it is related to his presentation.

CHAIR VIGIL COPPLER: Thank you for that. We did receive one email for matters from the public and it will be read later on under informational items.

INFORMATIONAL ITEMS

7. Report on May 5, 2020 Fiscal Services Audit Committee (FSAC)

MS. ROMERO: Madam Chair, members of the Board, a Fiscal Services Audit Committee meeting was held on Tuesday, May 5th via Zoom. In attendance was myself, BDD Financial Manager, Rick Carpenter, BDD Facilities Manager, Commissioner Hansen attended for the Chair Vigil Coppler, and Commissioner Hamilton, Ira Roybal, Tom Egelhoff and Ken Kirk. During this meeting, I provided an update on the fiscal year 18/19 audit and financial statements. That update is via our auditors, CLA, have begun the audit and test work for BDD. We had an entrance conference with the Chair on April 23rd. The goal is to have financial statements issued to the State Auditor before June 30th and I will continue to provide updates to the Board and the partners.

During this meeting we discussed the report on the 3rd Quarter financial position which I will also provide an update as part of this meeting and then we did discuss consent item number 12 which has now been removed and consent agenda item number 13 with no major issues or concerns. And that is the end of my report, if there are any questions.

CHAIR VIGIL COPPLER: Does anyone have any questions for Mackie? All right. I do want to state that the reason I wasn't able to attend is that we had a Special City Council meeting at the same time. Thank you for sitting in for me, Commissioner Hansen.

COUNCILOR ROMERO-WIRTH: Madam Chair, if there's a meeting, another meeting of this group, can I get notice of it please.

CHAIR VIGIL COPPLER: Yes, you can.

MS. ROMERO: I will include you.

COUNCILOR ROMERO-WIRTH: Thank you.

COMMISSIONER HANSEN: Madam Chair, I want to thank you for the opportunity to attend the meeting. It was very informative and very helpful, thank you.

8. Monthly Update on BDD Operations

CHAIR VIGIL COPPLER: Randy.

RANDY SUGRUE (Operations Superintendent): Thank you. Madam Chair, members of the Board, BDD operations for the month of April, our raw water diversions averaged 3.93 million gallons per day. Drinking water deliveries through our Booster Stations 4A and 5A averaged 2.98 million gallons per day. Delivery to Las Campanas was .6 million gallons per day on average. Our onsite treated and non-treated storage was .5 million gallons per day average.

BDD in April provided approximately 40 percent of the water supply to the City and County for the month.

CHAIR VIGIL COPPLER: Excuse me, Randy. Can I ask that if you're not speaking that you mute your phones, please. The other thing I should have mentioned, Randy before you started, I apologize. Jamie-Rae emailed an updated information report that includes page 1.

MR SUGRUE: Correct.

CHAIR VIGIL COPPLER: But it's the whole report so if you're not following Randy's presentation you should pull up the email that you received from Jamie Rae earlier outlining the whole presentation. Sorry, I didn't mention that sooner. Please continue.

MR. SUGRUE: That's essentially it. We did provide approximately 40 percent of the water supply to the City for April. That is increasing rapidly now that we are in May and citywide demand is increasing. There is a drought summary brief attached on page 2. Our year-to-date diversions are listed in the graph below. That's it and I stand for any questions.

CHAIR VIGIL COPPLER: Do we have questions? Commissioner Hansen.

COMMISSIONER HANSEN: I don't have any questions.

CHAIR VIGIL COPPLER: Commissioner Hamilton, I'm sorry.

COMMISSIONER HAMILTON: There might be a few times that it's appropriate to ask this question, have you seen differences in water demand that you attribute to the current pandemic and restrictions and do you anticipate any in the future – the near future?

MR. SUGRUE: We certainly did see lower than expected demand in April which we speculate, which essentially is all we can do, to restaurants being closed and hotel/motel occupancy likely being down. The end of April and now early May, the City parks have begun irrigating and so that has brought demand up and it's about where we expect this time of year. So possibly people as the weather warms are using a less bit

more water at home as well. So demand is about where we expect.

COMMISSIONER HAMILTON: Thank you. I almost expected residential demand to go up a little bit just because people were home more and doing more things at home.

MR. SUGRUE: It was a little cooler in April and I think that kept the demand down a bit. And then of course, suddenly the temperatures have risen, people are home and I'm guessing they are starting to water gardens and things like so it's about where we expect as May begins.

CHAIR VIGIL COPPLER: Okay. Anyone else have any comments or questions?

COMMISSIONER HANSEN: Madam Chair.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: This is not on the subject but it seems that people cannot get online. It seems the link is for the Archaeological Committee and not for BDD. And I'm getting texts and emails from people saying that they cannot get on this meeting. I don't know exactly what to do.

CHAIR VIGIL COPPLER: Joe Abeyta, can you address that?

COUNCILOR ROMERO-WIRTH: I think it is working now.

JOE ABEYTA: I'm here. Sorry. Commissioner Hansen received some communication that this meeting cannot be accessed; however, Councilor Romero-Wirth just said it was working.

MR. ABEYTA: On YouTube?

COMMISSIONER HANSEN: Yeah, they're getting the Archaeological Committee meeting instead of our meeting.

COUNCILOR ROMERO-WIRTH: That was the meeting but it just slipped over. I think it's okay now.

MR. ABEYTA: It's on here. I've been monitoring off and on but YouTube doesn't flip back and forth once it starts a stream.

CHAIR VIGIL COPPLER: Well, Joe, Councilor Romero-Wirth just confirmed that it is on now. I believe we're good to go. Commissioner Hansen, I think we're good to go.

COMMISSIONER HAMILTON: Actually, I just got a text also from someone the information they provided was more specific. They're trying to access the meeting via the link at the top of the agenda. So maybe somebody needs to specifically check the link at the top of the agenda and make sure that is correct. Joe, if you could potentially do that or Jamie-Rae, that would really be appreciated.

COUNCILOR ROMERO-WIRTH: So in the alternative, if you go to the City of Santa Fe YouTube channel, you can connect to this meeting.

COMMISSIONER HAMILTON: Okay.

COMMISSIONER HANSEN: Yes, and the people who were texting me say that, yes, now the meeting is broadcasting.

MR. ABEYTA: Just to confirm, the meeting has been broadcasting since the beginning.

COMMISSIONER HANSEN: For some reason they were getting a different meeting.

MR. ABEYTA: Not quite sure. It might be operator but I know that the

meeting has been on since the beginning.

CHAIR VIGIL COPPLER: Okay, thank you, Joe, thank you Councilor and Commissioner. In the event you get any communication from now you might direct them to go to the City website YouTube channel and that appears to be working.

Are there any questions for Randy before we move on? Thank you very much, Randy.

9. Report from the BDD Facilities Manager

MR. CARPENTER: Thank you, Madam Chair and members of the Board. I don't have a lot to update the Board on at this time, other than lately there has been some discussion around the furloughs associated with City employees and how that might affect BDD operations and our ability to perform our essential functions. In that regard, I have been meeting regularly with my direct reports and my group managers and also the Water Division Director on how we're going to staff and organize our staff. We have a full staff and we have worked very hard on that the last several months to fill all the vacancies and operations. We do have some redundancy which provides us flexibility. We have full coverage at this time and I have every confidence that the BDD will be able to maintain the necessary levels of service to the function and perform our essential functions. I wanted to make that clear to the Board.

CHAIR VIGIL COPPLER: Commissioner Hamilton, I'll call on you.

COMMISSIONER HAMILTON: Okay, well, thank you for that. I don't know if this is an acceptable time for me to bring up my concerns having to do with the City furloughing BDD employees – making that decision to furlough BDD employees; is this good?

CHAIR VIGIL COPPLER: Yes, please proceed.

COMMISSIONER HAMILTON: So I have some real concerns about that process. I understand how important it is for everybody to move quickly. I certainly understand the City's concerns and that there might be particular things having to do with maybe overtime expenses at BDD and I recognize that as the project manager BDD employees are City employees. However, I believe this decision to do furloughs that impact BDD are effectively a budget decision and for BDD that is an agency that has a separate board, budget decisions are within the purview of the board. So I have some real concerns about the process that was not followed. In fact, setting the budget that whole process is established in the JPA. So I feel like we need to go back to that process and maybe even have – it's already been mentioned – a special meeting, have a special meeting to discuss what is needed in terms of action.

And in that regard, I also want to say that that the BDD certainly needs to review revenue projections if we, if Rick and Mackie and then the Board have reason to be concerned about revenues impacted by the pandemic, we need to evaluate those independently. And I want to point out, that the revenue sources for BDD are entirely separate from and different than revenue sources to the City and revenue sources to County.

And so I actually, on Tuesday night at the FSAC meeting I mentioned this and I'd like to officially in open meeting request that we get that kind of assessment for the BDD Board to consider: do we have impacts that we have to think about in terms of revenue

streams that would impact our budget in which case we should be making decisions about what to do to assure that we can stay within that budget if we need to be conservative.

Any decisions that are made to do furloughs to BDD people, those savings stay with BDD and then can be used to mitigate any revenue impacts we think we're going to have or repay to the partners the way that we would share any kinds of altered budget should the BDD Board vote to alter the budget out of necessity.

So, in addition, I'm not really anticipating reasons given the nature of the need for water that the City and the County would be reducing water use beyond normal conservation. However, if the City or the County, for that matter any partner, intends to want to revisit what they pay to BDD – so BDD revenues are based on partner payments for water use, spoken generally, the potential to use water, and it's agreed to in formal documents – if that's going to change we need to include that discussion in a special meeting or put it on next month's agenda whichever is appropriately timely.

But I would really like to hear what other people think. But we have an approved budget and I consider water utility essential. As a matter of fact, I understand it falls with the Governor to decide what is essential in time of an established crisis. But using the term loosely, unofficially, I consider provision of water essential. And I think the Board should take the time to discussion whether we can meet all of our operations. Whether internal to BDD we have a budgetary need to reduce payroll time and expenses, and, also other expenses including purchases. So I know the City has also imposed a no spend and a no contract thing, but in my mind those do not apply to BDD without going through the Board and having the Board review what's necessary to spend and what we have budget for and what we have the revenues to cover.

So I'll leave it at that at the moment but I really feel like we need to address this.

CHAIR VIGIL COPPLER: Thank you, Commissioner Hamilton. Is there anybody else who wishes to speak to this matter?

MEMBER HELMS: Yes. I'm J.C. Helms. Can you hear me?

CHAIR VIGIL COPPLER: Yes.

MEMBER HELMS: I just want to say that I'm in complete agreement with Commissioner Hamilton. I have touched on this topic over the years. We are an independent agency. We actually have an independent source of income and the only way we can provide that income and the water that goes with it is to have a well-staffed operation and I think the decisions about staff should be completely within the purview of the Board. They should not be subject to County staff or to City staff. And I have to assume that there will be a little bit of a scuffle in that regard, there has been in the past. But on a topic of this importance, letting people go just because the City doesn't happen to have money is not proper because we do have money and it is extremely important. It is not just essential, I think it is the most important single service the City or the County provide to the citizens here; the most important. So I am completely in agreement with Commissioner Hamilton.

CHAIR VIGIL COPPLER: Thank you, Mr. Helms. Commissioner Hansen.

COMMISSIONER HANSEN: Yes, I think furloughing BDD employees is up to the Board and up to the BDD and so I think that that needs to come to us. I do agree with Commissioner Hamilton on that point. I do agree that this is an extremely essential service and that if the City can't pay their bills then that is something that we need to discuss as a Board in the JPA. But at the moment we have staff that – Mackie is our financial person

and does all of our finances and this is an extremely busy time of the year for her. For her to be cut back on her hours I find slightly challenging considering she has obligations to the auditors. And, there's just a lot of things that before a furlough happens at BDD that needs to come to the Board. So I'll leave it there.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: In that respect, I wanted to add that there was one thing I did want to mention. I don't know if it's possible, if there are personnel constraints having to do with the bargaining units with the City that might require unilateral – I mean decisions across the board furloughs – but the County does not have those. So I just want to allow for the fact that that might be something that the City wants to bring up with us. Even if that's the case, I believe it is still necessary for this process to go through the Board because it impacts budget and it's an independent budget.

I do have concerns about some impacts, potential impacts to operation, which Mr. Carpenter assured us that the operators are still able to cover all shifts. Maybe I would like to hear that in more detail.

We already have a late audit and the City made a unilateral decision to furlough all of their financial people including Mackie. And I think that that could potentially have some impacts that I would like the Board to discuss.

CHAIR VIGIL COPPLER: Okay, Mr. Ives.

MR. IVES: Thank you, Madam Chair. I just going to point out, for what it's worth, in the Governor's – I should say our Health Secretary's Order of April 30, paragraph 2P which became effective May 1st, in the description of essential businesses lists, "utilities including their contractors, suppliers and supportive operations engaged in power generation, fuel supply and transmission, water and base water supplies." So water is an essential business under the currently in place Public Health Orders. Thank you.

CHAIR VIGIL COPPLER: Any other comment? I'd like to let the Board know that I did have a meeting with the Mayor yesterday wherein I brought up this issue. He was unaware of the approach taken and I did let him know that – Mr. Carpenter you said that Jesse Roach would speak to this and I'm not sure that that's still your plan – but I asked the Mayor to bring a perspective to this meeting whoever was going to be here from the City manager as to what, if anything, could be done or at least a reasoning behind this. So I'll turn it over to you, Rick, to see if you have any new information on that.

MR. CARPENTER: Thank you, Madam Chair and members of the Board, it's my understanding that the Water Director Jesse Roach is part of this meeting and is prepared to address any questions that the Board may have in this regard.

CHAIR VIGIL COPPLER: Okay, Jesse, if you're on can you give a presentation or whatever it is that you would like to report to the Board?

JESSE ROACH (City Water Division Director): Madam Chair, members of the Board, thank you for having me and thank you for this opportunity. I just wanted to take the opportunity to apologize to the Board. I feel like we dropped the ball here. It's been kind of a quick – well, I went back and look at the timing of all of this and on April 20th we got an email from the Mayor stating that an across the board furlough was being implemented and the next day there were letters from the City manager going to BDD employees and at that point we started to scramble to figure out how we would continue to deliver our same level of service across the Water Division with a four-hour per week average furlough and that kind of became overwhelming to us. And there is no excuse, the

BDD Board – at that point, I wish I had come to you Chair and said, Look we have this issue coming where we are going to need to implement furloughs. We are working on them internally to come up with schedules so that we can continue to provide our essential level of service with a reduction in hours and ask for your direction on how we would like to bring this to the Board.

I probably can't speak to some of the other issues that have been brought up so far but I am here to answer questions to the best of my ability and to also apologize that in this sort of fray of what has happened in the last two weeks we did not formally figure out a way to bring the Board into these conversations and these discussions.

COMMISSIONER HANSEN: Madam Chair. So, Jesse, I understand your situation and I understand that you are new but this is a historical problem with the City not bringing things to the Board. And so it just kind of aggravates a situation that is already happening. I appreciate you saying that you didn't recognize this but this is the same excuse we constantly get. So I think that that needs to be not the excuse and you have to pay attention to the fact that this is a separate Board and I did have a separate meeting with you a month or two ago and brought up some other issues that are kind of – not in the same line not having anything to do with furloughs – but once again, the Board not being consulted and the City thinking that they run this Board. I find that unacceptable.

MR. ROACH: Madam Chair, Commissioner Hansen, I have no excuses.

COMMISSIONER HANSEN: Thank you.

CHAIR VIGIL COPPLER: May I suggest that perhaps that maybe and we don't have to vote on this but if I hear or see any nods, I think it would be appropriate to write a letter to the City manager letting our opinion on this be known. I do agree that this has happened more in the past on other matters and I think, and I don't want to be flippant but I think it just may be out of sight, out of mind. It's unfortunate but it has happened before so I would suggest that perhaps a letter be written to more formalize that this is a serious matter and the BDD Board was overlooked.

COMMISSIONER HAMILTON: Madam Chair. Let me clarify something. I really appreciate the apology and everything you and Commissioner Hansen have said is true. This isn't a social interaction issue and this isn't a matter of – this is a matter of policy. And I am actually – I would like to request officially that we have a special meeting to review the BDD budget, BDD revenues, any projected/anticipated reductions in revenues and how that would impact our accepted budget and make the Board decision. And at that time, the City and the County and all of the partners will participate as typical, and I think it is at that time that we can discuss whether within the realm of the BDD budget what we need to make changes to or not. That those decisions, if there's a reason that the City feels that because they're City employees, they object to being different, we can hear that at that time. But it is the Board's budget decision and I'd like to request a special meeting to discuss that. In a timely fashion like maybe within a week or two based on whether Rick and Mackie can get us thoughts on revenue changes in that timeframe.

CHAIR VIGIL COPPLER: Thank you. Councilor Romero-Wirth

COUNCILOR ROMERO-WIRTH: Madam Chair, I don't think we can do a letter because I think that would require a vote and we haven't noticed that there would be a vote on this particular issue. So I think Commissioner Hamilton is correct that what we need is just that we have flagged the issue and there needs to be more discussion with the City staff, the City manager, the City attorney's office and, of course, our folks to figure out

what the rules are here and then we have a special meeting about what impacts the COVID crisis, public health crisis has had on our budget for BDD and what if anything we can and should be doing.

CHAIR VIGIL COPPLER: Okay, thank you for that. We'll discuss the sense of the discussion we had here though with the City manager just to let her know that we're speaking about this. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. I think that having a special meeting is a good idea and I know that it would have to be noticed so that's probably 10 days, unless we had to do an emergency meeting. I know that there is another item that was left off of the consent agenda that needs to be approved. I would ask Nancy Long what she thinks the timeframe can be for us to have this meeting and then also ask Mackie and Rick how they feel about getting this information together for us.

NANCY LONG (BDD Board Counsel): Madam Chair and Commissioner Hansen, for a special meeting we would need three days notice and the agenda would need to be posted three days in advance of that. You are correct that as to the other item that there was a glitch with on the agenda and we are going to need to present that to the Board sooner rather than later. Obviously, we've got to check people's schedules and that one could be at the same special meeting and I would just add the caveat that depending on City personnel availability and the work that we're asking them to do in order to have a meaningful special meeting, I think we would have to check in with them to see what kind of lead time they need. Hopefully, it would be something that could happen quickly and hopefully at the same meeting that we're talking about having on the Snell & Wilmer agenda item.

CHAIR VIGIL COPPLER: Thank you, Nancy. Anything else? All right, Rick, did you have anything else on your report?

MR. CARPENTER: Madam Chair, no, I think that covers it. Thank you.

CHAIR VIGIL COPPLER: Alrighty. Thank you very much. Thank you, Jesse.

COMMISSIONER HAMILTON: Madam Chair. So is there going to be a process for scheduling the special meeting?

CHAIR VIGIL COPPLER: I'm sorry, can you say that again?

COMMISSIONER HAMILTON: Are we going to have a process, who is going to be in charge of scheduling the special meeting? If we're not going to schedule it now, I don't want this to fall through the cracks.

CHAIR VIGIL COPPLER: Nancy, can you comment on how you think we should proceed with that?

MS. LONG: Yes, Madam Chair and Commissioner Hamilton. I believe what we should do is perhaps Rick, Mackie and I should talk about the components of that meeting and who we might need to also involve from the City. So essentially I am saying you would be putting the three of us in charge of trying to get that scheduled and determining what kind of work has to go into having a special meeting on that topic that is meaningful.

MR. CARPENTER: And, Madam Chair, if you don't mind, if I could add to that. We will, of course, endeavor to be as timely as we can possibly be. But as we stated earlier in this meeting it's an extremely busy time already this time of year for Mackie. And I think there's going to have to be some conversations at the City manager level and then feedback to us as well that we would wrap up into our presentation. It will take us a while, a

few days at least, to go back through the budget, look at revenue projections, look at projections for what kind of water we think we're going to sell, what kind of cash we have on hand and fold all of that up into a set of recommendations that we would make. So we would want to do that as soon as we possibly can but I don't think we can pull it together in a matter of a few days.

CHAIR VIGIL COPPLER: All right. But at least we will begin the process and in response to Commissioner Hamilton's discussion and wishes, I think that that's a good place to start and I would like to be involved in those discussions as well. And we'll move forward.

COMMISSIONER HAMILTON: That sounds great, thank you so much, Madam Chair.

CHAIR VIGIL COPPLER: Thank you, Rick.

10. Update on Waters of the United States (WOTUS) litigation

KYLE HARWOOD (BDD Counsel): Thank you, Madam Chair and members of the Board. You have a memo in your packet describing a number of litigation matters that are swirling around Waters of the United States. Even since the time I prepared that memo, there have been additional lawsuits filed. There are now some six matters across the country. In two of those matters, New Mexico features somewhat prominently. New Mexico joined 16 other states on May 1st in filing a complaint regarding Waters of the United States and also the New Mexico Cattle Growers Association amended a long pending complaint over an earlier iteration of the WOTUS rule on April 27th. So I don't know what the wishes of the Board are in terms of tracking this issue. There is a, as I've already indicated, a ton of litigation going on around the country and I'll stand for any questions, Madam Chair.

CHAIR VIGIL COPPLER: Thank you, Kyle. Do we have questions or comments? Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair and thank you, Kyle, good to see you. My feelings about this dirty water rule now called the Navigable Waters Protection Rule, one I would like to either have us join the lawsuit as an amicus brief or think about what is happening – what is the Attorney General doing, what is NMED doing with this. I know that I spoke with Alex and I would like Alex to give an update, Alex Puglisi, and he's on the call, what happened this morning. Because this is incredibly serious for us with LANL and what will happen to our MOU and what's going to happen to our protection of our water. And, then also I'd like you to, when we get to the MOU, to please read Joni Arends's public comment.

MR. HARWOOD: Yes, ma'am.

CHAIR VIGIL COPPLER: Okay, did you want Alex to provide a report?

ALEX PUGLISI (Environmental Compliance Specialist): Madam Chair and members of the Board, thank you very much. What Anna is referring to is that this morning the New Mexico Municipal League Environmental Quality Association had their spring meeting by Webex and there was an EPA representative present at the meeting as well as several Surface Water Quality Bureau members who commented on the WOTUS, the new WOTUS rule, and brought up a couple of things that were occurring for the EPA Region 6

indicated that the Corps of Engineers and the EPA are working on a map of traditionally navigable waters and other waters that would still classify as Waters of the United States and obviously, by default those which would not. Supposedly, that effort was underway and the states would be receiving those two agencies determination of which qualified under the new rule.

NMED indicated that they still believe that they have the authority to regulate these discharges under the New Mexico Water Quality Act. The problem is they have neither the program nor the resources right now to do that. So, for example, they brought up the fact that some of these discharges, if not all of them, could probably be regulated under groundwater discharge permits which they have a highly functional program with respect to those permits. The problem is they have limited staff and whether this could handle all of the previous NPDES permits that now have to be covered was highly questionable.

At the same time, LANL was specifically brought up and the EPA Region 6 representative, and I'm waiting to get the presentation so I can distribute it to the Board, but he said he believed that discharges from facilities such as LANL, would still be regulated at the point of confluence with a Water of the United States, such as, the Rio Grande. When I asked how this would be done considering the fact that LANL has a number of outfalls designated under their stormwater permit and then a number of industrial outfalls point source discharges coming from pikes at various facilities that would mix in addition to stormwater because that's the only time it would make it to the Rio Grande, how you would tease out what contaminate came from what facility or from what solid waste management unit and how you would apply limits to the specific units and outfalls, and he could not answer that question and he said they realized that there were problems but they are working it out.

The other point is that there would be no way – currently, NPDES permits have both quality concentration limits which limit, like the parts per million of a constituent that can be discharged, plus mass loading limits which should concern us at the BDD because we get this inflow of pollutants during storm events. It would almost make those mass loading limits in a permit impossible because you never know what the volume of a stormwater discharge is going to be at the confluence with the Rio Grande. And so to determine what the maximum mass loading limit that would apply to a permit for LANL would be almost impossible to calculate. And I think that overall we know that plumes make it to the Rio Grande from Los Alamos and a lot of them are adhered to sediments that stay in the river so those mass loading limits are very important to us and EPA does not have an answer to that at the present time. However, he did mention the lawsuits that Kyle just mentioned but they said they were proceeding as though the new rule would go into effect on June 22nd. And that's all I have.

CHAIR VIGIL COPPLER: Thank you, Alex. Any comments – Commissioner Hamilton.

COMMISSIONER HAMILTON: I have a quick small question for Alex or whoever else and then another small question. Alex, the Region 6 person thought they would still be regulated on discharge at the confluence with the regulated water body, with the Rio Grande; I thought there was wording at some point that got rid of any regulations in waters that were above any intermittent or non-perennial segments; so he thinks that doesn't apply in this case?

MR. PUGLISI: No, he does feel that it would apply those provisions that you're talking about would apply to the receiving stream at the point of discharge from the outfall or from the stormwater solid waste management unit that is being regulated but that discharge would be to a non-regulated conveyance. So what they're doing is they're going to call these non-regulated waters conveyances to a Water of the United States. So they're treating it almost like an outfall pipe. It brings the water to the WOTUS and at the point of confluence with the WOTUS it's going to be regulated.

COMMISSIONER HAMILTON: Yeah, I know that they're trying to keep some regulatory hope for regulations which I guess I appreciate.

My other question was with respect Commissioner Hansen's suggestion that we join a suit at least with an amicus brief or something, obviously it is really true that this has big implications to BDD. On the other hand, I actually don't want in a lawsuit that could be hugely expensive and I wonder if we could lay out maybe all of the possibilities so we could think about them. There have been so many really good letters that have been developed already and I'm not pretending that I'm tracking everyone of them in my head but with all the comments and I know NMED – I'm pretty sure that they went through an exercise of defining waters that would no longer be covered and that sort of thing but aren't there – I don't know, I guess this is for you Kyle – are there less expensive – what are the options that we have for participating for following this and for adding voice without adding a huge amount of effort, time and effort, money?

MR. HARWOOD: I think that what Nancy and I have discussed in the past, is if the Board wants to have a serious conversation about litigation options it's probably most appropriate to schedule an executive session on this topic, because it is litigation related, and we can walk you through the pros and cons and the expected expenses.

When we last presented on this in March, what I noted was that there are some potential avenues that would not leave us open to discovery which often becomes very expensive, like potentially in an amicus brief. And I think when I also reported back in March these cases sort of need to form a little bit before we can be efficient and effective with some kind of a role in them.

So what I'd like to suggest is that we come back at a future Board meeting and list in executive session and walk the Board through several litigation options and the associated expense; if that's okay with the Board.

COMMISSIONER HAMILTON: Thank you, I like that.

CHAIR VIGIL COPPLER: Mr. Ives.

MR. IVES: Thank you, Madam Chair. I was just going to note that often with amicus briefs they are prepared by parties, friends of the court, who are actively involved in litigation on the particular issue and they seek the support of the amici to lend gravitas to the filing itself. So often one is asked simply to review a brief and join it as a party without necessary a great deal of expense. And I would imagine that option is available probably in several instances in connection with the WOTUS Rule. So there are mechanisms to try and minimize the expense and yet be an active participant. Just wanted to say that.

CHAIR VIGIL COPPLER: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. Thank you, Mr. Ives. I am also wondering, Kyle, if you have heard anything from the Attorney General's Office on this issue?

MR. HARWOOD: I have not. I have been in contact with Mr. Verheul who is general counsel, one of the associate general counsels, at NMED who I think you have met before but I have not spoken with the Attorney General's Office directly. Mr. Verheul has been very responsive to any questions. Did you have something that you wanted me to pose to him specifically?

COMMISSIONER HANSEN: I think as we go forward with this I think we should possibly reach out. The Attorney General's Office did join in on the 2015 Water of the US Rule, so I'm just wondering where they are with this rule. But if they're also swamped and understaffed like NMED –

MR. HARWOOD: Well, I can certainly check in with the AG's office and bring that information to the next discussion we have. Is it far to say that the direction to counsel and staff is to go ahead and schedule an executive session in June or July where we can more fully inform you of the litigation options and the associated expense?

COMMISSIONER HANSEN: I would really appreciate that.

MR. HARWOOD: Very good. We'll plan on doing that then.

CHAIR VIGIL COPPLER: I guess that would be fine. Any other discussion on this matter? The recommendation is that counsel and consultants continue to carry on and then we will work with Kyle and Nancy to see about an executive session.

MR. HARWOOD: Thank you very much.

COMMISSIONER HANSEN: Madam Chair.

CHAIR VIGIL COPPLER: Commissioner Hansen, yes.

COMMISSIONER HANSEN: Thank you very much. This topic really hurts my heart. And it really hurts my feelings for New Mexico and the impact that that has on our communities throughout the north especially, not just the impact that is happening to BDD but to all of our ephemeral streams and waterways and everything that is being impacted by this horrible rule. I just wanted to say that for the record because I just find it so egregious that this is happening.

CHAIR VIGIL COPPLER: Thank you. Your comments are very much appreciated.

11. Report on 3rd Quarter Financial Position for Fiscal Year 19/20

MS. ROMERO: Madam Chair, members of the Board, this report is to update the BDD Board and its partners on the 3rd quarter financial position as of March 31, 2020. Chair, if you think it helps, I do have the report and I can share my screen on I can just continue going through it.

CHAIR VIGIL COPPLER: It's a link on your attachments so if everyone – you can share your screen if you wish but do we all have the attachment of Mackie's report?

COUNCILOR ROMERO-WIRTH: Madam Chair, it might be important for those members of the public who are watching if it's possible to share the screen.

CHAIR VIGIL COPPLER: Thank you.

MS. ROMERO: Okay, I can do that.

CHAIR VIGIL COPPLER: That would be wonderful.

MS. ROMERO: Okay, on my report I have provided a budget overview which includes all expenses for the first three quarters. As you can see the expenses are

\$5,669,329 . I have a column that shows our encumbrances of March 31st, our projections. The projections include projected salaries and benefits as currently staffed and electricity, chemicals and solids as projected through the end of June.

With the current expenses, encumbrances and projections, BDD is estimated to spend 86 percent of the adopted budget.

My report also includes our partner reimbursements of expenses; however, I was unable to finish the 3rd quarter billing in time to [audio feed failure] –

The Board has authorized expenditures from the major repair and replacement fund of \$645,147. I have provided a budget overview that includes expenses through the 3rd Quarter. We have an encumbrance balance of \$206,764. This balance represents our contract on our new pumps for Booster Stations 1A/2A, our raw water lift station pump rebuilt project and our on-call engineer contract. That’s what makes up the balance that is remaining. I will continue to provide this report every quarter and I also wanted to mention that I will work with staff on getting the revenue projections that you requested so that we can get a special meeting done in the next week or so.

Are there any questions on the actual report?

CHAIR VIGIL COPPLER: Thank you, Mackie. Any questions for Mackie? Thank you very much for that.

MS. ROMERO: Thank you.

DISCUSSION AND ACTION

14. Consideration and Possible Action regarding the framework for the 2020 BDD-LANL MOU

MR. CARPENTER: Madam Chair, I think it would be appropriate and judicious of the Board’s time if Kyle were to just summarize the attachment. He and I have had numerous discussions about it and we believe the efficacy of including it in this Board meeting would be for the Board to see what we feel in consultation with Glorieta Geoscience, of course, and others on staff, would be a priority list of items to include in our negotiations with LANL. I don’t think at this point that they’re listed in any order of priority and we would like the Board to give us feedback if you would – this is a discussion item – so that we could move forward with negotiations with LANL and as those negotiations develop bring the items back either monthly or as needed to the Board for further direction. Kyle, do you want to add anything to that?

MR. HARWOOD: Yeah, let me just add one thing really quick which is – I was going to start off my presentation just by pointing you to an April 3rd article that I’m sharing on the screen here. This was under the LANL reports first on the Corona Virus case but if you didn’t notice it, towards the end of this article they actually talk about making our LANL MOU negotiations a top priority among their work. I did not send this article out and I did not include it in the packet but I wanted to share that as a preamble.

The next thing I’ll mention is behind this packet, the first document is intended to be responsive to citizen member and counselor Peter Ives requesting at the February meeting that we evaluate the 2007 Board letter to the Department of Energy. So we have summarized the requests that were made in ’07 and the current status of each of those. And judging by your thumbs – Peter, I hope this was responsive to your request.

MR. IVES: And if I may, Madam Chair, I wanted to express my thanks to Kyle for doing that. It was very helpful to have some of that history because it's hard to know where you're going if you don't know where you've been. Thank you.

MR. HARWOOD: Very good. Following that first memo under this agenda item in your packet, is a second memo which lays out a preliminary framework and principles for the 2020 LANL MOU. As you know in the past couple of months our suggestion to you, Madam Chair and the Board, is for staff and consultants to bring forward the concepts that we think might be included in the next iteration of the MOU. We've broken those out topically relating to the early notification system, sediment evaluations in the canyon, BDD project sampling at the Rio Grande, data sharing, and then also coordination with our neighbor and friend San Ildefonso Pueblo.

I know that we are limited time today so I won't go through the memo or the recommendations in detail, but depending on the wishes of the Board this can be modified. Things can be added, things can be deleted but the general structure I think of this relationship with LANL is to go back to them with this list as modified by the Board and trying to identify areas of agreement so that the new MOU can be drafted and then that drafted MOU will come back to the Board for action. So this is really asking the Board for guidance on whether they would like us to pursue these concepts – or something smaller or something bigger. So with that, I will stop and ask the Chair how she would like to proceed.

CHAIR VIGIL COPPLER: Before I call on you all, I wanted to make sure that we're all on the same page and that is we're looking at the April 29th memo wherein you recommend several items to be included and that is, Kyle, where we are at; right? These are your recommendations and you're asking for feedback so you can proceed.

MR. HARWOOD: Yes, Madam Chair. This is the April 29th memo. It's the second one behind tab 14. And, yes, this memo – in these 26 recommendations I think that it is fair to say that we have picked up and expanded on the basic structure of the existing MOU, if you want to think of it in that way. We have picked up all the elements current MOU and expanded on a fair number of them.

CHAIR VIGIL COPPLER: Commissioner Hansen, I saw your hand up.

COMMISSIONER HANSEN: Thank you. So, Kyle, I would also like you to read Joni's memo or whoever has the public comments that are in relationship to this. And, thank you, I appreciate your work on this. I consistently and always believe that we need more sampling and not less sampling. And also especially with the dirty water rule, I think it is even more important that we continue to increase oversight of the runoff that is coming down off of the mountain.

MR. HARWOOD: Thank you for that, Commissioner. And I think we've got a number of provisions in the recommendation that will do that. Let me go ahead and share screen for everyone's benefit on the comment that received from Ms. Arends who as you know is a colleague in this area. I think it is fair to say, just briefly, that she – that both of her suggestions on number four and five kind of are a little more specific about how these site visits and assessments of the various elements of the early notification system will be done as a group of professionals, both Board and LANL folks. And so I see her comments as adding a little more specificity to how those site visits and evaluations are done and I generally felt like it was a helpful contribution. That was my

take on that comment. I'm not sure whether you had other questions for me to respond to Commissioner.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you for that. This frankly looks really good and I'm glad to see we are pursuing the first part of it for the reestablishment of the site for the early warning. Maybe it's in a way a follow on from Commissioner Hansen's comment on sampling. I see in the third section, 15-20, the sampling that will be done. But if I'm not mistaken between the items that are above that where we're talking about looking in the canyons themselves, so earlier we made a comment about what we're doing now is kind of a reduced sampling regime, and so it looks like we're intending to work with them to get their data inventories for that area and the only actual sampling would be really in the vicinity of the BDD intakes and just upstream of that. Is that accurate?

MR. HARWOOD: The sediment evaluations, Commissioner, sections 10 through 14, those sediment evaluations are in the LA-Pueblo Canyon watershed from the headquarters to the confluence with the Rio Grande. So that is what we call the sediment train. So those are – and this is something that James Bearzi and Jay Lazarus have identified and we've made data request to the lab and they've been pleasantly forthcoming with lots of interesting information about the existing sites within LA-Pueblo Canyon. I hope I'm answering your question, Commissioner. But sections 10, 11, 12, 13, and 14 are intended to essentially identify any knowledge gaps in the LA-Pueblo Canyon shed from the headquarters to the Rio Grande. Does that help?

COMMISSIONER HAMILTON: I think it does. But it sounds like that will not be – the actual sampling will not be done as part of the MOU with BDD. They are doing that sediment sampling and will share the results with us.

MR. HARWOOD: That's right and number 13 I think is conducting an assessment of the contaminant inventory and to evaluate and update appropriate protections regarding LANL derived pollutants. So if the part that you feel is perhaps missing is a commitment from DOE to do the sampling that number 13 identifies, that could be added. Is that what you're getting at?

COMMISSIONER HAMILTON: I think so. I wanted a – it was generically yes. What I was getting at pending what you said in response. So thank you.

COMMISSIONER HANSEN: Yes, I agree with that. Madam Chair.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: On 109.9 sampling station on San I land; have we made any progress on that?

MR. HARWOOD: Short answer is no. Approaching San Ildefonso about E-109.9 I think will require a fairly high level approach and its member utilities and member government like the City and County. And so we have not approached San Ildefonso Pueblo yet. I think we wanted to get through at least this step of making sure the Board reviewed our set of recommendations and give us directions on this set of recommendations. Obviously, that E-109.9 site has been discussed extensively but I think if the Board directs us to move forward with this summary of recommendations then that will be a logical step as to reach out to them accordingly.

COMMISSIONER HANSEN: Yes. The pueblos are all closed at the moment because of the Corona virus so I don't know how much interaction is taking

place at the moment but I think that this is something that we could include John Dupuis possibly in, our water utility director.

MR. HARWOOD: I don't see John, unless he is one of these phone numbers, I don't think he's on this meeting. I can certainly reach out to him. Again, I want to be clear that we've had a lot of conversations about E-109.9 but it seemed appropriate to have the Board direct us on this package of recommendations and so we can reach out to them.

MR. ABEYTA: Excuse me, but John is now a panelist and he is here.

COMMISSIONER HAMILTON: Yes, John is on.

CHAIR VIGIL COPPLER: Okay, while we're waiting for John, I just wanted to jump in here and say that we have an executive session scheduled and we have a set amount of time for that before we have to give up the meeting screen. I just want to have everyone be mindful of the time.

John, do you have anything to add to the discussion here? [Mr. Dupuis was unable to participate.]

MR. HARWOOD: I'll follow up with John. He and I have discussed this before in generalities and so if it is the Board's direction that we move forward with these recommendations, I will certainly include John and County staff.

CHAIR VIGIL COPPLER: This is under discussion and action so if the Board wants to give Kyle direction in the form of a motion – I think we can do so.

COMMISSIONER HAMILTON: Madam Chair.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: Well, if you need a motion, I'll be happy to make a motion to provide the direction that this outline is good with some of the minor additions that you took notes and we're happy to see you moving forward with this.

COMMISSIONER HANSEN: I'll second that.

CHAIR VIGIL COPPLER: Commissioner Hamilton, your statement was a motion?

COMMISSIONER HAMILTON: Yes, ma'am it was.

CHAIR VIGIL COPPLER: It has been moved and seconded; is there any further discussion on this matter?

COMMISSIONER HANSEN: Just one moment. Kyle, I would love to have further discussion with you and John Dupuis on the E-109.9 station.

MR. HARWOOD: Very good, Commissioner. I'll organize that with your staff.

COMMISSIONER HANSEN: Okay, thank you so much.

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

15. Consideration and Possible Action on Resolution 2020-2, determining reasonable notice for Public Meetings of the Buckman Direct Diversion Board during a declared Public Health Emergency

MS. LONG: Yes, Madam Chair and members of the Board, although the Board did just enact an Open Meetings resolution at the beginning of the year, a lot has

changed in the world since that January meeting. This amended resolution, it's a restated resolution, it includes all of your previous items that were approved by the Board as to what constitutes notice for your public meetings but I've added a paragraph that deals with the public health emergency and how we will deviate from those requirements in the event of a public health emergency allowing for remote participation by conference telephone or video platforms as we're doing today so long as the public can view or hear allowing the Chair to cancel meetings as necessary and should you go to in-person meetings, which we certainly hope to do some day, but they're not completely open to the public, it allows for that as well. So it's in line with what you're seeing, I'm sure, with your respective bodies on amending what the notice is and it also provides that we will look to any guidance provided by the New Mexico Attorney General's Office as you have done today in calling roll and that sort of thing.

I did receive a good edit, I believe, from Councilor Romero-Wirth that when we're talking about a public health emergency to reference as that might be declared by the WHO or New Mexico Department of Health or another public health authority so that it is spelled out that that would be the commanding authority that we wouldn't just declare it ourselves sort of speak.

I am recommending that the Board approve this resolution so that we can stay in line with our Open Meetings Act resolution going forward in this public health emergency as we have done today and we'll gladly accept any questions or any revisions that anyone would like to see to this resolution.

CHAIR VIGIL COPPLER: Thank you, Nancy. Councilor Romero-Wirth and then Commissioner Hamilton.

COUNCILOR ROMERO-WIRTH: I would just like to – and we can do this a couple of ways – I would move that we approve this. I would like to have incorporated the changes that Nancy mentioned about how we define the public health emergency, that we lean on the World Health Organization if it's a global pandemic like the situation we have or if it's more of a localized public health emergency we would look to the New Mexico Department of Health. So I would ask that in approving this, those changes be incorporated.

CHAIR VIGIL COPPLER: Councilor Romero-Wirth, was that a motion?

COUNCILOR ROMERO-WIRTH: It was a motion.

CHAIR VIGIL COPPLER: Do we have a second?

COMMISSIONER HAMILTON: Yes, I would second with the changes as recommended.

CHAIR VIGIL COPPLER: Any further discussion on this? Okay, Jamie-Rae will you please call the roll.

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

MATTERS FROM THE BOARD

CHAIR VIGIL COPPLER: I would like to read a statement from our last meeting and I want to state for our minutes that the only matter discussed during the executive session of our last Board meeting on March 5, 2020 was the matter as stated in the motion to go into executive session and no further action was taken.

I see Commissioner Hansen's hand.

COMMISSIONER HANSEN: I just want to mention this because as I was reading the minutes we were talking about BDD solar in our last meeting and I'm just wondering where the City is moving with the BDD solar and if they've reached out and talked to our staff. I did check in with Claudia and she invited herself to that meeting of the City and then she was not able to participate because we at the County had a meeting in front of the PRC and so she needed to be at that. But I just want to state for the record, that the BDD is a 50-50 ownership model with a 50-50 financing, and 50-50 benefits and so as we move forward with the solar or with other projects that the City remembers that we, as the County, are a 50 percent ownership of the BDD.

And that was really the main thing that I want to state from the comments that Ms. Wheeler made at the last meeting. I know that Regina has moved over to, at least I have heard this, that she has moved over to the Regional Emergency Management position, so I am sure that many of these things are kind of put on hold. I know that a lot of money has been rolled back from the state that we have received in the 2019 and in the 2020 capital outlay. So that puts all of these things in a completely different light. But I just wanted to state that for the record, so thank you very much.

CHAIR VIGIL COPPLER: Thank you. Any other matter from the Board.

NEXT REGULAR MEETING: Thursday, June 4, 2020 at 4:00 pm

EXECUTIVE SESSION

In accordance with the New Mexico Open Meetings Act NMSA 1978 Section 10-15-1(H)(7), discussion regarding pending litigation in which the BDDDB is a participant, including without limitation: *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial Court Case No. D-101-CV-2018-01610

MS. LONG: Yes, Madam Chair, what I usually do, that I think is helpful to the Board is, I will state the motion that you can ask for and then someone will say that they make that motion.

At this point, you should ask for a motion to adjourn this meeting and to go into executive session in accordance with the New Mexico Open Meetings Act NMSA 1978, 10-15-1(H)(7) for discussion regarding pending litigation in which the BDDDB is a participant, including without limitation, Buckman Direct Diversion Board vs. CDM Smith.

COUNCILOR ROMERO-WIRTH: So moved.

COMMISSIONER HAMILTON: Second.

The motion to adjourn and go into executive session passed by unanimous [5-0] roll call vote as follows:

Councilor Vigil Coppler	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Councilor Romero-Wirth	Aye
Mr. J.C. Helms	Aye

[The Board adjourned to in executive session at 5:40 p.m.]

ADJOURNMENT

Chair Vigil Coppler declared this meeting adjourned at approximately 5:40 p.m.

Approved by:

JoAnne Vigil Coppler, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

YOLANDA Y. VIGIL
SANTA FE CITY CLERK

