

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

**March 3, 2011**

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor Rebecca Wurzburger, Chair, at approximately 4:00 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:**

Councilor Rebecca Wurzburger  
Commissioner Liz Stefanics  
Councilor Chris Calvert  
Ms. Consuelo Bokum  
Commissioner Danny Mayfield [for Commissioner Vigil]

**Member(s) Excused:**

None

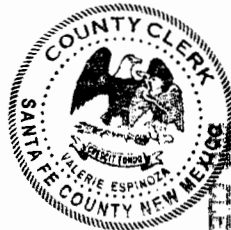
**Others Present:**

Rick Carpenter, BDD Project Manager  
Steve Ross, County Attorney  
Marcos Martinez, Assistant City Attorney  
Stephanie Lopez, Staff Liaison  
Nancy Long, BDDDB Contract Attorney  
Lynn Komer, PR Team  
Robert Mulvey, Facility Manager  
Steve Hoffman, BDDDB Engineer  
Jeanette Yardman, PNM Representative  
Tom Bishop, PNM Accountant  
Neva Van Peski, League of Women Voters  
Joni Arends, Concerned Citizens for Nuclear Safety

**3. APPROVAL OF AGENDA**

*[Exhibit 1: Agenda]*

Councilor Calvert moved approval as published. His motion was seconded by Commissioner Stefanics and passed by unanimous voice vote.



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4. **APPROVAL OF MINUTES: February 3, 2011**

Councilor Calvert moved to approve the minutes as published. His motion was seconded by Commissioner Stefanics and passed by unanimous voice vote.

5. **APPROVAL OF CONSENT AGENDA**

8. **Project Manager's Monthly Project exception Report**
9. **Update by Rick Carpenter on Financial Status of Contracts**
10. **Project Manager's Report on Staffing and Training Program Progress**
11. **BDD Public Relations Report for January 2011**
12. **Update on Staffing and Vacancies [isolated for discussion]**

CHAIR WURZBURGER: Are there any additions or corrections to the Consent?

MR. CARPENTER: There are none, Madam Chair.

CHAIR WURZBURGER: Anyone need to pull anything?

COUNCILOR CALVERT: Just maybe 12.

CHAIR WURZBURGER: Item 12?

COUNCILOR CALVERT: Yes, I would like to pull item 12, so I would move for approval as amended.

CHAIR WURZBURGER: Okay. May I have a second please?

COMMISSIONER STEFANICS: Second.

CHAIR WURZBURGER: Okay. Further discussion?

**The motion to approve the Consent Agenda with the exception of item 12 passed by unanimous [5-0] voice vote.**

6. **MATTERS FROM STAFF**

None were presented.

7. **FISCAL SERVICES AND AUDIT COMMITTEE**

MR. CARPENTER: I'll do it, Madam Chair. There was no meeting this month of the Fiscal Services and Audit Committee. The group deemed that there weren't any issues but the accounting firm did prepare a memo [*Exhibit 2*] that updated the committee on the status of the work products that are in process and you have that memo before you.

CHAIR WURZBURGER: Okay. Thank you, Rick. Yes, Councilor.

CHAIR WURZBURGER: I thank you for that clarification. Anybody else on the committee want to make a comment. Thank you for that report.

## 12. Update on Staffing and Vacancies

COUNCILOR CALVERT: Thank you. Who am I speaking to, Rick? You?

MR. CARPENTER: I'd be glad to try to answer your questions. We also have Steve Hoffman in the audience who has been doing most of the heavy lifting on this item.

COUNCILOR CALVERT: Okay. I note it says we've filled what? 20 of 30 positions? Something like that. I'm trying to remember where those exact numbers are in this memo. There it is. Twenty out of the 33 positions. Okay. And I note that some of the ones or most of the ones that we haven't filled yet are ones that probably we don't think we'll need as much training as some of the operators. But I did note that one of the positions was the advanced water treatment operator, and when I look at the org chart it shows four of eight filled and you're offering on the fifth. Is that correct?

MR. CARPENTER: That's my understanding, Councilor Calvert.

COUNCILOR CALVERT: So correct me if I'm wrong but that's a fairly critical position, is it not?

MR. CARPENTER: Yes. It is very important.

COUNCILOR CALVERT: My concern – I appreciate your saying everybody will be trained and ready to assume their duties when we go operational in May but I'm just concerned that if we haven't hired these people yet and we're already starting into training then how are these people going to catch up or are they going to miss something and we'll have to repeat anything for their benefit to have them in place by the time we need them?

MR. CARPENTER: That's a legitimate concern; I have it myself. However, we've had many meetings on this topic. Mr. Mulvey, the facility manager and Mr. Hoffman are both here and can expand on this but we have talked about accelerated training for people who come on and working through the shifts so that we have the coverage that we need in those initial months. We believe that we will be successful but it definitely is challenging since all of the positions haven't been filled to date.

COUNCILOR CALVERT: Since when this memo was written you said we've made an offer. Is that offer – can you give us any update on that one?

MR. CARPENTER: I think it was made and accepted was it not?

CHAIR WURZBURGER: Would you please come to the podium? Thank you. Welcome.

STEVE HOFFMAN: I'm Steve Hoffman with CDM, the Board engineer. We have made offers and hired some additional people since that memo was written and we're down to – we have four operator positions that are vacant at this time. Those positions will be filled. Interviews are being held. Some were held this week and I think there's going to be a couple held next week and those positions will be filled before April 30<sup>th</sup> which is when we'll take –

COUNCILOR CALVERT: That's fine. They'll be filled, but will they be ready is the other question.

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there's going to be a couple held next week and those positions will be filled before April 30<sup>th</sup> which is when we'll take –

COUNCILOR CALVERT: That's fine. They'll be filled, but will they be ready is the other question.

MR. HOFFMAN: Yes, the game plan right now, with respect to training – a lot of our training has been manufacturers, vendor training on how to operate the equipment. We have found that we can distill that training down to the salient information about the equipment. We have a lot of people who can mentor those staff. In other words, the charge operators, the chief operators, the AWT operators who are already on staff can have those people under their wing and mentor them as well as the training that I'll be helping them do to get them ready. So they won't have a problem taking over as a secondee or a mentee in the plan, when they start.

COUNCILOR CALVERT: Okay. Well, I guess two questions. One, advanced water treatment operator, would they have responsibilities for people with a lesser qualification, supervising others?

MR. HOFFMAN: They do not.

COUNCILOR CALVERT: Okay. They don't have any supervising. And the other thing is, I appreciate all your reassurances, it's just that I think the hope was that they would get as much hands-on training as possible before they jumped in and obviously if we don't hire them until closer to the end of April that won't happen as much to the extent the other people got that training.

MR. HOFFMAN: They will get that hands-on training between now and the end of the year. That's the plan.

COUNCILOR CALVERT: Okay. All right. Thank you.

CHAIR WURZBURGER: Thank you.

COUNCILOR CALVERT: Oh, and I just want to say I appreciate all the efforts that staff has put in on this because I know we threw you a curve near the end and I think you've responded in an excellent fashion and I'm just hoping we can get to that finish line that we need to make it work the best we can.

CHAIR WURZBURGER: Okay. Thank you, Councilor. Any other comments on this item? May I have a motion please?

COUNCILOR CALVERT: Move for approval.

COMMISSIONER STEFANICS: Second.

CHAIR WURZBURGER: Thank you. Discussion?

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

### **DISCUSSION AND ACTION ITEMS**

- 13. Request for Approval of Amendment No. 6 to the Legal Services Agreement Between the Buckman Direct Diversion Board and Long, Pound and Komer for the amount of \$120,000plus \$9,825 (NMGRT) for a Total Amount of \$129,825**

CHAIR WURZBURGER: Rick, would you introduce this item, please?

MR. CARPENTER: Thank you, Madam Chair. This is an amendment that would fund and extend legal services provided by Long, Pound and Komer to the Board.

through the end of this coming year, which is when the contract term would end and we would have to go back out to bid at that time.

The funds that are contemplated in this amendment are in the approved budget, so this is not new money. This is money that was already budgeted. A great deal of effort was put into negotiating the scope of work, especially by Mr. Mulvey who's in the audience, to make sure that it was narrow and focused on the types of issues we expect to see as we bring the project on line and then become operational through the end of the year.

CHAIR WURZBURGER: Okay. Questions?

COMMISSIONER STEFANICS: Yes.

CHAIR WURZBURGER: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Nancy, could you or someone just describe what might fall into the miscellaneous column?

NANCY LONG (BDDDB Contract Attorney): Yes, Commissioner. There are times when there is an unanticipated issue. Usually those have not been large in scale. Something that I worked on last week, for instance, was a request to review a type of merger that occurred with your auditing accounting firm, so that we might then confirm to them that we could proceed under the existing contract, so it's those kinds of things that come up. Unanticipated types of insurance questions have come up. That sort of thing.

COMMISSIONER STEFANICS: Okay, well, let me be more specific then. Under the solar power facility agreements and permitting, I see that that's ten hours. That seems low, in terms of what might happen with the solar facility, but I'm just wondering what that would be.

MS. LONG: We felt that that project was largely done, now that the grandfathering was done. The system is up, online and running. Certainly if there was some warranty issue, some functionality problem that could not be anticipated, you are correct; ten hours would not cover that. But in the hope that everything will just proceed smoothly from this point it may be more than enough.

COMMISSIONER STEFANICS: Okay. Thank you, Madam Chair.

CHAIR WURZBURGER: Thank you, Commissioner. Councilor Calvert.

COUNCILOR CALVERT: Rick, when you said there is money in the budget, I guess my question is since this goes from March 31<sup>st</sup> of this year to the end of the year, how much is coming from the construction budget versus the operating budget? Or is it all coming from the operating budget?

MR. CARPENTER: Madam Chair, Councilor Calvert, all or most of this would come from the approved operating budget. I haven't looked at the construction budget to see how much is left for legal. I think there is still some left from that as well. But I would anticipate that since most of these will be during the operational phase it will come out of the operational budget and there are funds there to cover this.

COUNCILOR CALVERT: Because when I looked at the list here that's in this memo I see things that – I can see – well, I have some questions that are probably ongoing. Some of these might have been things that have been held over for construction but I would think that we're at that point. We are operating. We are producing water, so at some point we need to start transitioning and not relying on what might be left in the construction budget and start putting costs where they belong in the operating budget.

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but I would think that we're at that point. We are operating. We are producing water, so at some point we need to start transitioning and not relying on what might be left in the construction budget and start putting costs where they belong in the operating budget.

MR. CARPENTER: That's absolutely correct. I've had some discussions with the accountants on this very issue and we intend to develop some more formalized discussions and methodology for transitioning specifically from construction to operation. Some of these things are going to linger. That's just the nature of it. But it's something that we will be working with the accountants on to make that transition.

COUNCILOR CALVERT: Okay. Then there's one in the list that jumped out at me. It says Las Campanas LP transition agreement amendment. And again, I guess – is that the Board's responsibility? How does that fit in our budget?

MS. LONG: Madam Chair, Councilor, I know this has been an ongoing issue with some of the Las Campanas matters that have come up and we have heard the Board. That really was Las Campanas' doing, that they might change their status in this process, and we are sensitive to that to extent that any of the costs can be pushed to Las Campanas. We have done that before and that we will have responsibility on behalf of the Board reviewing of course and approving or recommending for your approval any changes in documents, but we would certainly attempt to minimize those costs by having others prepare those documents and maybe even shifting the fees that we would be paid to Las Campanas and the new entity. And we've done that before.

COUNCILOR CALVERT: And then one last question is, why are we going to mid-budget year? Why don't we just go to the end of the budget year? Why do we keep going to the end of the calendar year instead of going into some sort of synch with the budget year? I guess I'm not following that, the rationale. Why don't we go to June of –

MS. LONG: We'd like to do that, but Councilor, our contract is up at the end of the year. It will be four years from when we went out to bid, so we cannot go forward after that time without going out to bid again for professional services.

COUNCILOR CALVERT: I think we should be trying still – that is a holdover from the construction part of this project and again, I think we need to get in synch with the operating budget and I think most of the budgets go from mid-year to mid-year. So maybe we should extend this to June and then put it out to bid or something like that, so that we can get in synch. I'm not trying to cut you short but I just would like to get in synch sooner rather than later on this.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR WURZBURGER: Yes.

COMMISSIONER STEFANICS: On this point, I agree with Councilor Calvert. I don't know necessarily that we would have to go out to bid for July 1 but we could actually take the financing, put it in this year's budget, and then take their half of year and put it in next year's budget and handle it as such. The Fiscal and Audit Committee has certainly expressed its desire to get onto a regular financing cycle, so I don't know why we wouldn't do that.

CHAIR WURZBURGER: Further discussion? Yes.

COMMISSIONER MAYFIELD: Madam Chair, I'm going to have some more questions on this. Why couldn't this panel just afford a small contract or extension of a contract for the next few months and try to get on cycle for next July?

CHAIR WURZBURGER: Do you want to respond to that, Rick?

MR. CARPENTER: Madam Chair, members of the Board, that's something that could be done. It would be problematic because a lot of these issues don't just stop at the end of the fiscal year. They carry forward. So whoever we brought on board starting July 1<sup>st</sup> would have a pretty steep learning curve and we wouldn't have much time to deal with that while they were getting up to speed.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Carpenter, there would be nothing to prohibit the current attorneys from bidding on this contract, would there?

MR. CARPENTER: There would be nothing that would prohibit that, no.

CHAIR WURZBURGER: So what is the pleasure of the committee? I'm sorry; you had other questions. Go ahead.

COMMISSIONER MAYFIELD: Madam Chair, on this point.

CHAIR WURZBURGER: Yes.

COMMISSIONER MAYFIELD: Just a couple questions. The letter that came to us on 2/23/2011, and I will have to be caught up a little bit if you don't mind. You have an expiration date of March 6, 2011. Was that the initial contract that was entered into on the BDD?

COUNCILOR CALVERT: 2011 is an error. That's got to be a typo.

COMMISSIONER MAYFIELD: It should be 2007?

COUNCILOR CALVERT: It might be 2009.

MR. CARPENTER: The original termination date, Commissioner, should read December 6, 2007. Oh, it was approved December 6, 2007, termination date December 6, 2008. And that is reflected on the attachment in your packet entitled summary of contracts, agreements and amendments.

COMMISSIONER MAYFIELD: Back on that point, Madam Chair, Mr. Carpenter, then in 2007 when this contract was let out, was it a bid, was it just a sole source procurement with the law firm?

MR. CARPENTER: Madam Chair, members of the Board, that went out to bid. There was an RFP that was issued.

COMMISSIONER MAYFIELD: So the maximum amount at that time was \$30,000?

MR. CARPENTER: That's correct.

COMMISSIONER MAYFIELD: So can you just maybe catch me up to speed of why so many amendments were made with those dollars? Did those ever go out to bid?

MR. CARPENTER: No, they did not.

COMMISSIONER MAYFIELD: Madam Chair and Mr. Carpenter, and I respect the work of the law firm, but why would they have not went out for bid?

MR. CARPENTER: Madam Chair, members of the Board, these were amendments to an existing contract. If it was a new contract we would go out to bid but the amendments don't require that we go out to bid.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Carpenter, and because it's with a law firm or because it's home rule that we don't have to follow New Mexico State procurement code on contract amounts that need to go out for bid?

MR. CARPENTER: Madam Chair, members of the Board, all of the procurement for this Board is done under the City of Santa Fe's procurement code, which is a home rule city. So we go out to bid for the initial contract, then the Board has the prerogative to amend that contract or not as it sees fit for the term of the contract.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Carpenter, Ms. Long, would there be any conflict because the County is part of this Board and we have to follow those procurement rules?

MS. LONG: No, Commissioner. The Board does follow the City's procurement policy, the City being the fiscal agent to the project, and the City's policies are in compliance with the law. The initial contract, the initial \$30,000 was a small bid contract for a discrete period of time, so we knew that that wouldn't last very long while I think the bids were being considered for some quick work on the project. The RFP goes out to award a contract does not have a set amount in it, so when the contract is done there is an amount that is arrived at as a best guestimate for a period of time to cover certain projects. So there was no amount in the RFP that was awarded; the contract was awarded for the legal services and then the amounts are a function of budget and amendments that come to the Board.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, Mr. Carpenter, what will you be proposing to this Board December for a new contract? Are you going to have a bigger scope developed? Are you going to be asking for a \$30,000 a year contract with future amendments?

MR. CARPENTER: Madam Chair, Commissioner, members of the Board, when we go out to bid for this contract again, whether it's June or December, I would anticipate that the scope would be much more narrow, because at that point we will have been operational for quite some time. A lot of the issues that were associated with permitting and construction will have gone away and it will be more of an administrative type function, the type of services that Nancy's providing right now to this Board. So it will be a much more narrow scope, I would anticipate.

COMMISSIONER MAYFIELD: Thank you.

CHAIR WURZBURGER: Yes.

COUNCILOR CALVERT: On that point, so for the coming budget year operationally, which goes from July 1, 2011 to 2012, how much is in the budget for legal services?

MR. CARPENTER: I believe it's – Mr. Mulvey, would you –

ROBERT MULVEY (Facility Manager): Yes, Commissioner. It's \$100,000. It's in the fiscal year 2011-2012 budget for legal services.

COUNCILOR CALVERT: Well, that's good, but if we're putting \$120,000 here, we're saying that some of it has to come out of the operating budget and that's supposed to be for a full year and we'll still have six months left. I'm not sure I follow that.

MR. MULVEY: Let me explain that. The current fiscal year budget 2010-11 has funds in it for legal services as well. It's about half of next fiscal year's budget. So there's about \$50,000 there to cover us up until July 1<sup>st</sup>, and then \$100,000 from July 1<sup>st</sup> moving forward into the next fiscal year.

COUNCILOR CALVERT: Okay, but I'm looking at a contract here for \$120,000, almost \$130,000 with gross receipts. So that \$150,000 minus \$120,000 only



gives us \$30,000 for the remainder of the year, right? If we take all of the remainder of this year's operating budget and apply it to this contract. Is that correct?

MR. MULVEY: I'm not sure that's correct. I've done the analysis showing the expected billing on a monthly basis. I anticipate we'll spend about \$70,000 in legal services to get up to July 1<sup>st</sup>. There's money in the current year fiscal budget to cover that. Starting July 1<sup>st</sup> the new budget year kicks in and there's an extra \$100,000 there for that. So the funding is there. The funding is there to be applied to the fiscal years that it would be spent.

COUNCILOR CALVERT: You're saying that you're anticipating \$70,000 worth of legal expenses between now and July 1<sup>st</sup> of this year?

MR. MULVEY: Yes.

COUNCILOR CALVERT: Okay. And the funds on hand to accommodate that are \$50,000?

MR. MULVEY: Well, if you look at the current year's budget there's \$50,000 in there for legal services. There's additional money for other professional services that can be moved around as needed. So to that extent we have the money in the operating budget. If some of these items weren't deemed to be truly capital expenses I know there's supplemental budget in the capital budget that could be applied to this as well. I think the message is the money is there in different pots and it's sufficient to cover these contracts, and primarily it's in the operating budget.

COUNCILOR CALVERT: Okay, but still going back to – I don't know how much of current budget money you intend to carry over into the next budget year but come July 1<sup>st</sup> you're saying you're not going to touch any of the money in this contract? Because we're being asked to extend the agreement from March 31<sup>st</sup> to December 31<sup>st</sup> but you only need the money from July 1<sup>st</sup> on? Or not? Do you know what I'm saying? I'm not following. You're saying you've got money to cover us until July 1<sup>st</sup>, so why are we starting at March 31<sup>st</sup> in terms of the amendment to the agreement. Your contract is up when?

MS. LONG: The contract can run through the end of this year, December 31, 2011.

COUNCILOR CALVERT: I'm just getting confused with the term of this amendment and when we need the extra money for. If we don't need the extra money until next budget year then maybe that should be reflected in the term of –

COMMISSIONER STEFANICS: Madam Chair.

CHAIR WURZBURGER: Yes, on this point.

COMMISSIONER STEFANICS: On this point, Councilor, the question I have – I think it's relevant to what you're saying, if you were to request funds through June 30<sup>th</sup>, what do you need in the form of an amendment? Zero, as the Councilor is suggesting, or –

CHAIR WURZBURGER: Is it not true – may I add to what you're asking, Commissioner? As I understand it you need a contract amendment, an increase to cover what would happen between now and July. Is that correct?

MS. LONG: Yes.

CHAIR WURZBURGER: Regardless of where the money is coming from, we're talking about the nature of the contract. And what you're saying, what I heard was \$70,000.

MR. MULVEY: Yes. I pulled out my sheet so I can give you an exact number.

CHAIR WURZBURGER: Thank you.

MR. MULVEY: In order to carry us through July 1<sup>st</sup> we would need \$77,875.

CHAIR WURZBURGER: Which we have.

MR. MULVEY: Which we have.

CHAIR WURZBURGER: Okay. Is that clearer to people?

COMMISSIONER STEFANICS: Right. And so Madam Chair, Councilor, from my perspective I would want to approve the amount for the remainder of this fiscal year and treat the next fiscal year separately but I believe you have a different question as well, Councilor.

COUNCILOR CALVERT: Well, I guess I'm getting confused over what we are approving or what we're being asked to do. Are you saying that \$70,000 is included in this \$129,000?

MR. MULVEY: Yes.

COUNCILOR CALVERT: Okay. That wasn't clear, I don't think. I think you said you had money already in the budget to cover this.

MR. MULVEY: Yes.

COUNCILOR CALVERT: Well, not necessarily. This is a contract extension.

CHAIR WURZBURGER: The issue is not where the money is; we have it. The issue is we have a contract that does not have sufficient funds in it to continue. Are we together on that? Which is different from where we started.

COUNCILOR CALVERT: Okay. I'm tracking with you. You've got a budget but this contract doesn't have enough money in it.

CHAIR WURZBURGER: Right.

COUNCILOR CALVERT: Okay.

CHAIR WURZBURGER: Yes. Am I right? I have everybody shaking their heads. I love to be right.

MR. MULVEY: The funds in the current contract have been expended.

CHAIR WURZBURGER: Commissioner, did you have a question for us?

COMMISSIONER MAYFIELD: I do, Madam Chair, because I thought I heard something different. The current contract amendment we're on is amendment number 4, which was amended in – well, this sheet is telling me December 6, 2011, so I don't know when that amendment was made. I think it's through 2011, but it was an amendment for \$220,000?

MS. LONG: Commissioner, amendment number 4 is the amendment that Mr. Carpenter referred to that was actually approved last April.

COMMISSIONER MAYFIELD: And that fund balance has been expended.

MS. LONG: That's correct. It's close to expended.

COMMISSIONER MAYFIELD: Can somebody tell me what the balance is please?

MS. LONG: I believe the balance at this time is approximately \$8,000.

COUNCILOR CALVERT: Would it be in our report?

MS. LONG: Yes, but I think there was another bill that went out since then.

COMMISSIONER MAYFIELD: Then there was an amendment number 5 that had no money attached. What was that amendment for please?

MS. LONG: That amendment was to extend term.

COMMISSIONER MAYFIELD: Through this calendar year.

MS. LONG: Through March 31. Just through March 31, even though the contract is allowed to go all four years there is an attempt to make the term and the amount of the amendment line up.

COMMISSIONER MAYFIELD: I'm with you now. And we will not have enough money to cover services anticipated through July 1<sup>st</sup> of this year.

MR. MULVEY: Without an amendment, that's correct.

COMMISSIONER MAYFIELD: Thank you.

CHAIR WURZBURGER: Are we all getting on the same page? I can imagine a motion but I'm just the chair. What is the pleasure of the committee? How would you like to deal with this?

COMMISSIONER STEFANICS: Madam Chair, I would move \$77,875 plus gross receipts taxes through June 30, 2011.

COMMISSIONER MAYFIELD: I second that motion.

CHAIR WURZBURGER: Okay. Further discussion? I have a comment, but go ahead.

COUNCILOR CALVERT: Do we want to put something about –

CHAIR WURZBURGER: I want to give direction to staff on what do.

COUNCILOR CALVERT: Do we want to make that part of the motion?

In other words put it out to bid.

CHAIR WURZBURGER: So we don't wait till July.

COMMISSIONER STEFANICS: Well, I would see that as a separate motion. I would see the financing as one and the bid as the second.

CHAIR WURZBURGER: All right. Is there any further discussion on the motion?

COUNCILOR CALVERT: I would like to see the blanks filled in on the summary of the contracts, agreements and amendments. There seems to be a few holes, if this is part of the – it's page 1 of 3 is what it says here. I guess it's an attachment.

CHAIR WURZBURGER: So would that be an amendment to the motion? Conditioned upon the provision of that information?

COMMISSIONER STEFANICS: That's fine.

CHAIR WURZBURGER: That's fine? Second?

MEMBER BOKUM: Okay.

CHAIR WURZBURGER: Further discussion or concerns?

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

CHAIR WURZBURGER: Now do we have a motion with respect to direction to staff with respect to the process question of not getting to July and not having an RFP in place?

COMMISSIONER MAYFIELD: Madam Chair, I'd like to make a motion that staff work to have an RFP out in place, to have it let out to start July 1<sup>st</sup>.

CHAIR WURZBURGER: Okay. Thank you.

COMMISSIONER MAYFIELD: And also Madam Chair, that maybe we could try to scope out the amount of dollars that potentially could be needed if we do want to run for a four-year contract, so we are not making annual amendments to a contract.

CHAIR WURZBURGER: Okay. I think that's clear. May I have a second to that motion?

COUNCILOR CALVERT: I'll second that. Just to be clear, we want the RFP put out well in advance so it can be effective, people can be effective on July 1<sup>st</sup>, right?

CHAIR WURZBURGER: Right.

COMMISSIONER MAYFIELD: So it's in cycle with our –

CHAIR WURZBURGER: I think this is in cycle with our –

COMMISSIONER STEFANICS: I have a comment, Madam Chair. Not on that but on the amount. In the state, you usually do a contract for a year, an annual amount, renewable for up to so many years. And because of our budget I don't think we'd want to approve a certain amount for all four years in the original contract.

CHAIR WURZBURGER: I would agree. You all agree, right? Okay. All right. So where are we? We have a motion and a second. Further discussion?

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

**14. Request for Approval of an Amendment to the Electric Facilities and Service Agreement No. 1025010 Between the Buckman Direct Diversion Board and PNM for BDD Service Entrance Four**

MS. LONG: Madam Chair and members of the Board, as I think all of you are aware, last month the Board of County Commissioners did approve unanimously the resiting of the PNM substation that will serve this project. We have also learned that the BLM has confirmed there will be no further clearance needed from the environmental point of view, nothing further that we need to receive from the BLM for the new substation site. The relocation of the substation did then involve the amendment that is before you today to the service agreement to that particular service entrance.

The amendment addresses the increased cost to the Board which has also been discussed at the meeting last month as well as at the Board of County Commission meeting where this was considered. The cost is due to the additional approximately two miles, a little bit less, of feeder lines. That amount is \$205,566. That's the primary purpose of the amendment. The amendment also addresses the new substation site as well as the total costs of the project that are put into the exhibit regarding the liquidated damages. So that is the letter amendment agreement that is before you that we present for your consideration and approval.

CHAIR WURZBURGER: And would you please comment on the availability of funds for this item?

MR. CARPENTER: Madam Chair, this item will be covered from the contingency fund in the capital budget.

CHAIR WURZBURGER: Thank you. Discussions? Commissioner Mayfield.

COMMISSIONER MAYFIELD: One question, Ms. Long or Mr. Carpenter. What is the lease agreement, or is there a change in the lease agreement between the old site and the new site as to what we are paying? And I think the lessor is the City of Santa Fe.

MR. CARPENTER: Madam Chair, Commissioner, members of the Board, the substation would be located on what is currently MRC land, that's land patented from the BLM to the City. So we would need to go get an appraisal and the City Council would need to grant an easement to PNM for the use of that land.

COMMISSIONER MAYFIELD: Would there be a cost for the use of that land?

MR. CARPENTER: As was done before PNM would pay to the City the appraised value of that real property.

COMMISSIONER MAYFIELD: Madam Chair, with all respect to my City Councilor members here, but is the County recouping any of that cost that PNM is paying to the City for the use of that land? Because the County is also upfronting some of this money for this, correct?

MR. CARPENTER: The funds that the County would be cost-sharing are for the actual extensions of the line. The money that PNM would be paying for the appraised value of the land is to simply pay the City back for the land that's being granted by the terms of the easement. So, no, would be the answer to your question.

COMMISSIONER MAYFIELD: Madam Chair and the City of Santa Fe and Mr. Carpenter, is there any way that the County can look at that again? Or this Board can look at the agreement so we're not fronting 100 percent of that bill?

CHAIR WURZBURGER: The issue is – we can ask for staff clarification. My experience on the Council in nine years is when we do something like this the amount of money is extremely small. We probably spend more time trying to figure it out than it is the City's land, but if you'd like to have our attorneys to look at that we can ask the staff to do that. I would request that we have some kind of motion to proceed with the action while that might be happening. Yes.

COMMISSIONER STEFANICS: On this point, Madam Chair. If the cost is negligible, under x-dollars, perhaps it's not something that needs to go any further, but if it's a cost that is over a suggested amount maybe that's when it needs to be reviewed.

COUNCILOR CALVERT: I'm not clear – in other words, I'm trying to clarify. You're mentioning cost and what I'm hearing is that the City may get some, what? Small revenue from leasing that site or something? Is that what we're talking about? I don't know. I think in the scheme of things we're sharing \$200,000 worth of expense that meant mainly to satisfy some county residents. So I'm not meaning to be disrespectful but I think in the scheme of things I don't think we're going to get anywhere close to that amount in additional revenue to offset the additional expense.

COMMISSIONER MAYFIELD: Madam Chair and Councilor, my only question then would be if somebody could tell me what the cost is from the old site and

what the payment was back to the City on the old site to the new site. It may be more; it may be less.

MR. CARPENTER: Madam Chair, members of the Board, if memory serves me correctly, that was about \$12,000.

COMMISSIONER MAYFIELD: More or less?

MR. CARPENTER: It was a total of \$12,000 that PNM paid the City for the easement, or the land that the easement addressed. That's what I recall. It wasn't a lot of money.

COMMISSIONER MAYFIELD: So Mr. Carpenter, there's not then an annual or a monthly lease that PNM is paying to the City?

MR. CARPENTER: No.

COMMISSIONER MAYFIELD: Thank you.

CHAIR WURZBURGER: It's a one-time. Commissioner.

COMMISSIONER STEFANICS: Madam Chair, I have a different question. The substation will not be solely for the BDD. Is that correct?

MS. LONG: That is correct, Commissioner.

COMMISSIONER STEFANICS: So when we looked at the cost arrangement between the BDD and PNM, did that take into account their extra services that they'll be able to provide and their extra revenue?

MS. LONG: Yes, Commissioner, it does. So that the increased cost to relocate the substation was divided in the same way that the original cost was between PNM and the BDD.

COMMISSIONER STEFANICS: And so I don't know if Madam Chair, we can guesstimate. Was it like a quarter? A half? What percentage is going to be remaining of the substation that's available to let out for further power to new customers?

CHAIR WURZBURGER: I think PNM should answer this, and then if necessary we'll have the attorney from the City and the County respond, who were involved in the negotiations. Thank you.

TOM BISHOP: I'm Tom Bishop from PNM. I'm the account manager from the project. The substation, approximately 30 percent of it was dedicated to BDD. The rest was PNM, and the costs were apportioned in that ration way back in the beginning.

CHAIR WURZBURGER: And the same ratio was used –

MR. BISHOP: For this line extension there are four feeders that come out of the substation. Three serve BDD, the water treatment plant, one is fully PNM, so we pay one-fourth of the cost and you get  $\frac{3}{4}$  of the cost.

COMMISSIONER STEFANICS: Thank you. That answers my question right now.

CHAIR WURZBURGER: Okay. Any further questions? May I have a motion please?

COUNCILOR CALVERT: Move for approval.

CHAIR WURZBURGER: Is there a second?

COMMISSIONER STEFANICS: I'll second.

CHAIR WURZBURGER: Further discussion?

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

CHAIR WURZBURGER: And I want to thank everyone who was involved in this. We'll do it again later, but everyone from PNM as well as our attorneys and Galen and all the citizens who came forward to work out a compromise. Thank you all.

**MATTERS FROM THE PUBLIC**

None were offered.

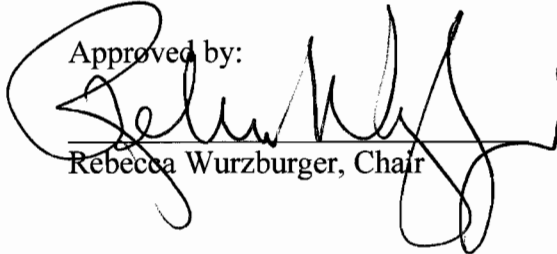
**MATTERS FROM THE BOARD**

None were offered.

**NEXT MEETING: THURSDAY, APRIL 7, 2011 @ 4:00**

**ADJOURNMENT**

Having completed the agenda, this meeting was declared adjourned at approximately 4:45 p.m.

Approved by:  
  
Rebecca Wurzburger, Chair

Respectfully submitted:

Debbie Doyle, Wordswork

**ATTEST TO:**

\_\_\_\_\_  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

ATTEST TO  
YOLANDA  
SANTA FE COUNTY CLERK  


FILED IN NEW RECORDS 44/21/2011





CITY CLERK'S OFFICE

DATE 2-24-11 TIME 11:45

SERVED BY Stephanie Lopez

RECEIVED BY [Signature]

EXHIBIT  
tabbles  
1

# AGENDA

THE CITY OF SANTA FE  
And  
SANTA FE COUNTY

## BUCKMAN DIRECT DIVERSION BOARD MEETING

THURSDAY, MARCH 3, 2011  
4:00 PM  
CITY HALL  
CITY COUNCIL CHAMBERS  
200 Lincoln Avenue

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES FOR THE FEBRUARY 3, 2011 BUCKMAN DIRECT DIVERSION BOARD MEETING
5. APPROVAL OF CONSENT AGENDA
6. MATTERS FROM STAFF
7. FISCAL SERVICES AND AUDIT COMMITTEE REPORT

### CONSENT AGENDA

8. Project Manager's Monthly Project Exception Report. (Rick Carpenter)
9. Update by Rick Carpenter on Financial Status of Contracts. (Rick Carpenter)
10. Project Manager's Report on Staffing and Training Program Progress. (Rick Carpenter)
11. BDD Public Relations Report for January 2011. (Lynn Komer)

SFC CLERK RECORDED 04/21/2011



12. Update on Staffing & Vacancies. (Robert Mulvey)

**DISCUSSION AND ACTION ITEMS**

13. Request for Approval of Amendment No. 6 to the Legal Services Agreement Between the Buckman Direct Diversion Board and Long, Pound & Komer for the Amount of \$120,000.00 Plus \$9,825.00 (NMGRT) for a Total Amount of \$129,825.00(Rick Carpenter)
14. Request for Approval of an Amendment to the Electric Facilities and Service Agreement Number 1025010 Between the Buckman Direct Diversion Board and PNM for BDD Service Entrance 4. (Nancy Long)

**MATTERS FROM THE PUBLIC**

**MATTERS FROM THE BOARD**

**NEXT MEETING: THURSDAY, APRIL 7, 2011 @ 4:00 P.M.**

**ADJOURN**

**PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE.**

March 1, 2011

TO: Buckman Direct Diversion Fiscal Services and Audit Committee Members

FROM: Clifton Gunderson, LLP

RE: Update on Status of Financial Management Tasks

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This update memorandum has been agreed by the elected officials to substitute for the March FSAC meeting and serves to provide the FSAC Members with the current status of Financial Management Tasks. Presently, the key financial tasks of the Capital Budget Update as of December 31, 2010, Operating Billing to Project Partners, Implementation of the Cost Accounting System and Drafting of BDD Financial Policies are all in process, but not at a discussion stage for this group. Accordingly, the best use of the Committee Members' time appears to be to provide an update on the current status for each of these items at the present time.

**Status of the Capital Budget Update.**

Clifton Gunderson, LLP (CG) has received the majority of the data requested in order to update the capital budget as of December 31, 2010. We are currently reviewing this data and will be conducting our budget update procedures in early March. During Mid-March, we expect to be reviewing the update with Project Staff and seeking their input regarding projected future expenditures. Our update of the capital budget is expected to be complete and ready for inclusion in the April FASC Agenda and BDD Board Meeting Packet.

The format of the Capital Budget Update is expected to follow very similarly to the June 30, 2010 update. However, in response to feedback from Board Members we will augment our traditional report with an analysis of contingency fund balance as of December 31, 2010 and a detailing of what portion of each budget line item has been funded by each partner. This analysis will be supported by the invoicing file to each partner for the Capital Budget.

We anticipate this complete analysis to be ready for discussion at the April FSAC Meeting Scheduled for April 5, 2011.

### **Status of FY 2010-2011 Operating Billing to Project Partners**

CG has recently received a log-in and access to the BDD JD Edwards system and we have been downloading the detail supporting both the Capital Fund (7400) and Operating Fund (7410) through December 31, 2010. During our review of this information, we have noted some operating expenditures recorded in the Capital Fund and some capital expenditures recorded in the Operating Fund. We are presently making the detailed identification of all of these classifications for the purpose of discussing and clarifying their treatment with staff. In early March, we anticipate meeting with BDD Staff and the Fiscal Agent to clarify the treatment of these expenses.

The clarification of the treatment for these expenditures will then facilitate the billing of the partners for the July 2010 – December 2010 timeframe.

The imminent implementation of the cost accounting system will provide the mechanism to bill the partners for operating costs in January, February and all future months. As we discuss below, the cost accounting system is expected to be in place and operational in March 2011. Through the costs captured in the JD Edwards system, we will reconcile the amounts recorded and issue bills to the partners for each month based on the cost accounting protocols being adopted by the BDD.

### **Cost Accounting System Implementation & Integration with Operating Billing**

We have been working closely with Mark Rook on the design and implementation of the cost accounting system. During February, we were able to finalize the data structure of the system and build the tables and matrixes that will drive the systematic functions of the cost accounting platform. We expect the programming to be complete in the first half of March with the cost accounting system moving into a testing environment during this month.

We will be testing the cost accounting system in March by preparing the operating billing to the partners for January and February through the system and reconciling it back to the cost allocation methodologies adopted by the BDD. We expect to identify and correct any issues in the cost accounting system through this process in March and April. We anticipate going live in late April or the beginning of May with the cost accounting system.

### **Policy Drafting Update**

Presently, we are working with BDD Staff on the drafting of a capitalization policy and an updated working capital and billing policy.

The capitalization policy's intent will be to clarify what items will be considered capital expenditures versus operating expenditures based on their character, timing and function. This

Buckman Direct Diversion FSAC  
March 1, 2011

policy is currently being drafted and needs to be circulated among BDD Staff for their input, opinions and revisions.

The BDD Staff is currently working on the emergency funding policy specifically as it relates to the replenishment issue that was raised at the last BDD Board Meeting.

STC CLERK RECORDED BA/21/2011

SFC CLERK RECORDED 6431/2011

Long Pond Komer Ammendment

2011

Item	Task	February	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Misc	Total Hours
1.0	PRC Cases (PNM Rate Case, Renewable Energy Case)		10	10	10									
1.1	PRC hearing												20	
2.0	DB Contract Implementation		20	20	20	20	20							
3.0	PNM Substation Permitting and Installation		5	5	5									
4.0	Review of BDD Board Services Contracts Project Agreements and Ammendments		10	10	10	10	10	10	10	10	10	10	10	
5.0	Solar Power Facility Agreements and Permitting												10	
6.0	LANL MOU Implementation Agreement revisions, related water quality regulations		10	10	10	10	10							
7.0	BDD Project EIS Implementation, compliance, ESA issues, BLM easement issue		10	10	10	10	10	10	10	10	10	10	10	
8.0	Las Campanas LP transition and agreement ammendment		10	10	10	10	10							
9.0	BDD Board Meeting legal services, agenda and packet review, support to staff		10	10	10	10	10	10	10	10	10	10	10	
10.0	Coordination with insurance advisor, financial experts, co-counsel elected officials on legal issues		5	5	5	5	5	5	5	5	5	5	5	

Monthly Hours Total

February	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Misc	Total
90	90	90	75	75	35	35	35	35	35	35	30	600

Billing Rate: \$160.00

Monthly Charges

February	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Misc	Total
\$ 14,400.00	\$ 14,400.00	\$ 14,400.00	\$ 12,000.00	\$ 12,000.00	\$ 5,600.00	\$ 5,600.00	\$ 5,600.00	\$ 5,600.00	\$ 5,600.00	\$ 5,600.00	\$ 4,800.00	\$ 105,600.00
GRT 8.19%	\$ 1,179.00	\$ 1,179.00	\$ 1,179.00	\$ 982.50	\$ 982.50	\$ 458.50	\$ 458.50	\$ 458.50	\$ 458.50	\$ 458.50	\$ 393.00	\$ 8,640.00
Total Attorney	\$ 15,579.00	\$ 15,579.00	\$ 15,579.00	\$ 12,982.50	\$ 12,982.50	\$ 6,058.50	\$ 6,058.50	\$ 6,058.50	\$ 6,058.50	\$ 6,058.50	\$ 5,193.00	\$ 114,240.00

Total Ammendment Attorney Fee

Paralegal Hours

Paralegal Rate	February	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Total
Hours	8	8	8	8	8	8	8	8	8	8	8	
Cost	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$520.00	\$ 5,720.00
GRT 8.19%	\$42.58	\$42.58	\$42.58	\$42.58	\$42.58	\$42.58	\$42.58	\$42.58	\$42.58	\$42.58	\$42.58	\$468.00
Total Paralegal	\$562.58	\$562.58	\$562.58	\$562.58	\$562.58	\$562.58	\$562.58	\$562.58	\$562.58	\$562.58	\$562.58	\$6,188.00

Average Miscellaneous \$ 472.09

Amendment 6 Total \$ 120,430