

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

March 3, 2022

1. CALL TO ORDER

This regular meeting of the Santa Fe County & City Buckman Direct Diversion Board meeting was called to order by Chair Carol Romero-Wirth at 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.]

2. ROLL CALL: Roll was called and a quorum was present as shown:

BDD Board Members Present:

Councilor Carol Romero-Wirth, Chair
Commissioner Anna Hansen
Commissioner Anna Hamilton
J.C. Helms, Citizen Member
Tom Egelhoff, Las Campanas [non-voting]

Member(s) Excused:

Councilor Renee Villarreal

Others Present:

Rick Carpenter, BDD Facilities Manager
Nancy Long, BDD Legal Counsel
Kyle Harwood, BDD Legal Counsel
Bernardine Padilla, BDD Public Relations Coordinator
Jamie-Rae Diaz, Administrative Manager
Antoinette Armijo-Rougemont, BDD Financial Manager
Randy Sugrue, BDD Operations Superintendent
Monique Maes, BDD Contracts Administrator
Marcos Martinez, City Assistant Attorney
Jesse Roach, City Water Division Director
Jamie Bearzi, Glorieta Geoscience
Jay Lazarus, Glorieta Geoscience

3. APPROVAL OF AGENDA

CHAIR ROMERO-WIRTH: Are there any changes from staff to tonight's agenda.

RICK CARPENTER (Facilities Manger): Madam Chair, staff would like to request that we remove item 8. A, Request Authorization to Comments the Replacement Project. We've got a little bit of work to do on that still. We'd like to bring it back, Perhaps in a different form at the April Board meeting. So we'd like to request that that be removed from the agenda for this meeting.

CHAIR ROMERO-WIRTH: Okay. Great. And I'm showing the executive session as scheduled – the only question I guess is whether we want to move the executive session to the end of the meeting and I defer to our attorneys on that. Nancy, is that what you recommend?

NANCY LONG (BDD Legal Counsel): Madam Chair, I would recommend that you leave the executive session until our last item after adjournment, actually. Just in reference to staff and the public so they don't have to wait for us.

CHAIR ROMERO-WIRTH: Okay. Commissioner Hamilton.

CHAIR HAMILTON: I would move to approve the agenda with those two changes.

CHAIR ROMERO-WIRTH: Great. Do we have a second?

MR. HELMS: I'll second that.

CHAIR ROMERO-WIRTH: All right. We have a motion by Commissioner Hamilton to approve the agenda as amended, and a second by J.C. Holmes, if we could get a roll call on approval of the agenda.

The motion carried by unanimous [4-0] roll call vote.

4. APPROVAL OF MINUTES

a. February 3, 2022 Buckman Direct Diversion Board Meeting

CHAIR ROMERO-WIRTH: I would like to state for the record and for our minutes that the only matter discussed during the executive session of our last Board meeting on February 4, 2022, was the matter as stated in the motion to go into Executive Session and no action was taken. So with that addition, are there other changes? Commissioner Hansen.

COMMISSIONER HANSEN: Yes. So, Karen, I have a change on page 9. In the book it's under item 9. B, and it is in the first paragraph. I'm speaking. It's the fourth sentences down. It says" and/or community and I have a really important – I think it just..." I think it must have gotten a little tangled in there. And I serve on to protect the drinking water for our constituents and our community and it is very important.

Besides that I have no other changes so I will move to approve with those changes.

CHAIR ROMERO-WIRTH: Is there a second?

CHAIR HAMILTON: Second.

CHAIR ROMERO-WIRTH: So we have a motion by Commissioner Hansen, a second by Commissioner Hamilton to approve the February 3rd minutes of this Board as amended.

The motion passed by 4-0 roll call vote.

5. MATTERS FROM THE PUBLIC

CHAIR ROMERO-WIRTH: I don't know if we have anyone participating tonight in this section.

JAMIE-RAE DIAZ (City Administrative Assistant): Madam Chair, I did not receive any matters from the public for today's meeting.

CHAIR ROMERO-WIRTH: Okay. Thank you.

7. PRESENTATION/INFORMATIONAL ITEMS

a. Monthly Update on BDD Operations

CHAIR ROMERO-WIRTH: We have a presentation, the monthly update of the BDD operations, Randy Sugrue, you are up, I believe.

RANDY SUGRUE (Operations Superintendent): Thank you, Madam Chair, members of the Board. My report is for operations at the BDD for the month of February 2022. Our daily diversion averages 5.02 million gallons per day. Our combined drinking water deliveries through our Booster Stations 4 and 5A averaged 4.74 million gallons per day. Las Campanas did not divert in the month of February. Our onsite treated and non-treated water was .28 million gallons per day. BDD was providing approximately 76 percent of the water supplied at the City and County for the distribution system. Our diversions year to date for February our diversion was about 140 million gallons, which again is significantly higher than our average over the past ten years due to demand.

We do have a regional demand and a drought summary on page 2. Regional demand for the month of February, about 6.2 million gallons per day. Rio Grande flows, around 575 cubic feet per second. We note the storage level is approximately at McClure and Nichols [poor connection] equal to the watershed inflow in the month of February. We do have San Juan-Chama storage through the end of the year. The graph had not been updated at the time the report was compiled. And then our summary for February still shows La Niña present and somewhat dry conditions. That's my report and I stand for questions if you have any.

CHAIR ROMERO-WIRTH: Questions from the Board? Commissioner.

COMMISSIONER HANSEN: Thank you, Randy. So our usage is up is that because the Canyon Road facility is down or why do you think demand is so high?

MR. SUGRUE: I may have mischaracterized that a bit. Our production at BDD is somewhat increased, as you said, because Canyon Road production was somewhat minimized through the winter as reservoir levels are somewhat lower. The daily demand on average through the winter months has been around 6 million gallons per day and that really has not increased. So I misspoke somewhat there.

COMMISSIONER HANSEN: Okay, I just wanted to clarify that. I appreciate it. Thank you, Madam Chair.

CHAIR ROMERO-WIRTH: Other questions from the Board? Is it possible to get an updated chart with the reservoir storage?

MR. SUGRUE: I believe it should have been updated by now. I can have that sent out.

CHAIR ROMERO-WIRTH: Thank you. I think that would be important. Other questions?

MR. CARPENTER: Madam Chair, I'm sorry. Is your question specific to Nichols and McClure or are you also asking for Heron, Abiquiu, La Vada and all of it up and down the Rio Grande?

CHAIR ROMERO-WIRTH: Well, Randy said it wasn't in the chart when it was published, so I'm not sure what he was referring to.

MR. SUGRUE: Good point. Yes, if I might be more specific. The chart listed is the City San Juan-Chama storage, I believe, in Abiquiu. And, again, it is just updated there on my report for the end of December 2021. So I can certainly update that particular chart which shows San Juan-Chama storage for, I believe, the City of Santa Fe a little bit more up to date.

CHAIR ROMERO-WIRTH: Okay, thank you. And I don't know Rick if you think we should have the others, that's fine. I was just trying to get at what Randy was suggesting wasn't quite up to date when this was published.

MR. CARPENTER: Okay. In the past, especially when we've been in prolonged drought conditions the Board has been very interested, especially Councilor Ives, on storage and use projections for the entire river system and we can do that.

CHAIR ROMERO-WIRTH: Yeah, I think that would be great.

COMMISSIONER HANSEN: Thank you.

CHAIR ROMERO-WIRTH: And I'm getting thumbs up from everyone. And JC I assume is thumbs up even though I can't see. Okay, any other questions?

b. Report from the Facilities Manager

MR. CARPENTER: Thank you, Madam Chair. Good afternoon, members of the Board. Just a couple of things. I was thinking maybe of briefing the Board at this meeting on a multitude of parallel efforts that we have going dealing with LANL and other water quality issues that are related to that at this meeting. But we're still somewhat putting it together and I will bring it to the Board in April just to provide a status update on where we are, what we've accomplished and where we intend to go. Not the least of which is the implementation of the MOU with LANL. So we'll bring that to the Board in April with your compliance.

The only update I have on staffing, we are working on the administrative assistant, warehouse tech, instrumentation control positions. They are working their way through the HR system at the City. The trend is positive and we hope to have the admin assistant at least on board in short order. We also have interviews scheduled for Monday and Tuesday of next week for the warehouse tech and get that established. So we're making progress in those vacancies. I will stand for questions.

CHAIR ROMERO-WIRTH: Questions from the Board? I don't see any Rick.

MR. CARPENTER: Okay, thank you, Madam Chair.

c. Report on February 28, 2022 Fiscal Services Audit Committee (FSAC)

ANTOINETTE ARMIJO-ROUGEMONT (BDD Accounting Supervisor): Good afternoon, Madam Chair and members of the Board. We did hold a FSAC committee meeting on February 28th via Zoom. In attendance was yourself - Chair Carol Romero - Wirth, me - Antionette Armijo-Rougemont, Rick Carpenter, Jesse Roach, Stephen Raab for Steve Miller, Tom Egelhoff, Nancy Long, Alexis Otero, Jason Valencia, Ron Spilman, and Commissioner Hamilton. And the items we discussed were item 8.a. on this proposed agenda which was removed and we also discussed the fiscal year 2023 budget which I believe is next on the agenda.

CHAIR ROMERO-WIRTH: I would also add that we discussed moving the FSAC meetings up a week and we'll be moving forward a new calendar of when those meetings will be held for approval by this Board.

MS. ARMIJO-ROUGEMONT: Correct. I will bring a revised calendar to the Board in April.

CHAIR ROMERO-WIRTH: Terrific. Any questions? Yes, Commissioner Hamilton.

CHAIR HAMILTON: I think I didn't think to mention this at FSAC, but if we move the meetings a week earlier, which sounds like and I agree it's the right thing to do, it will occasionally conflict, if it is held on Tuesday, with the Tuesday BCC meetings. So we've had them on either Mondays or Tuesdays and Mondays work out in the long run and I think that would be better. So I am just throwing that out as you establish the schedule.

CHAIR ROMERO-WIRTH: Yes, let's look at the City and County schedules and make sure we've got our membership available to attend and Antoinette, I can work with you on that draft before you bring it back.

MS. ARMIJO-ROUGEMONT: Yes, I started a calendar for BDD and the FSAC calendar as well. We can just look at the current calendar and we'll just move it a day before and that can be scheduled on those dates.

CHAIR ROMERO-WIRTH: All right. If there are no other comments we'll move on.

8. ACTION ITEMS: DISCUSSION AND ACTION

a. TABLED

b. Request for Approval and recommendation to Santa Fe County Board of County Commissioners and City of Santa Fe City Council to approve the Fiscal Year 2023 Buckman Direct Diversion Operating Budget in the amount of \$8,097,000.00 and Other Fund Contributions

a. Presentation of the proposed FY2023 BDD Operating Budget and Other Fund Contributions

b. Public Comments

c. Request for approval of the proposed FY23 Operating Budget and Other Fund Contributions and recommendation to approve by the County Commission and the City Council

MS. ARMIJO-ROUGEMONT: Would you like me to share the presentation?

CHAIR ROMERO-WIRTH: Yes, please.

MS. ARMIJO-ROUGEMONT: Okay. BDD is pleased to present the proposed Buckman Direct Diversion Annual Operating Budget for Fiscal Year 2023 and Proposed Contributions to the Major Repair & Replacement Fund. Fiscal Year 2023, BDD is requesting a budget approval of 8,097,000 for fiscal year 2023. As part of the presentation we have our organizational chart which lists all of our positions with 35 FTEs.

CHAIR ROMERO-WIRTH: The slide deck is not moving and I don't know if you wanted it to be. So we're not looking at the organizational chart. We got your chart now.

MS. ARMIJO-ROUGEMONT: All of our positions with 34 FTEs. This budget request consists of fixed and variable costs and includes reimbursements from several sources. The principal operating revenue of BDD's operating budget is reimbursements from the partners for the cost of operations. BDD was granted federal funds from the Department of Energy for the BDD stormwater sampling program. This funding will be used for the collection of samples from the Rio Grande at the BDD in order to make determinations on water quality of the river during LANL events. The monthly PNM solar rebates received for the treatment plant solar array are also accounted for as a source of revenue. The resulting reimbursement request for American Capital Energies to the City of Santa Fe and Santa Fe County will be reduced by the revenue received. The partner reimbursement revenue is estimated based on projected expenditure types and allocated based on cost sharing allocations established in the governing documents. [inaudible] in accordance with the BDD working capital and the billing policy.

The Buckman Direct Diversion budget consists of seven major categories as presented below. These categories are used to track expenditures for reporting and monitoring our available budget balance. In accordance with our BDD working capital and billing policy any budget adjustment request between major categories requires Board approval. In this chart is our partner share of total proposed fiscal year 2023 operating budget broken down by each of the four partners and broken down by our seven major categories: personnel, electricity, chemicals, solids, materials and supplies, other operating costs and our fiscal agent. And chart 1 shows you how the costs are broken down into each of the major categories with personnel being our largest expense at \$3,626,228 and other operating costs and electricity being our second and third largest costs. Moving the gap between actual expenditures and budget was concerned in the development of the annual operating budget request. This will continue to be a factor to ensure funds are properly expended for the purposes as requested.

At the bottom of this page, you'll see chart #2 which shows how hard we worked to address the gap between accumulated BDD expenses to the adopted budget beginning 2017 to fiscal year 2022. Fiscal year 2021 actual expenditures was \$76,880 lower than

the adopted budget. Table 3 presented actual expenses by major categories for fiscal year ended June 30, 2021. This fiscal year 2023 operating budget request – to the current 2022 adopted budget is shown in the chart below. There was an overall reduction in the budget estimate and we have found \$745,711 due to a decrease in projected litigation costs. We are allocating some of that savings towards categories that were reduced in fiscal year 2021 due to Covid budget cuts as well as reallocating \$250,000 to the major repair and replacement fund which is currently underfunded. We are also projecting increases to electricity and gas. In table C it will show you are fiscal year 2022 adopted budget and our fiscal year 2023 proposed budget and it's by major category again. Salaries, electricity, chemicals, solids, materials and supplies, and other operating costs as well as our fiscal agent fee.

The next two pages breaks down our materials and supplies and our other operating costs in some more detail. Here is a breakdown of our materials and supplies for a total of \$737,114 and the next page is a breakdown of our other operating costs for a total of \$1.5 million.

The BDD's annual operating budget consists of fixed variable and project wide costs. These costs are allocated by percentages contained in the Facility Operations and Procedures Agreement. This budget request was prepared with the following cost sharing principles. In Table D you will see how the cost sharing is broken down for each of the four partners and to all of the costs, the fixed costs, the project wide and the variable costs. In Table E, you'll see the volumetric, flow history and the 2023 water prediction versus the year 2023 – the City of Santa Fe is projecting to take almost 5,000 acre-feet. Santa Fe County is projecting 1,600 acre-feet. Las Campanas is projecting 300 acre-feet via the County. BDD has completed a budget analysis for fiscal year 2023 – volumetric predictions of 2,238,893 gallons shown in Chart 3. Chart 4 shows you the total gallons delivered versus volumetric predictions.

BDD is divided into seven key programs which are operations, regulatory, maintenance, safety and training, administrative services and information systems as well as public relations. So this chart shows you how our entire operating budget is broken down by program and this chart includes salaries and benefits as well. Another part of our budget is the Emergency Reserve Fund and we are fully funded at \$2 million and we have some interest in there so we will not be requesting anything towards the Emergency Reserve Fund for next fiscal year. And the last part of our budget is the Major Repair & Replacement Fund. Per the Major Repair & Replacement Fund policy this fund is to receive yearly contributions held in reserve to support major repair and replacement costs of facility equipment and systems. The BDD Board has authorized expenditures of \$582,927 for repair and replacement of system equipment in accordance with the policy. These authorizations upon expenditure will reduce the available balance of this fund. The Major Repair & Replacement Fund will continue to receive annual contributions in accordance with the policy. We are proposing to re-appropriate budget savings from the litigation costs in the amount of \$250,000 towards the fund to assure a sustainable fund for the future as much equipment will be reaching its life expectancy per the Asset Replacement Schedule. Table 2 will show you what our major Repair & Replacement Fund balance was as of June 30, 2021, our fiscal year 2022 contributions, our funds that are authorized for expenditure leaving a projected balance of \$1,083,866 for fiscal year 2022. Table 8 shows what our proposed contributions are for 2023. So this amount of

\$876,706 included the \$626,706 annual contribution as well as the \$250,000 in additional contributions leaving a balance of \$1,960,572 for fiscal year 2023.

With this submittal, the project manager requests the Buckman Direct Diversion Board approve and recommend the funding for our fiscal year 2023 operating budget at \$8,097,000 with an annual contribution of \$626,706 for the Major Repair & Replacement Fund, just an additional \$250,000 in budget savings towards the fund for a total request of \$8,973,705. We appreciate the input and support from our partners and the Buckman Direct Diversion Board members and that concludes my presentation and I will now stand for questions.

CHAIR ROMERO-WIRTH: Perfect. Maybe we should stop sharing screen and go back to it if we need to. Commissioner Hansen has her hand up.

COMMISSIONER HANSEN: Thank you, Antoinette and Rick. My first question is on the organizational chart, shouldn't the BDD Board be above the facilities manager?

MR. CARPENTER: Correct. We'll make that change.

COMMISSIONER HANSEN: Okay. And then my next question is on the Major Repair & Replacement Fund. I understand that we're adding to the \$250,000 but I am concerned and I wonder if that is enough. And –

MS. ARMIJO-ROUGEMONT: That is a proposal by BDD and the Board is more than welcome to increase that as you see appropriate.

COMMISSIONER HANSEN: So, just because we have this item tabled that was a \$2 million project that I know it is coming back, it's not happening this time. But I have some questions and I don't think – if we really are wanting \$2.5 million for valve replacement, if that's the reality, then maybe we need more money in the Major Repair & Replacement Fund. So I might have another question. And then I do have a question about program budget comparison. Do you Rick or the Board do the union negotiations?

MR. CARPENTER: Madam Chair and Commissioner, we monitor those but we are not part of it. We have a representative from one of our staff that is on the negotiating team.

MS. ARMIJO-ROUGEMONT: Madam Chair, Commissioner Hansen, I forgot to mention that we did include a 4 percent for any proposed salary increase that the City Council may approve. I know that the union did go to the City Council to request a 10 percent and when I was putting the budget together I reached out to the chair of the union and he at that time told me they were requesting 7 percent and then they increased it to 10 percent. So this does include a potential 4 percent raise.

COMMISSIONER HANSEN: Okay and what about other things that the union negotiates for our employees who are part of the union?

MS. ARMIJO-ROUGEMONT: But like uniforms, trainings –

COMMISSIONER HANSEN: Exactly, exactly.

MS. ARMIJO-ROUGEMONT: I'm not aware of any increases.

COMMISSIONER HANSEN: Should we have any input?

MR. CARPENTER: Madam Chair and Commissioner, we are not aware of any information that would cause us to increase that. So it's as planned as other line items.

COMMISSIONER HANSEN: Okay. I just wanted to reiterate that I do think we need to contribute more to the Major Repair & Replacement Fund. Those are my comments for now.

MS. ARMIJO-ROUGEMONT: Madam Chair, Commissioner Hansen, along those lines I would just like to remind the Board that when BDD did hire an engineering firm the recommendation into the Major Repair & Replacement Fund at that time was \$1 million per year.

COMMISSIONER HANSEN: So we're adding \$250,000?

MS. ARMIJO-ROUGEMONT: If that's what the Board would like to do.

COMMISSIONER HANSEN: But the firm said that we should be adding \$1 million.

MS. ARMIJO-ROUGEMONT: Correct, per year.

MR. CARPENTER: That's according to the Asset Management Plan and they were looking out into the future and the future is here now. We've been working for 11 years on this project and a lot of things are wearing out a lot sooner than they should have but even projected according to industry standards, we should be a little more aggressive than we have been on repairing and replacing major equipment.

COMMISSIONER HANSEN: So if that's a recommendation, we're only increasing it \$250,000 from something else maybe we can at least move it up to \$500,000. I mean if \$1 million is the recommendation –

CHAIR HAMILTON: Can I ask for a clarification? What's the \$250,000 number? The FY23 increase is \$800 and something thousand.

COMMISSIONER HANSEN: There's \$250,000 that was increased from moving legal funds into this group to make it \$800,000. Okay, so if we're at \$800,000 then maybe we just need to go up to – maybe we need just another \$200,000 or \$150,000 to make it \$1 million.

CHAIR ROMERO-WIRTH: Yes, I think that's another clarifying question is, what is it, that we want to have \$1 million in the fund or that we put \$1 million every year in the fund. I'm a little confused on that as well.

MS. ARMIJO-ROUGEMONT: Madam Chair, the recommendation was for an annual contribution by the partners of \$1 million per year.

CHAIR HAMILTON: As a follow-up question – sorry, Madam Chair.

CHAIR ROMERO-WIRTH: That's okay. Commissioner Hamilton.

CHAIR HAMILTON: As a follow-up question, is there in addition to the recommendation or associated with that recommendation was there are recommended reserve fund balance that was targeted?

MR. CARPENTER: The Asset Management Plan, Commissioner, Madam Chair and member of the Board, that engineering group projects the estimated design life of equipment, if it's wearing at normal rates. So that's one thing. We have suggested to be doing that. Also, then parallel to that is what's wearing out sooner than it should have which is the subject of the lawsuit that we'll talk about later, I guess. But we have a pretty well development Asset Management Plan with a lot of analysis in it that says, certain types of equipment need to be replaced on a schedule and we need to fund it ahead of time so we can do it when it needs to be done.

CHAIR HAMILTON: Madam Chair, as a follow on.

CHAIR ROMERO-WIRTH: Yes.

CHAIR HAMILTON: That makes total sense. That's one of the big things that an asset management plan is for. So I wonder is there a summary of numbers that might be presented at the next meeting that would inform how we should, you know, what the recommendation is for modifying the contributions to major repair and replacement and if that's – if we don't want to postpone the budget, is there a pathway to approve that and leave that item to be able to modify the major repair and replacement contributions next time without holding up the whole budget? I am just wondering about process and what our options are.

MR. CARPENTER: Madam Chair, Commissioner, is that a question for me?

CHAIR HAMILTON: I was going to say, I don't know who it's for.

CHAIR ROMERO-WIRTH: Who is in a position to answer this question? It's a complicated one.

MR. CARPENTER: I'll take a stab at it. I think what we're talking about here is to overlay our budget and specifically the Major Repair & Replacement Fund and its contributions with the Asset Management Plan. And that would just be a part of normal operations. We should be doing that. We do it in house but we've never presented it to the Board. It's just a matter of operations and repair. But if the Board would like a presentation on the intersection of those two things, we can certainly do that.

CHAIR HAMILTON: Well, I was asking so much for a broad presentation so much as bringing the specific numbers to us to understand the justification – just a real summary of the justification of the \$1 million. I mean, you gave the generic one, the words, but the numbers they presented so that we could agree and then explain to our respective partners, the City and the County, that there was an \$80,000 plus recommendation for this year. But, in fact, to be consistent with what the consultant suggested that should be raised to \$1 million and here is the justification. So that's what I was looking for. And I guess my specific thought is, is it appropriate to consider the budget now and a potential amendment to the Major Repair & Replacement contribution in a month and we have to do an amended or does that – I know that there is a sequence of City approval, County approval, and then submittal that we have to go to.

MR. CARPENTER: Commissioner, from the staff perspective, I always like more flexibility. So if the Board is open to an amendment in the future, I am all for it.

CHAIR ROMERO-WIRTH: Yes, Commissioner Hansen, just a second. From a process standpoint, the budget hearings in the City do not start until I think the second week in April-ish. And our next meeting is the 7th so I don't know when the County budget begins and finishes. So it may be possible either to approve this budget with the idea that we amend it at our next meeting or delay it. I don't know what that does because I don't know where this goes from here in terms of being set-up for those processes on the City and the County side. I don't know if there's anybody here who can answer those questions but I think there is time. But I think the other question is, if you're going to put more money in that line item, where are you going to take it from and I don't know that anybody is prepared to answer that tonight so it may be a bigger conversation that we need to have.

MR. CARPENTER: Madam Chair and members of the Board, one place it could come from is the additional savings from the settlement legal fees that we have

set aside. It could come from somewhere else but that would be the easiest place to take it from rather than returning that money to the partners.

CHAIR ROMERO-WIRTH: And maybe what we need to do is have another FSAC meeting to discuss what our options are and what our recommendation might be to the full Board. So that's another option. Commissioner Hansen, you are being very patient and you're also muted.

COMMISSIONER HANSEN: So what we really need to add is we need to add \$123,293 to make it \$1 million. So I'm just giving you the basic number that I see that takes us up to the recommendation. I don't believe that our budget hearings are scheduled for March. I think that they're probably in April so I think that we do have time to make these changes to the budget. I appreciate you taking it back to the FSAC committee and working a little more on this so that we have this money in the Major Repair & Replacement Fund because I think that that is something that we really have to start facing. So I would like to suggest that we wait to approve this budget until next month in our April 7th meeting and then there is time for the Chair to take it to the City and for Commissioner Hamilton and myself to take it to the BCC. That's my recommendation.

CHAIR ROMERO-WIRTH: Commissioner Hamilton.

CHAIR HAMILTON: Just a quick additional question. I basically understood Rick's suggestion but I want to put on the table that I think the \$800,000 plus is additional contributions from the partners that would be made to the Major Repair & Replacement Fund by 23; isn't that correct, Antoinette? So if we're upping that value, which is fine, that impacts the City and the County's contributions for this year. So when we're talking about it I just want to make sure that we're thinking about it the right way.

CHAIR ROMERO-WIRTH: Rick and Antoinette, delaying the approval of this until the April 7th, is there a downside to this?

MR. CARPENTER: Madam Chair, members of the Board there is no downside as long as we can catch up to the City and the County's budgetary processes.

CHAIR ROMERO-WIRTH: And it sounds like – I know on the City side we don't start budget hearings until the second week in April. I just don't know if there's some sort of prep or how that gets communicated over to both governmental entities and if that messes things up in a way if it doesn't get approved until the 7th. And I don't know if there's anybody here who can answer that. Yes, Commissioner.

CHAIR HAMILTON: That is a very good point. The hearings and we don't call them that, the budget process comes to the Commissioners in April. But departments are already working on their budgets now. So it would be in practice frankly I assume that this budget would be looked at by the departments who have to include BDD in the budget and the values that would be taken with the understanding that the major repair and replacement contribution might be increased. So in order to do the budget preparation leading up to April I think that they would need to see these numbers.

CHAIR ROMERO-WIRTH: Then there's the issue too of just printing budget quotes and that kind of thing. Tom.

MR. EGELHOFF: I was just wondering if we're passed – I know the Asset Replacement Plan was done awhile back and if that boat has already sailed. How do we integrate that plan into the money that is going to be spent to fix the facility through the litigation? I understand that it says to put \$1 million into the fund which we

haven't been doing at all but all of a sudden we're going to do it now. Does it make even more sense to put more in because it almost seems that we're in a catch-up mode already but really does it make sense just to do, do a \$1 million? Maybe we need to do \$3 million to catch-up. I don't know. Then how do you take what you're putting in and is there a way to apply it to the assets that aren't involved in the litigation then that makes sense but it seems like this is going to be pretty complicated to figure out how we get back on track. I don't know. It seems very complicated and I don't think just putting \$1 million in there this year really solves the problem.

MR. CARPENTER: Madam Chair, members of the Board and Mr. Egelhoff, I think a lot of this conversation is probably going to take place in executive session because there is a line of demarcation of what the Asset Management Plan recommended years before this lawsuit was even filed, stuff that needs to be done anyways, and things that were not necessarily anticipated but failed a lot sooner and a lot worse than we thought which is the subject of the litigation. Two different things, parallel tracks. We talked a little about this in FSAC and I think that maybe either through executive session a little bit if we're allowed to do that and maybe a subsequent FSAC meeting we can start to hash these things out. But we don't need an elaborate plan to do the things starting tomorrow that we need to do with the money that we have in the Major Repair & Replacement Fund.

CHAIR ROMERO-WIRTH: Commissioner Hamilton.

CHAIR HAMILTON: You know, given what Tom just said and Rick just said, it seems also a viable option to me to approve this budget and to do an amendment through further consideration of major repair and replacement and come back with an amendment and within which ever time that it is needed. Including if it is needed a few months from now for particular major repair and replacement project, like there is no reason that we can't go back to the partners and say, we need additional contributions to Major Repair & Replacement Fund. So I think we do have two viable options. We can postpone it but if it's going to take more to reconcile these issues more than a couple of weeks, then there is no point in delaying the budget at this point.

CHAIR ROMERO-WIRTH: My concern is if we're going to be asking the partners for additional contributions that isn't a small thing and it is not just a matter of moving money from one line item to another which we can do within ourselves. But when you go back to the partners and I don't know what our agreements say that is relevant to this. I think we need some legal advice from both the City and the County attorneys and then also do the partners have the ability to increase these things. So these are larger conversations that we are not going to resolve tonight. The only question is whether approving the whole budget with a footnote that we may be making some tweaks to it prior to it being presented to the City and County budget processes or whether it is better to wait and get it molded and then bring it back and just let them know that we're working on it. I don't know what's the better path and I don't know if anybody here can advise us about what would be best.

MS. LONG: I was just going to say that if the timing works it seems that delaying this for a month might be the better path because you are recommending approval of it to be adopted by both bodies. And if there's a concern about this even if you come back around to where you are now – if you do have adequate time, I think it would make sense to come back after another look at these issues. Even if they can't be

resolved and you might end up where you are but it sounds like further analysis and discussions should take place.

CHAIR ROMERO-WIRTH: That would be my sense. Commissioner Hansen.

COMMISSIONER HANSEN: So if we're talking about making the Major Repair & Replacement Fund \$1 million for this year, we're talking about \$123,293. So I think that that would take us up to \$1 million. I think that it's better to have these discussions and wait a month and I think we have the time. I can't get a hold of my County manager and I don't know if Commissioner Hamilton can, but having the discussions, take it back to FSAC and look at the possibilities and then approve it in April. To me, that seems like a reasonable manner and process.

CHAIR ROMERO-WIRTH: Commissioner Hamilton you were trying to add.

COMMISSIONER HAMILTON: I just wonder if we need a motion to table for a month?

CHAIR ROMERO-WIRTH: I think I'd rather have a motion to postpone to our next meeting. The only other thing I would offer is that if there is something that we're not aware of and this needs to be approved sooner and we might have to have a special meeting that we give ourselves that option. Maybe we make a motion to postpone the approval of this budget either to our next meeting or a special meeting of this Board if it's necessary due to the process.

COMMISSIONER HANSEN: Madam Chair.

CHAIR ROMERO-WIRTH: Yes, Commissioner Hansen.

COMMISSIONER HANSEN: I just go an answer and the answer was, either works, meaning that for the County, April would be okay to approve it.

CHAIR ROMERO-WIRTH: The problem is I don't have the answer from the City side.

COMMISSIONER HANSEN: But I would go with your motion and I would make that motion to postpone it to the next meeting.

CHAIR ROMERO-WIRTH: Or a special meeting?

COMMISSIONER HANSEN: Or a special meeting.

COMMISSIONER HAMILTON: I'll second that.

CHAIR ROMERO-WIRTH: Is there discussion on the motion?

MS. ARMIJO-ROUGEMONT: Madam Chair, I don't know if it is possible or not to approve the operating fund budget of \$8,097,000 and postpone only the Major Repair & Replacement portion.

COMMISSIONER HANSEN: I don't get that Antoinette. How do we approve the budget and then if the major repair and replacement portion what if we increase the Major Repair & Replacement Fund by \$123,000; doesn't that increase the budget?

COMMISSIONER HAMILTON: Yes.

MS. ARMIJO-ROUGEMONT: Madam Chair, Commissioner Hansen, it does increase the budget but it is two separate funds. We have an operating fund and then we have major repair & replacement Fund is a separate fund. But that was just a suggestion. I am concerned about getting the items to the boards and committees in a timely manner because usually the packets are due two weeks, a week and a half before

the meetings. And also I would just like to remind you on your concerns about the partners paying an additional amount there is already a savings of \$751,000.

CHAIR ROMERO-WIRTH: These are all the conversations that I think we need to because there's a lot of moving parts here. It's a little bit complicated and that's why I think leaving open the possibility that we may need a special meeting to approve this is wise to address exactly your points, Antoinette, but also approving something where we may need to make adjustments to other line items in order to do this I think will just make a mess. So I think it would be better to have a special meeting than to approve something now and have to go back and rework it based on all of these moving parts and conversations.

Other thoughts on this? Rick, do you have any?

MR. CARPENTER: No, Madam Chair. I think that staff can work with the motion that has been seconded.

CHAIR ROMERO-WIRTH: Nancy, are you okay with this plan?

MS. LONG: Yes, Madam Chair. I think it's a good plan.

CHAIR ROMERO-WIRTH: Okay, if there's no other comments we'll go to a vote.

The motion passed by unanimous [4-0] roll call vote.

CHAIR ROMERO-WIRTH: Okay, so we have work to do this month.

c. Presentation and Request for Board Signature on New MOA for Middle Rio Grande Endangered Species Collaborative Program

KYLE HARWOOD (BDD Counsel): Thank you, Madam Chair. So just a couple sentences about history. The minnow played a very significant role in the project permitting back preceding 2011 and then the 2011 initiation of this project. Rick and I have participated in those discussions on and off for about 15 years. The current MOA between the signatory entities had a strange 13-year term and is expiring and so we have this proposed very simple MOA. The Board did join the executive committee a year or two ago after a long history of participation not as a signatory. I think it's fair to say that between the combination of drought, unresolved pueblo claims to the river and the general increasing stress on the Rio Grande that I think you all know generally about and I can certainly speak to it in detail if you would like, but won't do so unless you request it, that participating with this important group of stakeholders on the Rio Grande regarding the silvery minnow and Endangered Species Act issues in general is prudent. It does not these days require a very high level of work effort. I would guess it is like four to seven hours every quarter for my time and Rick and I do team on covering this and of course his time is as a staff.

I don't know if there are any questions regarding this matter, but this is a continuation of an existing Board priority in the form of signing this MOA. And if you have any questions about any other funding or projects that would come along with this silvery minnow project just know that there has not been a request to fund any habitat improvement or other projects in recent past and if there were a request, we would bring

that separately to the Board for your consideration. I hope I have anticipated at least some of your questions. I stand for questions, Madam Chair.

CHAIR ROMERO-WIRTH: Thank you, Kyle. Commissioner Hansen.

COMMISSIONER HANSEN: Madam Chair, if you don't mind, I would like to make a motion to approve this 2022 Memorandum of Agreement for the Middle Rio Grande Endangered Species Collaborative Program.

MR. HARWOOD: Thank you.

MR. HELMS: Second.

CHAIR ROMERO-WIRTH: We have a motion and a second to approve this memorandum of understanding for the minnow. Do we have discussion on this item and/or questions? Seeing none, can we have a roll call vote, please, Karen.

The motion passed by unanimous [4-0] roll call vote.

MR. HARWOOD: Madam Chair, may I just interject with a quick question for you since this is I believe your first full meeting as the chair. Do you have a preferred method for how we get this to you for execution so we can keep this as simple as possible?

CHAIR ROMERO-WIRTH: No, I can do it electronically if you have – I sign lots of things electronically these days so that works. But whatever you want to do, just give me a call.

MR. HARWOOD: Wonderful. I'll work with Jamie-Rae on getting it to you.

9. MATTERS FROM THE BOARD

CHAIR ROMERO-WIRTH: Commissioner Hansen.

COMMISSIONER HANSEN: I just wanted to let you all know that I was at NACo, the National Association of Counties, and raised the issue of WOTUS. It is, NACo is a very conservative body and they would like to be able to dump anything anywhere in any water. But I want you to know that I did make headway and I did make our concerns noted in the national scene and that Senator Heinrich is also very concerned about WOTUS and that I shared the letter that I wrote and that our Board approved to the EPA and I also request Rebecca Roose from NMED to share her letter with the Senator because they are writing a letter in support of the new rules of WOTUS. Unfortunately at NACo most of them support the Trump rules, the dirty water rules as we like to refer to them here.

So I just wanted to share that because I feel that it does affect us and it's always good for our federal delegation to know that this is a concern for us.

MR. HARWOOD: Madam Chair, we do intend to have the WOTUS topic on the memo for next month that Rick did mention if that's helpful.

CHAIR ROMERO-WIRTH: Great.

COMMISSIONER HANSEN: Thank you.

CHAIR ROMERO-WIRTH: Other matters from the Board?

10. NEXT MEETING: Thursday, April 7, 2022 at 4:00 p.m.

12. **ADJOURN**

13. **EXECUTIVE SESSION**

- a. **In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDDB is a participant, specifically: *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District Court Case No. D-101-CV-2018-0610**

CHAIR ROMERO-WIRTH: Nancy, do you want to give us the motion to go into executive session.

MS. LONG: Yes, Madam Chair. The motion would be to adjourn and go into executive session in accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDDB is a participant, specifically: *Buckman Direct Diversion Board v. CDM Smith* as reflected on the agenda.

CHAIR ROMERO-WIRTH: Does somebody want to make that motion?

COMMISSIONER HANSEN: So moved.

MR. HELMS: Second.

The motion to adjourn and go into executive session passed by unanimous [4-0] roll call vote as follows:

Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Mr. J.C. Helms	Aye
Chair Romero-Wirth	Aye

The Board adjourned and met in executive session at approximately 5:10 p.m.

Approved by:

Carol Romero-Wirth, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

KRISTINE BUSTOS-MIHELIC
SANTA FE CITY CLERK

