

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

March 15, 2022

This special meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor Carol Romero-Wirth, Chair, at approximately 4:03 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. All votes were conducted by roll call.

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

Roll was called and the following members were present:

BDD Board Members Present:

Councilor Carol Romero-Wirth, Chair
Commissioner Anna Hamilton
Councilor Renee Villareal
Commissioner Anna Hansen
Mr. J.C. Helms
Mr. Tom Egelhoff [non-voting]

Member(s) Excused:

[None]

BDD Board Alternate Members Present:

Ben Lee [Las Campanas Alternate]
Peter Ives [Citizen Alternate]

Others Present:

Rick Carpenter, BDD Facilities Manager
Nancy Long, BDD Board Attorney
Bernardine Padilla, BDD Public Relations Coordinator
Marcos Martinez, Assistant City Attorney
Dan Frost, Snell & Wilmer Law Firm

3. APPROVAL OF AGENDA

CHAIR ROMERO-WIRTH: Are there changes to the agenda from staff, and/or from the Board? Commissioner Hansen.

COMMISSIONER HANSEN: I was just going to make a motion to approve the agenda.

MR. HELMS: Second.

CHAIR ROMERO-WIRTH: We have a motion from Commissioner Hansen, a second from Mr. Helms. If there's no discussion can we get a roll call?

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

4. 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 BDDB is a participant, specifically: *Buckman Direct Diversion Board v. CDM Smith*, First Judicial District Court Case No. D-101-CV-2018-01610

NANCY LONG (BDD Board Counsel): Madam Chair, I can suggest that motion.

CHAIR ROMERO-WIRTH: Terrific.

MS. LONG: It's a motion to go into executive session in accordance with the New Mexico Open Meetings Act NMSA 1978 Section 10-15-1 for discussion regarding pending litigation in which the BDDB is a participant, specifically the case of *Buckman Direct Diversion Board v. CDM Smith*, in the First Judicial District Court.

MR. HELMS: So moved.

COMMISSIONER HAMILTON: Second.

CHAIR ROMERO-WIRTH: We have the motion from Mr. Helms, the second from Commissioner Hamilton. Can we get a roll call vote on the motion to go into executive session?

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

Commissioner Hamilton	Aye
Councilor Villareal	Aye
Commissioner Hansen	Aye
Board Member Helms	Aye
Councilor Romero-Wirth	Aye

[The Board met in executive session from 4:07 to 4:49 p.m.]

CHAIR ROMERO-WIRTH: Nancy, so we need a motion to come out of executive session.

MS. LONG: Yes. If someone could make the motion to come out of

executive session, stating that the only matter discussed in executive session was that specified in the motion for closure, and no action was taken.

COMMISSIONER HANSEN: So moved.

MR. HELMS: Second.

CHAIR ROMERO-WIRTH: We have a motion by Commissioner Hansen, a second by Mr. Helms to come out of executive session as described by Nancy Long. Can we get a roll call, please?

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

CHAIR ROMERO-WIRTH: All right. We are out of executive session and now we are on to the executive session action item.

5. Potential Action Regarding the Case Discussed in Executive Session

CHAIR ROMERO-WIRTH: Nancy, I'm going to first go to you. Is there anything you need to do?

MS. LONG: No, Madam Chair. If the Board would care to take any action coming out of the executive session that motion would be appropriate now.

CHAIR ROMERO-WIRTH: Okay. Thank you. Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you, Madam Chair. I move that the Buckman Direct Diversion Board approve the settlement in the amount of \$34 million with defendant CDM Smith in the lawsuit described on our agenda as *Buckman Direct Diversion Board v. CDM Smith*, with the final terms of the written settlement agreement to be finalized by our attorneys.

COMMISSIONER HANSEN: Second.

CHAIR ROMERO-WIRTH: We have a motion and a second to accept the settlement agreement. Can we get a roll call? Well, is there discussion? And if there's no discussion can we get a roll call, please?

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

CHAIR ROMERO-WIRTH: Thank you. I have a brief statement and then we will adjourn, as that motion did pass. The Buckman Direct Diversion project represents a significant investment by the City and the County to provide quality and vital drinking water to our residents. The Board takes seriously its obligation to protect this investment, so much so that an ongoing dispute ultimately caused the Board to take on the challenge and risk of filing a lawsuit. Today the Board approved a settlement of \$34 million with the remaining defendant. This latest settlement concludes this litigation. We will utilize the settlement funds, \$36 million that was approved earlier with another defendant, and today's settlement of \$34 million, which brings us to a total of \$70 million, and this will allow us to use the settlement funds to perform the necessary repairs. We can now realize the full potential of this project, which is a critical piece of our water system infrastructure.

And with that I will say that we are adjourned. Thank you, everyone.

ADJOURNMENT

Having completed the agenda, Chair Romero-Wirth declared this meeting adjourned at approximately 4:54 p.m.

Approved by:

Carol Romero-Wirth, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO:

KRISTINE BUSTOS-MIHELICIC
SANTA FE CITY CLERK

DRAFT

subject to approval