

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

**February 4, 2016**

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Commissioner Liz Stefanics, Chair, at approximately 4:13 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  
Councilor Joseph Maestas  
Commissioner Miguel Chavez  
Councilor Carmichael Dominguez  
Ms. Consuelo Bokum

**Member(s) Excused:**

None

**Others Present:**

Charles Vokes, BDD Facility Manager  
Nancy Long, BDD Board Consulting Attorney  
Stephanie Lopez, Staff Liaison  
Mackie Romero, BDD Finance Manager  
Randy Sugrue, BDD Staff  
Michael Kelley, County Public Works Director  
Carole Jaramillo, County Finance Director  
Bernardine Padilla, BDD Public Relations Coordinator  
Ermina Tapia, BDD Administrative Assistant  
Rick Carpenter, City of Santa Fe  
Marcos Martinez, City of Santa Fe  
Nick Schiavo, City of Santa Fe  
Kelley Brennan, City Attorney  
Claudia Borchert, County Utility Director  
Greg Shaffer, County Attorney  
Bruce Frederick, Assistant County Attorney  
David S. Rhodes, DOE EM-LA  
Daniele Bowman, BDD staff  
Kyle Harwood, BDD Counsel  
Skip Poliner, Las Campanas Co-op  
Bryan Romero, Las Campanas Co-op  
Kim Visser-Weinman, Las Campanas Co-op  
Mary Erpelding-Chacon, Las Campanas Co-op

Barbara Crockett, CH2M  
Paul Karas, CDM Smith  
Charlie Nylander, Club at Las Campanas  
Wendell T. Egelhoff, Club at Las Campanas, Applicant  
J.C. Helms, BDD Board Applicant  
Douglas Sayre, BDD Board Applicant  
Cheryl Vokes, Citizen  
Frank Katz, Conci Bokum's spouse

**3. APPROVAL OF AGENDA**

There being no changes, Councilor Dominguez moved to approve the agenda and Commissioner Chavez seconded. The motion passed by unanimous [5-0] voice vote.

**4. APPROVAL OF CONSENT AGENDA**

- 8. Monthly Update on BDD Operations**
- 9. Fourth Quarter of 2015 Update on Environmental Compliance at BDD**
- 10. Request for approval of 2016 Fiscal Services Audit Committee (FSAC ) Meetings Calendar**

CHAIR STEFANICS: Is there a motion or is there is discussion:

COUNCILOR MAESTAS: I'll move for approval.

COUNCILOR DOMINGUEZ: I'll second.

CHAIR STEFANICS: Okay. Any further discussion?

COMMISSIONER CHAVEZ: Madam Chair, the only thing I would add is that the Fiscal Audit Committee did meet on Tuesday and we discussed some of the items that are on our agenda today. Let me see. Who was in attendance?

CHARLES VOKES: I believe Ms. Romero was going to update, if that's all right.

COMMISSIONER CHAVEZ: Okay. Then I'll yield the floor, Madam Chair,

COUNCILOR MAESTAS: Okay, so, we'll approve the Consent Agenda with the exception of the update?

COMMISSIONER CHAVEZ: Minus item 10. Yes, thank you, Madam Chair.

COUNCILOR MAESTAS: Approve as amended.

COMMISSIONER CHAVEZ: Thank you.

CHAIR STEFANICS: That's the calendar, though. Item 10 is for the FSAC calendar.

COMMISSIONER CHAVEZ: You're right. I'm sorry. So then the motion then would stand as separate and that's just the calendar. My oversight.

CHAIR STEFANICS: So you're satisfied with the approval?

COMMISSIONER CHAVEZ: Yes.

CHAIR STEFANICS: Okay. So we have a motion to approve the Consent and a second.

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

**4. APPROVAL OF MINUTES: January 7, 2016**

CHAIR STEFANICS: Staff, are there any changes?

MR. VOKES: Madam Chair and members of the Board. There are no changes. Thank you.

CHAIR STEFANICS: Members of the Board?

COUNCILOR MAESTAS: Move for approval.

COUNCILOR DOMINGUEZ: I'll second.

CHAIR STEFANICS: Thank you. Any discussion?

MEMBER BOKUM: Madam Chair, I need to abstain because I wasn't here.

CHAIR STEFANICS: Thank you.

**The motion passed by unanimous [4-0] voice vote with Ms. Bokum abstaining.**

**6. MATTERS FROM STAFF**

MR. VOKES: Madam Chair, members of the Board, I have two items. The first is at your places there is a photograph of a brand new piece of equipment that Buckman Direct Diversion just received this past week. At the August 6<sup>th</sup> Board meeting we discussed the purchase of a crane truck which is used to lift our heavy pumps and other equipment. We have been renting that service from our pump contract, Alpha Southwest at approximately \$3,000 to \$4,000 each time that we did that. We looked at the pay-back and the pay-back on purchasing the truck was approximately a little over three years. So you all approved the purchase of that and we did receive it this week.

Some members of our staff have gone to training which is required by the State and we're going to have classes in the next couple weeks and then we will be able to start utilizing. You notice there's also a man-basket on the back of the truck so we can use that to lift staff to change lights or whatever we need to do in a higher location. So it will be very useful for not only the BDD but also our partners, I believe. So any questions on this?

The second item I wanted to mention, as everyone has heard, the City of Flint, Michigan has been in the news about their drinking water, the lead that is in their drinking water. Concerns with lead are not a new thing. The EPA passed the Lead and Copper Rule back in 1991 and this rule led to the requirement that public water systems must perform corrosion control. They must, if they have lead service lines, they must start the process of replacing those, and they must start the process of public education.

I wanted to assure the Board and also our customers that both the BDD and the City of Santa Fe do practice corrosion control. We do lead and copper monitoring on an annual basis as required by the EPA and the City has been in compliance with that rule since the beginning in 1991. So that was my statement I wished to make. I just wanted to reassure everyone publicly that the City of Santa Fe will not have any problems with lead. So any questions?

CHAIR STEFANICS: Board members, any comments, questions? Okay. Thank you very much. Anything else, Mr. Vokes?

MR. VOKES: No. That is it. Thank you.

CHAIR STEFANICS: Thank you.

**7. REPORT ON FISCAL SERVICES AUDIT COMMITTEE: February 2, 2016**

MACKIE ROMERO (Finance Director): Madam Chair, members of the Board, a FSAC meeting was held on February 2<sup>nd</sup>. In attendance was myself, Charles Vokes, BCC Facilities Manager, Councilor Maestas by phone, Teresita Garcia, City Assistant Finance Director, Commissioner Chavez, Carole Jaramillo, County Finance Director, Claudia Borchert, County Utilities Director. As part of our agenda I gave the committee an update on the project-wide finding which was discussed by several staff members from the City, the County and Las Campanas on January 5<sup>th</sup> and the proposed allocation will be presented to the Board next month in March.

I also updated the committee on the fiscal year 17 budget request which has been delayed due to partner allocations, such as project-wide. There was also some concerns about the appropriate allocation for Las Campanas Cooperative. The partners also wanted more time to give more accurate water projections for the bearable costs. However, all these issues should be resolved for presentation of our budget in March.

I also discussed the FSAC calendar to ensure we could accommodate our partners so that everybody can participate. I think there was one date that we noted that we'll try and reschedule so we can make sure everyone can attend. We also discussed the contingency fund policy, the professional service for Sheehan & Sheehan and the corresponding budget for this item. These topics are action items so I will not further discuss until we discuss those. If you have any questions.

CHAIR STEFANICS: Board members, questions, comments? Okay, thank you very much for that report.

**PRESENTATION: Appreciation and recognition of Consuelo Bokum for 10 years of Service as a Citizen-at-Large Member on the BDD Board**

CHAIR STEFANICS: We're now moving on to a very special presentation. I bribed Conci Bokum, Board Member Conci Bokum. She didn't want to come this evening, and I said you need to come so we can roast you. And apparently she liked that term so she agreed to come if we let her out of some later responsibilities. But after 10 ½ years of pre-planning and sitting on this Board, Ms. Conci Bokum has decided that she did not want to reapply to be the citizen Board member.

She has brought her skill, her knowledge and her great personality to our Board and we truly appreciate everything you have done. I want you to know that the BDD staff really arranged a few things for you. First of all, the roses are dual yellow-orange. The yellow is for friendship and the orange is the color of the BDD so that it has specific recognition. We also today for you have a gift card for a restaurant at Open Table and we also have an appreciation card from the rest of the Board. We understand that in the past

any certificate you have received you have returned to us so I hope you will not return the restaurant gift certificate.

At this time I'd like to turn it over to the Board for comments and then if anybody from the audience has a comment we'll take that as well. Board members? Councilor Maestas.

COUNCILOR MAESTAS: Thank you, Madam Chair. I've known Conci I think since you were on 1,000 Friends and I think we crossed paths when Governor Bill Richardson was in office. I think we were both on the Blue Ribbon Water Task Force. So I think that you've contributed so much to not just the whole dialogue in terms of water but helped institutions and helped decision makers to really be informed and aware of the situation with regards to water management in the arid high desert of New Mexico. Personally, I'm sad. It's going to be tough to fill your shoes, Conci, but I know that you're going to be following the dialogue no matter where you're at or what board you're sitting on and we expect you to kind of keep us honest and make sure that we're making sound decisions with regard to water. So I want to wish you happy trails. I see Frank here. I think this is one of Santa Fe's power couples and both of you I think have been treasures to not just Santa Fe but to our state and I know you're going to keep doing really great things and the thing is, when you have community members like Conci, God, you just want to keep them and you want to have them contribute and they have limited time and they can't do certain things forever and we understand; it's time to move on. So thank you for your friendship. Thank you for your contributions and I know you won't be very far away. That's all I had, Madam Chair.

CHAIR STEFANICS: Thank you. Commissioner.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. To both Conci and Frank, thank you. As Councilor Maestas mentioned, both of you have volunteered your efforts to our community to make things better. I know that both of you will be committed to that endeavor as citizens. But Conci, I do appreciate that work that you've done on the BDD and I don't remember the timeline and where we crossed paths but I know it goes back.

MEMBER BOKUM: I have to butt in and say where we crossed paths was there was a campaign to have the City buy the water company and we worked together on that.

COMMISSIONER CHAVEZ: That was in 1992 and 1993. So there you go. That's in the collective memory then. But I do appreciate your interest and your input collectively as a unit, as a couple. The sacrifices that we make to volunteer I think speaks volumes for those that give up of their time and Conci and were talking about that earlier. That volunteerism, it's deep and that doesn't go away, so I know that Conci will be committed to the community that we live in. Thank you, Conci.

CHAIR STEFANICS: Thank you. Councilor.

COUNCILOR DOMINGUEZ: Thank you, Madam Chair. There's really not much more to be said but I just want to thank you, Conci, for all of your work and of course we want to thank your family as well because often times we forget the impact that some of this has on our family members as well and so thank you to your family for lending you to us. I've served with you off and on as I've been appointed to the BDD throughout my tenure, and I can tell you that I'm always impressed with the level of dignity you bring. Sometimes in the tough decisions we have to make your wisdom and

your calm, cool and collected thoughts help ease all of us in making some of those decisions sometimes and so I appreciate that. And quite frankly the community, the people of this community are lucky to have had you participate in this process and on this Board. Because of the work that you've done our water portfolio, for lack of a better word is in much better condition than it was however many years ago. So the community owes a great deal of gratitude to you and the work that you've done to get us on the right path when it comes to water resources. Thank you. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Is there anybody from the audience that would like to make any comments about Conci?

BERNARDINE PADILLA (BDD PR Coordinator): Conci, it's been a pleasure working with you and I have fond memories of conversations that we've had and the tour that you had where you brought your grandkids. I think that was when Chuck first stated as well so it was one of his first tours. So we have pictures of that to remember by and I also want to say that you have to take your water bottle because I'm not going to fill it up for you anymore. You have to take it.

COUNCILOR MAESTAS: She has to carry her own water?

MS. PADILLA: You have to carry your own water and fill it up on Canyon Road. So it's been a pleasure to meet you, to know you, to work with you and I just want to say enjoy your Thursday nights.

CHAIR STEFANICS: Thank you. Charlie.

CHARLIE NYLANDER: I think I've known Conci practically since Santa Fe High School days. But honestly, I had the pleasure of serving with Conci on Governor Richardson's Blue Ribbon Water Task Force and also I followed her in her chairmanship of the Jemez y Sangre Regional Water Planning Council and I want to commend her for the nice job that she did for many, many years on the Jemez y Sangre, and also her current role with the New Mexico Water Dialogue and the fact that she's just stuck with that and made it a statewide going and growing concern. So, Conci, your service on the BDD Board has been tremendous and you've been a real example for me and others, so thank you very much.

CHAIR STEFANICS: Thank you. Is there anyone else who'd like to say anything? Conci, it's your turn.

MEMBER BOKUM: Well, I just want everybody to know what a pleasure it's been to work on this project and almost more importantly is how impressed I've been. This was a big project. A huge project, and it's amazing how smoothly it's gone and how wonderful all the people have been that have worked on it and continue to work on getting that plant to work. I'm impressed; I really am and it's been a pleasure to be part of it.

I also want to say I've been working on water planning for years and years and years and this project is so important to protecting Santa Fe's water future. So for all the people that may have made this possible and done such a good job, we are so thankful to all of you. And that's going back 10 ½ years, and to the future. It's been wonderful. So thank you very much.

CHAIR STEFANICS: Thank you, and let's give Conci a round of applause. The other thing I wanted to mention, Conci, with your impetus and a few others, we are inviting some members from the Albuquerque/Bernalillo County area to come and talk with us about how they initiated their regional plan. And it was determined

that since we're bringing on new citizen members that there would be a wait for that. And then it was brought to my attention that the City might have new appointments after March, so that we're waiting for that. So when we do have those presentations we certainly want you to come back if you have the time to hear and be part of the discussion as well. And we know that that's important to you.

[Photographs were taken and Ms. Bokum excused herself from the rest of the meeting.]

## **DISCUSSION**

### **11. Recommendation for and Appointment of a Citizen Member and Alternate Citizen Member to the Buckman Direct Diversion Board**

NANCY LONG (BDDDB Counsel): Madam Chair, if I could start and then turn it over to Mr. Vokes. As you'll recall, the Board recommended an amendment to the joint powers agreement to allow for an alternate citizen member. You already had a citizen member of course. The City Council has approved that amendment to the JPA. The Board of County Commissioners has not yet approved it.

CHAIR STEFANICS: I thought we did that a long time ago. Like right away.

MS. LONG: I understand that has not been approved yet from my conversation with the County and if Bruce has any other information, but I think it will be on in the next month or so. So you will see that the way the agenda reads is the alternate citizen member is being provisionally appointed, subject to approval of that JPA amendment that then goes to the Board of Finance. So that's the way that we structured it to take care of the appointment at this meeting.

COMMISSIONER CHAVEZ: Do we want to wait until we –

CHAIR STEFANICS: No. No, we need to bring that –

COMMISSIONER CHAVEZ: Go forward. And then we'll have to work on approving our JPA.

CHAIR STEFANICS: The new member is planning to start, the new member and alternate, the term will start in March.

COMMISSIONER CHAVEZ: Right. March 3<sup>rd</sup>.

CHAIR STEFANICS: And so we – because of everything that's going on with the BDD we need to do that, and I really think we need to look back through our passed resolutions because when we made this approval here I thought that went immediately to the County,, and so I'd like to find out why not. That was a long time ago. So, Mr. Vokes, and then Councilor Dominguez.

MR. VOKES: Madam Chair, members of the Board, as you recall, this past December we advertised for new applicants for the citizen member and the alternate member. We received a number of applications. Four candidates were selected and they were interviewed the 21<sup>st</sup> and 22<sup>nd</sup> of January. The committee was composed of the Chair Stefanics, the Vice Chair Dominguez, myself and then Bernie Padilla also contributed to that effort. So I'd like to turn it over to the Vice Chair.

CHAIR STEFANICS: Could you please read the names of the people who applied and who were interviewed. Because that's not in our packet.

MR. VOKES: Right. There were four applications and we did interview all four. Denise Fort, Tom Egelhoff, and J.C. Helm and Doug Sayre. Those were the four candidates.

CHAIR STEFANICS: Thank you. Councilor Dominguez.

COUNCILOR DOMINGUEZ: Thank you, Madam Chair. Just very briefly and very quickly I want to thank all of those who showed an interest and all those who applied and of course all those who participated in the interviews. It was a tough choice. I think that we would have been fine with any of those candidates but obviously we have to make a choice and there was a lot of great discussion that took place. So again, thank you to all of those who showed an interest and who applied and who had an opportunity to get interviewed.

So the two choices that we came up with were the alternate, or the provisional alternate if you want to call him that, is J.C. Helms and the regular member is Denise Fort. So that's the recommendation that I'd like to make or the motion I'd like to make, Madam Chair, that those two appointments be made.

CHAIR STEFANICS: And I'll second. Is there now discussion, debate? Yes.

COUNCILOR MAESTAS: Yes, I just wanted to recognize both you, Councilor Dominguez and Commissioner Stefanics to devoting the time to interview these applicants for this important position on the Board. So job well done. Thank you.

CHAIR STEFANICS: Thank you. Commissioner.

COMMISSIONER CHAVEZ: Just expanding on what Councilor Maestas articulated, I want to respect the committee process and let that run its course. I do appreciate the others who have expressed interest in volunteering and maybe would still be interested in volunteering on other boards and committees that might have vacancies. So please keep that in mind. But I want to respect the process and hope that the selection process was fair and open and vetted those that were qualified for the work that needs to be done. Thank you to both of you.

CHAIR STEFANICS: Thank you. I think that everyone who applied and was interviewed were exceptional. Every person had a different skill and a different interest in coming forward and I was very pleased with the quality of our applications. I'm also glad we didn't have 20 applications. But it was a pleasure to meet everybody and to talk with everybody. Is there any further discussion before we take a vote?

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

CHAIR STEFANICS: Denise Fort is actually working in the legislature and I don't believe she's here, but I think Mr. J. C. Helms is here. Would you just stand up please so everybody could meet you? Thank you. We look forward to having the citizen board members start with us next month.

## **MATTERS FROM THE PUBLIC**

CHAIR STEFANICS: Is there anybody from the public that would like to make a statement at this time? You're invited to come forward.

## MATTERS FROM THE BOARD

CHAIR STEFANICS: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. I want to ask the Board to consider an additional amendment to the joint powers agreement to allow an additional member to sit on the Board and that would be a member representing Las Campanas. I don't know if – I'll just put that out for discussion now and see how the members feel about that and ask that we maybe bring an amended version of the joint powers agreement to reflect that at a future meeting, if that would be okay with the chair.

CHAIR STEFANICS: Well, let's have some discussion at this point on that item. I did bring up this item a couple of years ago and the Board did not choose to pursue it at that time. My thinking was that since Las Campanas was a member that had "some skin in the game" or some financial responsibility in donation that they could perhaps sit at the table, and at that time, the Board discussion – and it was not this Board, it was a different grouping of people – believed that that was not the route to go. So before we would bring forward an amendment JPA let's make sure that that is the wish of more than two of us.

COMMISSIONER CHAVEZ: That's fair and I guess that maybe the follow-up question, I think that that would be the only way to accommodate an additional member. Would that be accurate, Ms. Long?

MS. LONG: Madam Chair, Commissioner Chavez, yes, it would be. The JPA has a specific number on the Board, two from the City, two from the County, one citizen member, and then Las Campanas' role in decision making, such as budget issues and that sort of thing is contained within the FOPA. They're referred to as a limited partner but they specifically do not have any seat on the Board.

CHAIR STEFANICS: Are there any other comments?

COUNCILOR MAESTAS: The formation of the Board predates obviously, my tenure here but based on my understanding of the history and the basis for representation by the two primary governments that contributed the lion's share of the construction cost that it kind of be almost a 50-50 partnership based on the financial participation in building the actual project. And so if that was the basis for the number of candidates and the representation of both governments then this idea certainly would, in my opinion, perhaps run counter to that.

However, Las Campanas is impacted by our decisions and I'm not sure I'd be open to creating a position on the Board but perhaps formalizing our relationship with Las Campanas. If perhaps we could look at some kind of advisory or liaison with the Board, someone that would represent Las Campanas, but I think this would be a substantial change. I think you saw how difficult it is to amend the JPA to add for an alternate member, an alternate citizen member. I suppose we can look at the amendment but I think I'd like to see what it would be and how this would work. Obviously, having one vote on a five-member Board is certainly not a bloc so that's not my concern but I'm really looking more at the principle behind the creation of the number of slots and the allocation or certain slots to the partner governments.

But I think the intent to give Las Campanas or some representative a greater voice in decisions is noble and I think it's worthy of discussion but creating a position on the

Board, I think, is substantial and I think it would require a lot more exploration I think by this Board and a lot more discussion. I don't know. Councilor Dominguez.

CHAIR STEFANICS: Before Councilor Dominguez speaks I want to remind the Board that I continue as Chair through March, then the Chair and the Vice Chair flip in terms of City and County, and that it's been brought to my attention that the City can retain the same members or change the members of this Board after the election. So I just want to put that into the mix of our discussion. Councilor Dominguez.

COUNCILOR DOMINGUEZ: Thank you, Madam Chair. I guess just in the same line as Councilor Maestas, I think that certainly the impacts and the decisions that we make have an impact on Las Campanas and so I see no problems in exploring models that recognize their official position or their official – I guess their official position as maybe not a Board member but being recognized as a group that has significant impact and input into the BDD. I'm just curious in the different models that are out there.

I know that there are models that allow for organizations to be officially recognized, have the proper kind of input, be able to participate in a full capacity, but don't necessarily have a voting voice, I guess. So I know that there's other models out there that I think we could explore and I'd be open to that, just to see kind of where it goes to. So I just wanted to make that comment, Madam Chair. Thank you.

CHAIR STEFANICS: Thank you. So one of the ideas I hear being floated is that perhaps some models come back to us, which could be inclusive of a voting Board member, a Board member who's advisory, some other advisor to the Board, etc. and so perhaps that could come back as an item for discussion but not action since we're going to be having new Board members possibly to discuss this and take this on. Is that acceptable, Commissioner?

COMMISSIONER CHAVEZ: That's fine with me. I don't think there's a big rush to make this happen. As was mentioned, we know that Las Campanas is either a minor or a significant partner depending on how you want to paint that picture. I think that at both levels we need to recognize that. I think that obviously we've had the discussion. The Board has had a similar discussion in the past. I think it does warrant more discussion. Personally, I'm looking for a stronger position on the Board, but I'm open to other models and other ideas to take this one step at a time. But to have Las Campanas as almost a silent partner, or a partner on the sideline, I don't think is doing us much good either. So I want to just try to see if we can elevate that to some other level than where it's been currently. So that's my position and I guess in there is buried the principle and the reasoning why I would want to bring this discussion to the Board at this time.

CHAIR STEFANICS: Okay, thank you. Yes, Councilor Maestas.

COUNCILOR MAESTAS: I would suggest at least maybe one immediate change is that we could offer Las Campanas, and I don't know if there's any representative that would be designated to speak because I think we're dealing with a couple of entities when we talk about Las Campanas, but I think a standing agenda item for like a Las Campanas update I think would be I think proper at this point.

But I think in listening to Commissioner Chavez I'm not aware of any strong desire or even a formal request by Las Campanas to become more of a formal participant in the dialogue and even the decision making of the Buckman Board. So if there is some

coalescence of a position similar to that I think it should be communicated in a more formal way to the Board. I think it's great to hear it from the Commissioner but I think in my mind it carries more weight if it comes from a legitimate representative of Las Campanas. So if that is the desire then please communicate that to us formally to really give it some momentum to further this discussion.

CHAIR STEFANICS: Thank you, Councilor. I have in fact been approached by an individual from Las Campanas on this topic but I think your suggestion is well taken and if perhaps there could be a formal request in writing that's submitted to our director, Mr. Vokes, who would then work with our general counsel to work with us on how to place it on the agenda for discussion. Okay. So is that clear direction for everybody? Okay. Thank you very much. Any other Matters from the Board?

#### **EXECUTIVE SESSION**

**In accordance with the New Mexico Open Meetings Act, NMSA 1978, §10-15-1(H)(7), discussion regarding threatened or pending litigation in which the BDDB is or may become a participant, including without limitation:  
Discussion regarding diversion structure issues**

CHAIR STEFANICS: Ms. Long, do we have a need to go into executive session?

MS. LONG: Yes, Madam Chair, we do, for the purpose as contained on the agenda regarding threatened or pending litigation in which the BDDB is or may become a participant, including without limitation discussion regarding diversion structure issues in accordance with the New Mexico Open Meetings Act, Section 10-15-1(H)(7).

CHAIR STEFANICS: Thank you. And to let the Board know, before we take this vote on going into executive session, the Vice Chair and myself have discussed this and recommended that parties, very specific parties from the City and very specific parties from the County be invited to attend the executive session so there is clear communication regarding the Buckman Direct Diversion Board and our activities at this time. And Ms. Long, could you identify the people that we've invited to sit in on the executive committee to make sure that everybody is accepting this here.

MS. LONG: Yes, Madam Chair, members of the Board. The City Attorney's Office and County Attorney's Office, the attorneys themselves or their designees have been invited to regularly attend as well as the Public Works Directors for both entities.

CHAIR STEFANICS: Okay. Is that acceptable to everybody? Okay.

MS. LONG: In addition, Madam Chair, we may also have a need on some of these monetary issues to have the Buckman Finance Director, Mackie Romero, attend as well for part of it.

CHAIR STEFANICS: Okay. I don't believe Ms. Mackie Romero needs to be in every meeting though.

MS. LONG: That's correct. The standing invitation is as described it.

CHAIR STEFANICS: Okay. Great. I would make the motion to go into executive session for the purposes. Is there a second?

COUNCILOR MAESTAS: Second

Upon unanimous roll call vote the Board met in Executive Session:

Commissioner Liz Stefanics, Chair	Aye
Councilor Joseph Maestas	Aye
Commissioner Miguel Chavez	Aye
Councilor Carmichael Dominguez	Aye

[The Board met in closed session from 4:52 to 5:43.]

CHAIR STEFANICS: Could I have a motion to come out of executive session?

COMMISSIONER CHAVEZ: Madam Chair, motion to come out of executive session.

CHAIR STEFANICS: Is there a second?

COUNCILOR MAESTAS: Second.

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

CHAIR STEFANICS: In the executive session we only had discussion about the threatened or pending litigation and we made no decisions.

**12. Consideration and possible approval of Contingency Fund Policy for the BDDB [Exhibit 1: Revised Policy]**

CHAIR STEFANICS: I'm going to have an amendment to the policy that's presented, but I'd like to start with Ms. Long.

MS. LONG: Thank you, Madam Chair. On this item of the Contingency Fund Policy, at your places is a policy that has been redline for your ease of seeing what the changes are from what was in your packet. They're fairly minor but we have revised the policy to make it specific to the Buckman Direct Diversion structure possible litigation fees and costs, and I also provided a clean version of that. So the proposal would be that you all would recommend to your governing bodies the approval of this policy which will be contributed to at 47 percent each by the City and the County, and six percent by Las Campanas. Las Campanas has agreed to contribute the six percent amount between the two Las Campanas entities.

We arrived at this policy because the budgetary item of funding the BDD's pursuit of possible claims as to the diversion structure design and construction is not covered by any of your current governing documents. There is nothing in the FOPA, and so we had to come up with a recommended solution to that. And with the direction from the Board we did come up with this policy along with input from the partners that we've been considering for the last several months, and the Buckman Contingency Fund Policy reflects this expense as being something that was unanticipated at the time that the governing documents were entered into and therefore it wasn't specifically addressed.

What it does is it reflects the essential budgetary nature of the policy and that this would be considered by the governing boards after you all may recommend it today. So we are recommending that you approve this policy so that we have then a mechanism for

funding our Legal Services Agreement with Sheehan & Sheehan and any related expenses to the pursuit of those claims and analysis of them.

CHAIR STEFANICS: Okay. Ms. Mackie Romero, do you want to add anything to the presentation? Or do you just want to wait for questions?

MS. ROMERO: I'll just wait for questions.

CHAIR STEFANICS: Okay. Thank you. Board members before we would get to the policy – well, for discussion purposes, could I have a motion on the policy and a second so then I can make the amendment.

COMMISSIONER CHAVEZ: Madam Chair, I'll make a motion to approve the Contingency Fund Policy.

COUNCILOR MAESTAS: Second.

CHAIR STEFANICS: Okay. We have a motion and a second and I would like to add this one sentence under the section that says Restrictions. What's already written in the policy that you have is, "The contingency fund shall be designated as a restricted special revenue fund. Expenditures shall be made in accordance with this policy and billed to our partners for reimbursement." The addition, the amendment would be, "The implementation of this policy is dependent on each respective governing body's approval of the policy no later than May 31, 2016." That is a motion for an amendment. Is there a second?

COMMISSIONER CHAVEZ: Second.

CHAIR STEFANICS: Okay, now we're on discussion of the amendment. Yes, Councilor Maestas.

COUNCILOR MAESTAS: Madam Chair, I guess this is a question for Nancy. Nancy, we have another agenda item requesting action on a possible amendment for the Legal Services Agreement. So if it's contingent upon approval of the City and the County, would we be able to take action on that?

MS. LONG: Madam Chair, Councilor Maestas, I believe you can take action on it. The policy is contingent upon approval by the City and the County. The Board can make a decision to go ahead and amend that contract and increase the funding. Obviously, if the policy is not approved by the City and the County you'll be looking at other ways to fund that contract or further revise it but I don't think you have to hold up amending the contract at this point. I think you can go ahead and approve that.

COUNCILOR MAESTAS: Okay. Thank you. That's all I had, Madam Chair.

CHAIR STEFANICS: Thank you. Other comments on the amendment.

**The motion to approve the amendment passed by unanimous [4-0] voice vote.**

CHAIR STEFANICS: Now we're back on to the amended Contingency Fund Policy. What is the – is there further discussion or questions on the policy with the amendment? We're still on item 12. We have a motion and a second. We've passed an amendment. Is there any further discussion on the Contingency Fund Policy as amended?

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

CHAIR STEFANICS: Ms. Long, I'm going to ask that you – even though we have staff here in the audience I'm going to ask that you formally communicate this fund policy and the request with the amendment to each of the governing bodies in a formal way.

MS. LONG: Yes, Madam Chair, I can do that.

CHAIR STEFANICS: Thank you

- 13. Consideration and possible approval of Amendment No. 1 to the Legal Services Agreement between Sheehan & Sheehan, PA, and Buckman Direct Diversion Board to increase the compensation by \$900,000 for a total contract amount of \$930,000 plus NMGR**
- a. Request for approval of a budget adjustment to the contingency fund budget for the amount of \$930,000 plus NMGR**

CHAIR STEFANICS: Ms. Long, why don't you go ahead and then I have some questions for Ms. Romero on this as well.

MS. LONG: All right, Madam Chair. Thank you, and members of the Board. We are seeking your approval of the first amendment to the Legal Service Agreements with Sheehan & Sheehan in order to increase the compensation by \$900,000 for a total of \$930,000 at this time. This contract was put out to bid for legal services for a request for proposals and you'll remember that in the fall there was a committee that recommended Sheehan & Sheehan and the Board approved the initial contract which was funded with just \$30,000 at that time in order to get the contract started, but it was always anticipated that the compensation would have to be increased once there was a mechanism for doing that.

So we are recommending approval of the amendment to increase the compensation by \$900,000. As I said, there may need to be further amendments or action taken if the governing bodies do not approve the Contingency Fund Policy but we're not at that point.

COMMISSIONER CHAVEZ: Madam Chair.

CHAIR STEFANICS: I'd like Ms Romero first – Ms. Romero, I'd like for you to talk about available funds, and then we'll go to questions and comments.

MS. ROMERO: Madam Chair, members of the Board, we do have our operating budget. There's not a lot of fund left. We have some vacancy savings. We have some money in our operating for maintenance and we have some money in our other operating costs. If I had to continue to fund this I probably could possibly find maybe an additional – right now we funded \$30,000 for the initial contract out of our operating budget. We possibly could maybe put another \$50,000. Even if you approve the PSA we would only encumber what we could allot in our operating budget and hopefully get reimbursed with that once the Contingency Fund Policy is passed.

CHAIR STEFANICS: Okay. We're now at discussion, comments. Commissioner Chavez.

COMMISSIONER CHAVEZ: I guess this is a question to Legal. I think it's safe to say that Sheehan & Sheehan also does some work for maybe the City and the County. Will there be some separation if that is the case? Or would that matter?

MS. LONG: Commissioner, it could matter and we will certainly follow up on that. It has not presented any issue at this time but we will run down what that representation is.

COMMISSIONER CHAVEZ: Okay. Thank you. That's all I have, Madam Chair.

CHAIR STEFANICS: Yes, Councilor Maestas.

COUNCILOR MAESTAS: As a contingency to the contingency fund, Mackie, do you think we maybe should consider a policy action at our next meeting requesting the temporary use of another reserve fund? I realize that we'd have to change the policy but I'm just a little nervous that we're not going to be able to pay bills until this is ironed out between both governments and so I just want to present that to you as an idea because I know we're running up on time, but perhaps as a contingency that maybe we can come up with a temporary policy change on the use of an existing reserve that we can use pending the outcome of the approval of this new contingency fund.

MS. ROMERO: Madam Chair, members of the Board. I was also trying to think of some short-term solutions that we could bring back in March if this didn't get resolved quickly, so that we could possibly get some funding. So I will consider that. Thank you.

COUNCILOR MAESTAS: And I think we do have some funds that have the same pro rata that's being proposed. Correct?

MS. ROMERO: No, we don't at this time. No.

COUNCILOR MAESTAS: We don't? Well, we could always fix that.

MS. ROMERO: Yes, we could.

COUNCILOR MAESTAS: Just a suggestion.

CHAIR STEFANICS: Councilor Dominguez, anything? What is the pleasure of the Board? We don't have a motion yet.

COUNCILOR MAESTAS: Move to approve the amendment to the Legal Services Agreement between Sheehan & Sheehan, PA, and also to approve the consequential budget adjustment to the contingency fund budget in the amount of \$930,000. We can do that together, right? The BAR and the –

MS. LONG: Yes. You can take that together.

COMMISSIONER CHAVEZ: Second.

CHAIR STEFANICS: We have a motion and a second. Yes.

COUNCILOR MAESTAS: Just under discussion, Madam Chair. I think we probably need to entertain action on another contract. I think it should be your contract, Nancy, because you're kind of overseeing this litigation and I think the pro rata for your normal contract is much different than the pro rata that's before us for the contingency fund, so we may have to either consider an amendment to your contract or – I don't know. It doesn't make sense to create a new contract but I want to make sure that your time in coordinating this litigation is consistent with the pro rata that's being proposed for the contingency fund.

MS. LONG: That's a good point. Thank you, Councilor Maestas. We'll look at that.

COUNCILOR MAESTAS: All right. That's all I had, Madam Chair.

CHAIR STEFANICS: We have a motion and a second. Further discussion?

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

**NEXT MEETING: Thursday, March 3, 2016 @4:00 PM at County Chambers**

CHAIR STEFANICS: Our next meeting is Thursday, March 3<sup>rd</sup>. Is anybody not going to be here that you know of? This will be a new meeting for our citizen Board member on March 3<sup>rd</sup>.

COUNCILOR DOMINGUEZ: Madam Chair, just on that point, I don't know what the logistics or the details are of the City election. I do not think that inauguration is that night, but please just keep in mind that there may be something that happens on the City side around that time. I think the inauguration is the week after but I'm not –

COUNCILOR MAESTAS: It's on the Monday after the election and then our organizational meeting is March 9<sup>th</sup>.

COUNCILOR DOMINGUEZ: Okay.

CHAIR STEFANICS: So we wouldn't have the City members reappointed until April. So we will continue on – I will continue on and you will continue on through March and then we would have new members present in April from the City? Not from the County.

COUNCILOR DOMINGUEZ: The BDD meeting in March is when?

CHAIR STEFANICS: March 3<sup>rd</sup>.

COUNCILOR DOMINGUEZ: And the next one will be?

CHAIR STEFANICS: April, first week.

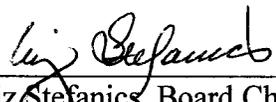
COUNCILOR DOMINGUEZ: So next April we could potentially have a new City representation.

CHAIR STEFANICS: So we cannot do the elections until the beginning of the April meeting. Great.

**ADJOURNMENT**

Having completed the agenda, Chair Stefanics declared this meeting adjourned at approximately 6:00. p.m.

Approved by:

  
Liz Stefanics, Board Chair

Respectfully submitted:



Debbie Doyle, Wordswork

FILED BY:

*Geraldine Salazar*  
GERALDINE SALAZAR  
SANTA FE COUNTY CLERK

ATTEST TO:

YOLANDA Y. VIGIL  
SANTA FE CITY CLERK

3-15-2016



COUNTY OF SANTA FE ) BUCKMAN DIRECT DIV MIN  
STATE OF NEW MEXICO ) ss PAGES: 19

I Hereby Certify That This Instrument Was Filed for  
Record On The 15TH Day Of March, 2016 at 11:38:13 AM  
and Was Duly Recorded as Instrument # 1788738  
of The Records Of Santa Fe County

Deputy *Laura Howard* Witness My Hand And Seal Of Office  
Geraldine Salazar  
County Clerk, Santa Fe, NM



SFC CLERK RECORDED 03/15/2016



**Buckman Direct Diversion Board  
Contingency Fund Policy**

Purpose

In alignment with the BDD Project intergovernmental agreements and in order to secure resources for the BDDB's pursuit of claims and possible participation in litigation, the BDDB wishes to establish a Contingency Fund to cover litigation fees and related expenses related to the Buckman Direct Diversion Structure.

The Contingency Fund will be funded by the BDDB partners.

The purpose of this policy is to set forth how the fund will be initially funded and the process for adding additional contributions to the fund, how to obtain access to the funds, and how the Contingency Fund will be replenished once the funds had been utilized.

Initial Funding

The Contingency Fund shall be initially funded in the amount of One Million Dollars (\$1,000,000.00), for fiscal year 2015/2016. Additional amounts added to the fund will be made by the BDD partners as part of the regular, yearly budget process (or more frequently if necessary) for so long as it is determined that the Contingency Fund is necessary and advisable. The partners will contribute to the Contingency Fund according to the same percentages contributed to the construction of the Buckman Direct Diversion Project as follows:

City of Santa Fe:	47%
Santa Fe County:	47%
Las Campanas:	6%

Restrictions Purpose

The Contingency Fund shall be designated as a restricted special revenue fund. Expenditures shall be made in accordance with this policy and billed to our partners for reimbursement.

Interest Income, Budgeting, and Expending Maintenance of the Contingency Fund

All funds will be monitored by the BDD Financial Manager and may earn interest income on cash balances. The Board will determine-recommend yearly, as part of its budget process or more frequently during the year, as may be required, the contributions to be made by the partners to the Contingency Fund.

All funds shall be budgeted and expended in accordance with the policies and procedures established in the Project Management and Fiscal Services Agreement and the BDD Working Capital and Billing Policy.





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