

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

April 7, 2016

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor Liz Stefanics, Chair, at approximately 4:10 p.m. in the Santa Fe City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll was called and the following members were present:

BDD Board Members Present:

Commissioner Liz Stefanics, Chair

Ms. Denise Fort

Commissioner Miguel Chavez

Councilor Michael Harris [alternate for absent Councilor Ives]

Councilor Carmichael Dominguez [late arrival]

Mr. J. C. Helms [citizen alternate]

Member(s) Excused:

None

Others Present:

[Exhibit 1: Sign-in Sheet]

Charles Vokes, BDD Facilities Manager

Nancy Long, BDD Board Consulting Attorney

Stephanie Lopez, Staff Liaison

Kelly Brennan, City Attorney

Greg Shaffer, County Attorney

Mike Kelley, County Public Works Director

Mackie Romero, BDD Finance Manager

Marcos Martinez, Asst. City Attorney

Bruce Frederick, Deputy County Attorney

Bernardine Padilla, BDD Public Relations Coordinator

Rick Ulibarri, LANL Liaison

Rick Carpenter, City of Santa Fe

Jerry Schoeppner, County Hydrologist

Sandra Ely, County Utilities

Kyle Harwood, BDD Board Counsel

Erminia Tapia, BDD Administrative Assistant

Charlie Nylander, Club at Las Campanas

Ginny Silva, Las Campanas Co-op

Mary Erpelding-Chacon, Las Campanas Co-op

Skip Polliner, Las Campanas Co-op

Paul Karas, CDM Smith

Barbara Crockett, CH2M

Joni Arends, CCNS

3. APPROVAL OF AGENDA

[Exhibit 2: Agenda]

CHAIR STEFANICS: Staff, are there any changes to the agenda?

CHARLES VOKES (Facilities Manager): Chair Stefanics, member of the Board, there are no changes.

COMMISSIONER CHAVEZ: Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER CHAVEZ: Hearing no changes from staff I'll move for approval of the agenda.

CHAIR STEFANICS: I do have a small addendum. I'm going to hold off on the election of the Chair until Councilor Dominguez does get here, since he is the vice chair of the committee. And there is a second?

MEMBER FORT: Second.

COMMISSIONER CHAVEZ: As amended.

CHAIR STEFANICS: Any further discussion about the agenda? Thank you.

The motion passed by unanimous [4-0] voice vote. [Councilor Dominguez was not present for this action.]

4. APPROVAL OF CONSENT AGENDA

8. Monthly Update on BDD Operations

9. Request for Approval of a Budget Adjustment Request to the Current FY 2015/2016 Operating Budget to Move Funds from Salaries to the Solids Category for \$50,0000

10. Request for Review and Approval of Amendment No. 2 to the Professional Services Agreement (Item #15-0365) between the Buckman Direct Diversion Board and Chavez Security to Adjust Compensation for an Increased Amount of \$17,5000 exclusive of NMGRT

CHAIR STEFANICS: Board members, are there any items from the Consent Agenda you would like to have removed for discussion? If not, is there a motion?

COMMISSIONER CHAVEZ: Madam Chair, I'll move for approval of the Consent Agenda?

CHAIR STEFANICS: Is there a second?

MEMBER FORT: Second.

COUNCILOR HARRIS: Second.

CHAIR STEFANICS: We have a motion and two seconds. Any discussion?

COMMISSIONER CHAVEZ: I guess for discussion and I think this will come up later, Madam Chair, but just to be sure. Both items 9 and 10 were also discussed

Tuesday as part of our Fiscal Services and Audit Committee and if there needs to be more discussion or questions to staff on those items later I think that would be appropriate.

CHAIR STEFANICS: So Commissioner Chavez, now would be the time to remove them if there's going to be any discussion.

COMMISSIONER CHAVEZ: No, I don't want to remove them; I just want to note they were discussed at the FSAC.

CHAIR STEFANICS: Do any Board members want to remove anything? Okay, so we have a motion and a second for approval of the Consent.

The motion passed by unanimous [4-0] voice vote. [Councilor Dominguez was not present for this action.]

5. APPROVAL OF MINUTES: March 3, 2016

CHAIR STEFANICS: Staff, are there any changes?

MR. VOKES: There are no changes.

CHAIR STEFANICS: What's the pleasure of the Board?

COUNCILOR HARRIS: Move to approve.

COMMISSIONER CHAVEZ: Second.

CHAIR STEFANICS: There's a motion to approve and a second.

The motion passed by unanimous [4-0] voice vote. [Councilor Dominguez was not present for this action.]

6. MATTERS FROM STAFF

MR. VOKES: Chair Stefanics, members of the Board, we have no Matters from Staff this time.

CHAIR STEFANICS: So are the operations fine? Is anything broken? Is there any security problems? Is there nothing to talk about?

MR. VOKES: Madam Chair, members of the Board, we are continuing to produce water, in fact I believe today that the Canyon Road plant was going down and so we're producing 100 percent of the water for the city and county for a number of days while they do some repair work. Other than that, there are no security problems. Our security contractor has been doing an excellent job and at this time we're continuing to do what we need to do as far as producing the amount of water.

CHAIR STEFANICS: And Mr. Vokes, what about our staffing? What number of vacancies do we have currently?

MR. VOKES: Chair Stefanics, members of the Board, unhappily, I can report that we have one position posted. We have one position that we have sent into the Human Resources Department that necessitated a rewrite of the job description and I've been told that it will be probably another two weeks before that can be completed. We have been posting the positions both locally and nationally to attract the best candidates that we can. That takes a month, so in all, it's taking anywhere from 2 ½ to 3 months to get the opportunity to fill a position. There are two other postings that will come up in the

next couple of weeks but we are still in the same place we were at the last time you asked which is six vacancies at the BDD.

[Councilor Dominguez joined the meeting.]

Again, we are trying new things. We are posting on AWWA, the Municipal League in Texas where of course there's a much larger pool of candidates and even the Environmental Department has a posting, so we are attempting to try different things to attract staff. As I mentioned, I believe I mentioned the superintendent position, one of those is filled with an interim staff member. The maintenance superintendent is currently vacant. We will be posting that in the next few weeks but we did get approval to raise the level of that position an additional level. So hopefully that will attract additional candidates.

CHAIR STEFANICS: Great. The other thing I would ask is – I would like to welcome Councilor Dominguez and we're on item #6. I would like to see if at the end of the school year we could have a PR report on the utilization of any of the school groups for the website or for tours or for any educational institutions, and I think I'd like to wait until school ends, but I would request that staff does that.

MR. VOKES: Certainly. We will have a presentation on that.

CHAIR STEFANICS: Great. Anything else you'd like to ask of staff this afternoon. Okay. Thank you for that report.

7. REPORT ON APRIL 5, 2016 FISCAL SERVICES & AUDIT COMMITTEE

MACKIE ROMERO (Finance Manager): Madam Chair, members of the Board, a Fiscal Services & Audit Committee meeting was held on Tuesday, April 5th. In attendance from BDD was Mackie Romero, BDD Finance Manager, Charles Vokes, BDD Facilities Manager, Erminia Tapia, BDD Administrative Assistant. From the County we had Commissioner Chavez, Carole Jaramillo, County Finance Director, Greg Shaffer, County Attorney. From the City we had no attendance from staff and the City Council representative will be appointed during this meeting.

We had Las Campanas Water and Sewer Cooperative. We had Mary Chacon, Skip Polliner and Jeannie Sullivan. From the Club at Las Campanas we had Charlie Nylander. We did discuss Consent Agenda items numbers 9 and 10, which have been approved by the Board. There were no major concerns from the committee on these items and all questions were answered by staff. We also discussed action items 13 and 14 which will be discussed in detail later in this meeting. I will then report on any of the concerns or questions that came out of that meeting. Are there any specific questions from the Board?

CHAIR STEFANICS: Board members, any questions about this? Commissioner Chavez, anything you'd like to add?

COMMISSIONER CHAVEZ: Thank you, Mackie, for that report.

MS. ROMERO: Thank you.

COMMISSIONER CHAVEZ: Okay. Thank you very much.

DISCUSSION AND ACTION

11. Election of Chair and Vice Chair of the Buckman Direct Diversion Board

NANCY LONG (Board Consulting Attorney): Madam Chair, members of the Board, the joint powers agreement that formed this agency requires that there be a Chair and a Vice Chair that is elected annually to the Board. Your rules of order that we amended last year to accommodate election schedules and so on provide that the election of the Chair and the Vice Chair happen at the April meeting. So we are at that point of electing a Chair and Vice Chair.

The Chair this year of course as you know is Commissioner Stefanics and is from the County Commission so the Chair for this upcoming term shall be from the City, shall be a City Councilor with the Vice Chair from the opposing entity or the other entity comprising the Board being from the County.

CHAIR STEFANICS: Okay. We'll use the "other entity" language. So the nominations are now open for Chair and Vice Chair, either separately or together. Board members, what's your pleasure? And, Councilor Dominguez, I had mentioned that I am leaving at 5:00 pm for another engagement so that it is possible that the new Chair would take over or the Vice Chair. Thank you. So, yes, Ms. Fort.

MEMBER FORT: I would like to nominate Peter Ives as Chair and Commissioner Chavez as Vice Chair.

CHAIR STEFANICS: Is there a second? Seeing no second, that nomination dies. Is there another nomination. Since there was no second let's separate them please.

COUNCILOR HARRIS: Madam Chair, I'd like to nominate Council Carmichael Dominguez as Chair.

CHAIR STEFANICS: Is there a second?

COMMISSIONER CHAVEZ: Second.

CHAIR STEFANICS: Okay, there's a nomination for Carmichael Dominguez as Chair and a second. Any further discussion? Any further nominations? Okay.

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

CHAIR STEFANICS: You're now the Chair. Condolences. I'm happy to turn it over now if you want. I'll finish the elections. We now are on nominations for the Vice Chair. Yes.

COUNCILOR DOMINGUEZ: Madam Chair, I'd like to nominate – I think Commissioner Chavez is still going to be on.

CHAIR STEFANICS: Yes.

COUNCILOR DOMINGUEZ: I nominate him as Vice Chair.

CHAIR STEFANICS: Is there a second?

MEMBER FORT: Second.

CHAIR STEFANICS: There is a motion and a second for a Vice Chair. Are there any other nominations? Seeing as how I will be termed out and our alternate is not here.

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

CHAIR STEFANICS: Congratulations to the two of you. Our new Chair is Councilor Dominguez from the City and our Vice Chair is Commissioner Chavez from the County. And at this point I'd like to say it's been a pleasure and a trial being Chair and I'm happy to pass it right on. Take it away.

COMMISSIONER CHAVEZ: Commissioner Stefanics, before you make that clean break I want to thank you for your efforts this last year. I know it's not easy; it adds another layer of responsibility and another layer we have to be responsible for and pay a little more attention to the agendas and things like that. So I want to thank you for your efforts this last year.

CHAIR STEFANICS: Thank you, and I'm sorry – I'm not abandoning the effort. I'll still be around.

COUNCILOR DOMINGUEZ: So Madam Chair, you are still welcome of course to BDD and your knowledge and your experience and your wisdom is certainly appreciated and welcome.

CHAIR STEFANICS: I'm still on. I couldn't get our alternate to take it yet.

COUNCILOR DOMINGUEZ: So there you go. I just want to, on a personal note, want to thank you for really helping us chart these waters that we've kind of come to lately. So thank you for that. We went through a process together to get our community members on board so I just want to thank you for your service.

CHAIR STEFANICS: Thank you. So why don't you take over.

CHAIR DOMINGUEZ: Okay. All right. Thank you. So that takes us off of item 11 and onto item #12.

12. Appointment of Committee Members for the Fiscal Services & Audit Committee (FSAC) of the Buckman Direct Diversion Board

MS. LONG: Mr. Chair, members of the Board, the Board several years ago established the Fiscal Services & Audit Committee that you just heard a report about, and the committee typically meets the Tuesday before each Board meeting to consider the financial issues that will be on the agenda as well as audit matters when we get to that point. Currently on the committee we have one City and one County member. Commissioner Chavez is on that committee and Councilor Maestas was the City representative on the committee and as he is no longer on the Board it's timely to appoint or reappoint members to FSAC, as we call it.

CHAIR DOMINGUEZ: So there's no community members on that that are allowed?

MS. LONG: No. The meeting is not a quorum attending meeting so we've had one representative from each of the entities as well as their financial staff.

COMMISSIONER CHAVEZ: Mr. Chair, on that note we are trying to break that pattern just a bit and as was noted earlier at Tuesday's meeting we did have members in attendance from the Las Campanas Club and from the Clubhouse. Is that correct? The Co-op and the Club. And so we are starting to bridge that gap and be more open if you will and invite others into the discussion because they obviously are partners and have vested interest in the facility and I think the future of that facility and the

challenges that we face as you mentioned earlier. So I just wanted to note that for the record.

CHAIR DOMINGUEZ: I think – well, first of all, Commissioner, are you interested in continuing to be on that?

COMMISSIONER CHAVEZ: Yes.

CHAIR DOMINGUEZ: Okay. And then I think it seems to me that we're going to be having a lot more involvement from both the City side with regards to their alternate and the community members with regards to their alternate as well. And so it might be a good opportunity to make sure that those alternate members are much more involved and engaged in the work of the BDD and this committee. So I'm ready to take into consideration whatever it is that the Board wants with this.

COMMISSIONER CHAVEZ: If I could, Mr. Chair, and I'll defer to Commissioner Stefanics, I think the Commissioners have one alternate between the two of us, not one each. So there'll be a third for the County. And I don't know how much the other County Commissioner will attend on a regular basis but I know that – I think it's going to depend on who that person is, but I think that for the Board members and for the alternates it's going to be a matter of sharing the information of staff, between the Board members and the alternates in a timely fashion and being able to review and understand that information. I think staff is there for Board members and for the alternates to help through the process, so again, we really want to open up that process as much as possible. I would encourage that anyway. And I think I agree with where you're going, what you're suggesting.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR DOMINGUEZ: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. I have no objection to the alternates participating but I would nominate Councilor Ives to be on this committee because it will be the sitting Board members who bring forward any recommendations and resolutions regarding what potential voting would be addressed in terms of the budget. Now, I think Ms. Long really has to address the legality of the quorum but I'm just speaking to the members.

CHAIR DOMINGUEZ: So you want to include in that motion Commissioner Chavez as well?

COMMISSIONER STEFANICS: Yes. I would nominate Commissioner Chavez and Councilor Ives to be on the Fiscal Services & Audit Committee.

CHAIR DOMINGUEZ: Okay. So we have a motion. Do we have a second?

COUNCILOR HARRIS: Second.

CHAIR DOMINGUEZ: We have a second. Any discussion from the Board? All right.

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

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR DOMINGUEZ: Commissioner Stefanics.

COMMISSIONER STEFANICS: So, Ms. Long, could you speak to additional members joining who might be alternates?

MS. LONG: Yes, Mr. Chair and Commissioner Stefanics. The alternates are – the citizen member alternate as well as the City Council and County Commission alternates, should they attend the meeting would create a quorum and there would be discussion of public business. That committee of course typically can't take any action because there is no quorum present. It's not prohibited it just means that we would have additional requirements including noticing the meeting and posting agendas and that sort of thing, which we have not done previously. Because everything comes here to the Board meeting anyway. So in terms of Las Campanas' – the two entities' participation, they are not members of the Board so there is no quorum problem with that. S if it is the desire of the Board to allow other members to be there and to discuss the public business then we would need to sort of restructure the way that we're handling that meeting.

COMMISSIONER CHAVEZ: Mr. Chair, Nancy, could we take that a step further. So that would mean to say that we would have to amend the joint powers agreement to create another position on the Board that would have a voting strength the same as the other members – as it's currently structured?

MS. LONG: Mr. Chair and Commissioner Chavez, is your question regarding Las Campanas on the Board?

COMMISSIONER CHAVEZ: Yes.

MS. LONG: Yes. It would require an amendment to the joint powers agreement to add another voting member on the Board.

COMMISSIONER CHAVEZ: And again, Mr. Chair and members of the Board, I am willing to have that conversation and continue it as long as we can and make that decision as a Board to see if it's in the best interest of the larger community.

CHAIR DOMINGUEZ: Okay, so I guess we'll kind of just continue to go down that road and see how far we get with regards to that change in the joint powers agreement and kind of the makeup of the FSAC.

COMMISSIONER CHAVEZ: Well, and I guess if I could, Mr. Chair, just for information. We do have a letter that was submitted by both the Co-op and the Club at Las Campanas expressing interest in this discussion and I think you have that information, correct, Nancy?

MS. LONG: Mr. Chair and Commissioner Chavez, I do. I did receive that letter as well as some BDD staff and we were discussing earlier that it would make sense for maybe City and County staff as well as Buckman personnel to get together and review that letter and provide a recommendation or at least input to the Board on that request.

COMMISSIONER CHAVEZ: Appreciate that.

MS. LONG: And we haven't done that yet.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair.

CHAIR DOMINGUEZ: Okay. Thank you very much. Thanks, staff. We'll continue to work on this as we move forward.

13. Request for Approval and for BDDB Recommendation to Santa Fe County Board of County Commissioners and City of Santa Fe City Council to Approve the FY 2016/2017 Buckman Direct Diversion Operating Budget and Other Fund Contributions

a. Presentation of the Proposed FY 2016/2017 BDD Operating and Maintenance Budget

MS. ROMERO: Mr. Chair, members of the Board, thank you. The BDD is pleased to present to you our proposed annual operating and maintenance budget request for fiscal year 2016/2017. I have given each of you the power point presentation and it's also going to be on the screen just to highlight some of the dollar amounts from our budget request. This request is our proposed financial plan for all necessary costs to meet the Board's service level objectives and to provide high quality water to our partners, the City of Santa Fe, Santa Fe County, and Las Campanas entities.

We are requesting \$8,203,804 for operating and maintenance budget. This request includes funding of \$150,000 from our solar rebate program and \$96,000 from the Department of Energy for our BDD sampling program. In addition to our operations we are requesting \$315,532 to have funds available to cover our fiscal agent fee, which was increased from one percent to four percent and was approved by the BDD Board in 2014.

As per our current major repair and replacement fund policy we are requesting our yearly contribution of \$411,812. Our emergency reserve fund shall be fully replenished in the current fiscal year and therefore requires no additional funding.

I have provided a budget summary of our expenditures by major category which also includes current year budget data for reference. This request is an increase from last year's budget request and includes the following major initiatives: We are requesting \$1.1 million for legal services for the BDD Board's pursuit of claims and possible participation in litigation. We are also asking for additional funds for creation of a new FTE for our new BDD fiscal administrator, salary range classifications for our BDD operations superintendent position and maintenance superintendent positions. We are also requesting additional \$50,000 for phase 2 of our security camera upgrades and an increase to our fiscal agent fee, which was discussed previously.

So with this submittal we request the Buckman Direct Diversion Board to approve and recommend the funding for our fiscal year 2016/17 budget of \$7,957,840, plus the annual contribution of \$411,812 for the major repair and replacement fund, for a total request of \$8,369,652. With your approval the BDD will also budget \$150,000 of PNM solar rebate revenue, and \$96,000 in federal funding, increasing our total budget to \$8,615,652.

We appreciate all the input and support from our partners and our Buckman Direct Diversion Board members. Thank you and does the Board have any questions?

CHAIR DOMINGUEZ: Thank you, Mackie. Actually, Commissioner, you've got to leave so we'll go ahead, Commissioner and then I'm going to actually go to 13.c.

COMMISSIONER STEFANICS: Okay. My question really has to do with the solar rebates. Has that been a steady amount every year or does it increase?

MS. ROMERO: Commissioner Stefanics, members of the Board, it has been a steady amount in previous years but last year we noticed a decline in that revenue and that's why it has been reduced down to \$150,000. And again, it's just a savings to the partners as they request reimbursement for electricity.

COMMISSIONER STEFANICS: Mr. Chair, do we know why it has decreased? If we're at a set rate of reimbursement?

MS. ROMERO: Commissioner Stefanics, we did meet with PNM to try and understand the solar rebates and it's a very complicated system and I will turn to Mr. Vokes. I think he also is going to provide a study to help us better understand that so we can better project our savings on that.

COMMISSIONER STEFANICS: Thank you.

MR. VOKES: Mr. Chair and members of the Board, one of the impacts or one of the characteristics of the solar panels is they do lose efficiency over time. It's a small percentage but there is a drop in efficiency as they age and I believe that was built into the contracts and it's in the documents. One of the initiatives that I'm attempting to propose for probably the next fiscal year is the Albuquerque Water Authority has an energy efficiency engineer that has been working for them since he got out of college probably 30 years ago and what he has done for them is within their system he has built a model that actually will be a tool to the operations staff and it will tell them when the most efficient times to pump water are, which plants should be pumping water, when we should be using the wells, the most efficient use of the solar, and that product, I hope, will be on line within, say a year to a year and a half.

The employee has retired from the water authority and I've met with him a couple times and he indicated that he would be amenable to coming to Santa Fe and helping us put together this program. And so I would like to see a big picture view where Buckman and Canyon Road and the wells and everything is more predictive and more efficient. Currently the staff tries to pump as much off-peak as they can but in looking forward: Do we add more solar? Where do we add our storage? Those types of questions really need to be looked at in a big picture manner. So that's a plan going forward. Again, the staff member has indicated that he's very interested and I'm attempting to set up meetings with the City staff to discuss how we get him under contract, what his product would be and how long that would take.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Thank you, Mr. Vokes.

CHAIR DOMINGUEZ: Okay. Thank you. What I'm going to do is go to item 13. c. so we can get some public comment and then I'll open it up to the Board for questions and a motion.

13. c. Public Comment

CHAIR DOMINGUEZ: So if there's anyone from the public who would like to speak to this item regarding our operating budget please come forward. I don't think you have to be sworn in but just name and address for the record.

CHARLIE NYLANDER: Thank you, Mr. Chair. My name is Charlie Nylander. My address is 7 Grillo Loco, Santa Fe, New Mexico, and I stand before you representing the Club at Las Campanas. I serve as the chairman of the Club's Water

Committee and I wish to make a few comments on the proposed budget. First, let me provide some context for my comments.

The Club is one of three successors in interest to the Las Campanas Limited Partnership, who was the original developer of Las Campanas and is a non-profit entity. The Club owns and manages the various physical amenities and assets of the Club which include such things as swimming, spa and tennis facilities, restaurants, bars and clubhouse, equestrian center and two Jack Nicklaus signature golf courses.

As a successor in interest to the Las Campanas Limited Partnership the Club is a limited partner in the BDD and is subject to certain responsibilities for the BDD shared facilities. The Facility Operations and Procedures Agreement, the FOPA, specifies some of the cost sharing responsibilities for the BDD shared facilities which the Club participates in. The Club also owns and manages the Las Campanas separate facilities which are used to pump and deliver raw water from the BDD booster station 2-A to the Club's golf courses for irrigation purposes. The Club derives a portion of its annual irrigation requirement by purchasing raw water from the Santa Fe County pursuant to a raw water agreement, which is basically a contract, and is thus also, the Club is also a raw water customer of the Santa Fe County.

Heretofore the Club has contributed to the annual BDD budget by paying a portion of the fixed and variable costs associated with the shared facilities, a portion of the project-wide costs – those costs now make up almost half of the operating budget, and a share of the various BDD reserves. The proposed 2016/17 budget calls for a significant increase in the Club's share of these costs and part of the reason for the significant increase is the inclusion of the \$1.1 million expense category for litigation expenses in the operating budget.

Although the BDD Board unanimously approved a policy last February adopting a new contingency fund which would include the litigation budget item the proposed 2016/17 budget have moved the litigation expenses into the operating budget and effectively doubled the amount of funding that the Club will have to pay. The Club supported the creation of a contingency fund in February and also supported the need for an increased budget for litigation, but that support was based on the characterization that the proposed amount of litigation expenses were believed to be unanticipated and extraordinary in their nature; they deserved special treatment.

In February the proposed \$1.1. million in litigation expenses were not viewed as a typical and anticipated operating expense. Therefore, the Club asserts the litigation expenses are not operating and maintenance in nature and should be properly budgeted in a manner as to not result in the doubling of cost to the club and the club members we serve.

The Club has a strong record of support for the BDD project and the BDD management and the Club will participate in the upcoming mediation and arbitration process initiated by the County and City on this issue among other issues, and although to date the Club has been willing to pay its fair share of BDD costs, we believe that doubling the Club's costs would be unfair and inequitable. This is especially true because the Club has no ownership interest in the project. Furthermore, the Club has not been allowed to attend the BDD executive sessions wherein the litigation strategy is being discussed, nor is the Club represented as a member of the BDD Board. In essence, there's more or less an element of taxation without representation here.

The Club is uncertain where the litigation strategy may lead and uncertain what cost share, if any, the Club may anticipate receiving any settlement and recovery process. In closing, the Club is not suggesting that the Board postpone the proposed budget or the adoption of the proposed budget today. However, we ask that there be safeguards put in place that protect the parties depending on the outcome of the dispute resolution process. In the meantime the Club will continue to support the BDD and willingly participate in the mediation process, continue to constructive work with all parties to achieve equitable and successful results. Thank you very much.

CHAIR DOMINGUEZ: Is there anyone else from the public.

SKIP POLLINER: Good afternoon. My name is Skip Polliner. I am a board member of the Las Campanas Water and Sewer Cooperative, and thank you for the opportunity to provide some comments. And I'll give you the abridged edition in the interests of time. I echo many of Charlie's comments. I would want you to know that the Co-op and the Club are the successors in interest to the developer of Las Campanas, in the partnership's interest, and we've been working very closely in the past few months in reviewing the budget and developing a strategy for us to participate more constructively in the dialogue involving BDD activities.

But I'll just say a few words. The first is that I want you all to know that the cooperative is by definition a non-profit, and our mission is simple. That's to deliver potable water and wastewater treatment services to our more than 700 members at cost. We don't receive raw water from the BDD; we only receive treated water from the County, so we're not a direct recipient of the diversion. We have no ownership interest in the project and as you've heard before, we have no Board representation. But we do contribute to the annual budget and for the last several years our average contribution has been \$60,000. As you see from the budget presentation this year that is expected to increase to \$187,000, nearly a three-fold increase, which is extraordinary both in the absolute sense but also as a percentage of the cost we pay to the County for our treated water. Each year we pay about \$450,000 for all the water delivered to Las Campanas.

As Charlie mentioned, we intend also to participate in the upcoming mediation proceedings that are designed to address the cost allocation issues and a significant amount of our increase is associated with changes in those cost allocations. We want you to know that we support the budget and the activities of the BDD, and we also support the protection that will soon be proposed, we understand, by the City to the budget resolution that provides for retroactive adjustments in the event the mediation changes the allocations.

And lastly I'd say that our goal is to continue to engage in constructive dialogue with the BDD staff and we appreciate the audience we've been give, both at the Fiscal Services Committee but also directly with Mackie and Chuck in meetings that we've had with them, and we want to work more closely with the BDD Board, the City and the County on a comprehensive review of the accounting and the allocation practices to reflect the current interests – not the interests that were contemplated ten years ago when the FOPA was signed – but the current interests of the partners to achieve a more equitable result on behalf of all of our constituents. So thank you for your time and your attention.

CHAIR DOMINGUEZ: Very good. Thank you, Skip. Is there anyone else from the public who would like to speak to this issue? Anyone else besides her?

JONI ARENDS: I would like to say something.

CHAIR DOMINGUEZ: Sure. Go ahead.

MS. ARENDS: Good afternoon, members of the Board. My name is Joni Arends. I'm with Concerned Citizens for Nuclear Safety. I haven't been here for a while but I would like to remind the Board that Las Campanas has about 7,400 acre-feet a year and they wouldn't be able to get that water but for the Buckman project. And as you move forward, please keep that in mind with regard to any reallocation of the percentages under the FOPA. In terms of a justice issue, in terms of the value of water for the people here, it seems that any change in the allocation should not occur. We have to look at the beneficial use of the water and golf courses in my mind isn't a beneficial use. So please keep that in mind. Thank you.

CHAIR DOMINGUEZ: Thank you, Joni. Anyone else? Okay, we'll I guess officially close the public hearing. So Mackie, before we kind of move on and I turn it over to the Board, are you looking on action on each of those items, besides c?

MS. ROMERO: Mr. Chair, members of the Board –

CHAIR DOMINGUEZ: You're just looking for item d.

MS. ROMERO: Actually for item a and b, so a is the operating budget and b is the major repair and replacement fund contributions. So it's for both a and b.

13. d. Request for Approval of the Proposed FT2016/2017 Operating Budget and Other Fund Contributions and Recommendation to Approve by the County Commission and City Council

CHAIR DOMINGUEZ: So d is really a and b.

MS. ROMERO: Yes, that is correct.

CHAIR DOMINGUEZ: So I'll go and open it up to the Board.
Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I'm sorry to do this but I move to temporarily table.

CHAIR DOMINGUEZ: We have a motion on the table.

MEMBER FORT: Second.

CHAIR DOMINGUEZ: We have a second. Okay.

The motion to table passed by majority 3-2 roll call vote with Commissioner Stefanics, Ms. Fort and Chair Dominguez voting in favor and Commissioner Chavez and Councilor Harris voting against.

COMMISSIONER STEFANICS: So, Mr. Chair, to explain my vote.

CHAIR DOMINGUEZ: Go ahead. My motion is to temporarily table until next month in the event that the mediation continues between the City and the County.

COMMISSIONER CHAVEZ: Can we be more specific to what mediation, Commissioner Stefanics? Mediation specific to –

MS. LONG: Chair and Commissioner Chavez, since mediation is a matter involving potential legal advice and matters involving the Board that could involve claims I would advise no discussion of that matter in open session.

COMMISSIONER CHAVEZ: That's kind of why we wanted the budget as it is, knowing that we are facing that and that was a placeholder so that we could deal with that and still not jeopardize the operation of the facility. That's what we just did in this tabling motion, unfortunately.

CHAIR DOMINGUEZ: So just to clarify, Commissioner Stefanics. It's not really a table but it's a postponement specific to next month.

COMMISSIONER STEFANICS: Yes, and so I called it a temporary table so it would be considered next month, which is within the fiscal year and enough time.

CHAIR DOMINGUEZ: So item 13 has now been temporarily tabled of postponed until the next meeting.

MATTERS FROM THE PUBLIC

CHAIR DOMINGUEZ: Is there anybody else from the public who would like to speak to the Board generally and not specific to the operating budget? No? Okay, we'll go ahead and close that public hearing.

MATTERS FROM THE BOARD

CHAIR DOMINGUEZ: Anybody from the Board?

COMMISSIONER CHAVEZ: Mr. Chair.

CHAIR DOMINGUEZ: Commissioner Chavez.

COMMISSIONER CHAVEZ: Actually, no, I don't have anything from the Board but I guess we do have executive session that we need to consider and so I'll yield my comments for that.

CHAIR DOMINGUEZ: Okay. Right now we're on Matters from the Board. Is there anybody else from the Board who would like to make some comments?

MEMBER FORT: Mr. Chair, I was concerned about the item that – we'll, not concerned. We shouldn't have done it, but our trucking the solid waste and the cost for doing that for the sedimentation, the sediment. So I would like us at a future session to get a report from the staff and that might require consultation with the environmental attorney or with one of our attorneys about whether or not the requirements that we believe are under – with respect to the EPA and the treatment of sludge, if they in fact require expensive trucking that we're now doing. I can say more about that. It's not a motion. It doesn't reflect other budget item but I'd like to hear some discussion about if we can saving money and energy.

CHAIR DOMINGUEZ: We'll make sure to get that on the agenda then so we can have that discussion as a Board. Okay, anybody else on Matters from the Board?

EXECUTIVE SESSION

MS. LONG: Mr. Chair and member of the Board, I would seek a motion from the Board at this point to go into executive session in accordance with the New Mexico Open Meetings Act, NMSA 1978, §10-15-1(H)(7), to engage in discussion regarding threatened or pending litigation in which the BDD is or may become a participant, including without limitation discussion regarding diversion structure issues.

CHAIR DOMINGUEZ: Very good. Is there any motion from the Board to go into executive session?

COMMISSIONER STEFANICS: Mr. Chair, I will move to go into executive session for the specified purpose.

MEMBER FORT: Second.

CHAIR DOMINGUEZ: We've got a motion and a second.

The motion carried unanimously by roll call vote as follows:

Commissioner Stefanics	Aye
Councilor Harris	Aye
Commissioner Chavez	Aye
Member Fort	Aye
Councilor Dominguez	Aye

[The Board met in closed session from 5:00 to 5:30.]

COMMISSIONER CHAVEZ: If I could I would like to make a motion to come out of executive session for the items that were discussed earlier and state that no action was taken.

COUNCILOR HARRIS: Second.

The motion passed by unanimous [4-0] voice vote. [Present were Chair Dominguez, Commissioner Chavez, Councilor Harris and Mr. Helms.]

14. Request Approval of a Budget Adjustment Request to Fiscal Year 2015/2016 Operating Budget to Increase the Legal Services Line Item and Corresponding Revenue Reimbursements for \$1,000,000

CHAIR DOMINGUEZ: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. So I'd like to make a motion now to approve a budget adjustment request to fiscal year 2015/2016. This is for the operating budget to increase the legal services line item and corresponding revenue reimbursement, and that would be my motion.

COUNCILOR HARRIS: Second.

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

NEXT MEETING: Thursday, May 15, 2016 @4:15 P.M.

ADJOURNMENT

Having completed the agenda, Chair Dominguez declared this meeting adjourned at approximately 5:33 p.m.

Approved by:

Carmichael Dominguez, Board Chair

Respectfully submitted:

Debbie Doyle, Wordswork

FILED BY:

ATTEST TO:

GERALDINE SALAZAR
SANTA FE COUNTY CLERK

YOLANDA Y. VIGIL
SANTA FE CITY CLERK

DRAFT

subject to approval