

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

November 5, 2020

1. **CALL TO ORDER:** This meeting of the Santa Fe County & City Buckman Direct Diversion Board meeting was called to order by Councilor JoAnne Vigil Coppler, Chair, at approximately 4:00 p.m.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, and pursuant to the New Mexico Attorney General's Open Government Division Advisory during COVID-19, public entities are authorized to conduct virtual meetings.

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

2. **ROLL CALL** indicated the presence of a quorum with the following members present:

BDD Board Members Present:

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

Member(s) Excused:

None

BDD Board Alternate Members Present:

Peter Ives, Community Alternate
James Lightfoot, Las Campanas Alternate

Others Present:

Rick Carpenter, BDD Facilities Manager
Nancy Long, BDD Legal Counsel
Mackie Romero, BDD Finance Manager
Kyle Harwood, BDD Legal Counsel
Bernardine Padilla, BDD Public Relations Coordinator
Randy Sugrue, BDD Operations Superintendent

Jamie-Rae Diaz, City Administrative Assistant
Joe Abeyta, City IT
Jesse Roach, City Water Division Director
Marcos Martinez, City Assistant Attorney
Jay Lazarus, Glorieta Geoscience
James Bearzi, Glorieta Geoscience
Daniel Frost, Snell & Wilmer

3. APPROVAL OF AGENDA [*Exhibit 1: Agenda*]

There were no changes and Commissioner Hansen moved to approve as published. Commissioner Hamilton seconded. The Chair requested a roll call vote and the motion passed unanimously [5-0].

4. APPROVAL OF MINUTES: October 1, 2020 BDD Board Meeting

There were no corrections and Commissioner Hansen moved to approve. Mr. Helms seconded and the motion passed by unanimous [5-0] roll call vote.

5. MATTERS FROM THE PUBLIC [See Page 11]

[The individual wishing to address the Board was not yet on the line and appears on page 11.]

6. PRESENTATION/INFORMATIONAL ITEMS

a. Monthly Update on BDD Operations

CHAIR VIGIL COPPLER: Randy Sugrue.

RANDY SUGRUE (Operations Superintendent): Thank you, Madam Chair, members of the Board. October was another pretty good month for BDD; good water in the river. We were able to divert the water that the City and County requested. For the month of October our raw water diversions averaged about 6.95 million gallons per day. Our drinking water deliveries through our Booster Station 4A/5A averaged 6.16 million gallons per day. Raw water delivery to Las Campanas, averaged .59 million gallons per day. Our on-site treated and non-treated water storage was about .2 million gallons per day. We're providing about 57 percent of the water supply to the City and County for the month.

We do have a demand growth summary on page 2. Our year-to-date averages, we again, exceeded our year-to-date average for October due to the warm weather in October. Our daily metered water demand on page 2, was approximately in October, 10.8 million gallons per day of which 1.6 million gallons per day was the County's demand. That's dropped significantly now that it is November because of the cooler weather. The demand has dropped to between 6 and 7 million gallons per day.

The Rio Grande flow is still quite adequate. For October, it was around 300 cubic feet per second. It's actually risen a bit now that irrigation season is essentially over to 300 and as high as 400 – and now about 330 cubic feet per second. That's my report and

I stand for any questions.

CHAIR VIGIL COPPLER: Thank you, Randy. Are there any questions from the Board? Okay, seeing none, I'll let you go, Randy, for now.

MR. SUGRUE: Okay, thank you very much.

7. b. Report from the Facilities Manager

RICK CARPENTER (Facilities Manager): Yes, Madam Chair and members of the Board, good evening. I want to just echo everything that Randy just said. If we would all think back about four weeks or six weeks or eight weeks, we were expecting conditions that were a lot more challenging than they are now. There's enough water to divert in the river. Turbidity is good. Water quality is good. We're able to produce everything that we need to do in order to meet demand. So I just want to echo that and a great job to our maintenance and operations staff for making sure that that happens.

A couple of things, we have two open positions that we are seeking to fill actively. Instrumentation and control technician is actually posted. I think it closes at the end of the month and then we are waiting on a couple of details from HR on the Munis system to post the warehouse technician but it should be posted any day now. So we are moving forward filling those positions. That's good news and it will take a lot of pressure off of other staff having to fill in for those positions right now.

Then lastly, Madam Chair, I have been working a lot with Kyle Harwood, James Bearzi with GGI on the upcoming Triennial Review. We haven't done it, I think, since 2009. There is not a lot that has changed but there are some things that I think the Board would like to be updated on before we start pushing up against deadlines. With that, Madam Chair, if I could ask Kyle Harwood to give us a more detailed update on where we're at.

CHAIR VIGIL COPPLER: Okay.

KYLE HARWOOD (BDD Counsel): Thank you, Rick. We received this email on Monday morning, November 2nd, announcing a comment period that I've highlighted here that started on November 2nd. You'll note that the comment period ends just before our December Board meeting which is on December 3rd. This is to invite – these are informational meetings here, there's one next week and one the week following to review the NMED proposals and the Triennial Review process. While this item was too late to get on our Board meeting agenda for this meeting since it was only released on the 2nd, on Monday, and because the comment period ends before the next Board meeting, I'd like to suggest to the Board that we file comments similar to the comments we filed a couple of months ago on this same topic, which were comments that were recommended by James Bearzi, myself and Rick Carpenter. We also plan on attending one of these meetings and bringing you an update on what this discussion is.

I'd like to just put this in context. This is a deadline for the interested public to provide comments about the department's proposed changes to water quality standards. The actual process itself, which I'm going to let James describe here in a moment, will run through next spring and next summer.

James, why don't you give the Board your perspective on the Triennial Review in general if you would please?

JAMES BEARZI (Glorieta Geoscience – GGI): Madam Chair, members of the Board, thank you. The Triennial Review is required for all states to review their water quality standards every three years. That's under the Clean Water Act and our state law mirrors that. So the state Environment Department implements the Clean Water Act here in New Mexico and they're in the middle of doing this. The process is ongoing, all the time, Madam Chair. Where they are right now, as Mr. Harwood said, they have proposed amendments out there and these are for all of the surface waters throughout the state to standards including what the segments are used for, what the criteria are to meet those uses. For example, there might be a use of irrigation and the criteria for certain pollutants to be at a certain numerical level. They have put out for public comment their proposed amendments, the ED. And the reason why it's their proposed amendments is because the Environment Department actually is not the entity that approves the standards and that the proposed standards are in front of. That would be the State's Water Quality Control Commission.

The Environment Department is proposing to have a hearing on the Triennial Review in July of 2021 and as Mr. Harwood said, that is the entity that considers proposed amendments and that is the entity that would consider any party – the Environment Department, the Board, or an individual private citizen.

So the State before they actually file their proposed amendments has asked for comment from the public, as Mr. Harwood indicated. And we can choose to provide that along the lines of what we had before for a different proceeding or we can wait and submit those to the Water Quality Control Commission when the hearing comes up in July or in the filings before that or we can do both. We would suggest that we would end up doing both.

When Mr. Harwood said that we had submitted some comments in the same or similar proceeding a few months ago, the State also assesses all waters for impairments. That is, does a particular stream segment not meet the criteria for its designated use like irrigation – it's too polluted for irrigation. And they sent that out for draft comment last July and the Board sent comments about the proceeding itself and about three specific stream segments that are of interest to the Board. That's the Rio Grande where the intake structure is and a couple of stream segments up on the Pajarito Plateau. We're proposing that for purposes of providing input to the Environment Department for their proposed amendments that we take those comments and make them again, because as Mr. Harwood said, they overlap quite a bit. This is a process that happens every three years and it's a long process and this is not our only so called bite at the apple. I stand for questions, Madam Chair and members of the Board.

CHAIR VIGIL COPPLER: Thank you. Any question from the Board? Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you, Madam Chair. It's hard to imagine that anybody has had time to look at these yet. So if the questions can't be answered yet that's fine. I was just wondering if in addition to resubmitting the previous comments do we have any idea that there are other aspects of this that we want or it's in our best interest to make new comments on? They're comments that would have to be submitted before our next Board meeting and I have no problem with that, I just thought it would be good to chat about it.

MR. HARWOOD: Thank you, Commissioner. I did speak with counsel for the Environment Department earlier today about their calendar and noted how amusing it was that the notice of the comment period came out after our agenda and the end of the comment period is the day before our next Board meeting. So we're in a little of an ungraceful period here bringing this to you under Matters from the Facilities Manager, but we are intending on having a call with that lawyer who has been in front of the Board before, John Verheul, NMED lawyer and also some technical staff. I think there will be a lot more to know as this unfolds over the coming six to nine months as James indicated. I think this current deadline which is only limited to making comments about the department's proposed changes is a pretty small step in the process and we would propose that with Rick's review and approval, that we would go ahead and submit comments consistent with the Board's prior set of comments and we hope that we can have your confidence in doing that so we don't need to have a special meeting between now and the comment deadline.

And then when it comes to your bigger question, Commissioner, about analyzing the department's suggestions and bringing you a set of recommendations for the actual hearing process in front of the Water Quality Control Commission, I think we will be prepared to give you an update in December and a proposed work plan in December of January depending on how much information is coming forward how quickly. I hope that is response to your question. There is some review and analysis to be done and I feel confident that using the Board's prior approved agency comments for this deadline that runs on December 2nd will be sufficient. But there is other work to be done and there are future deadlines that are not upon us right now that we can prepare you, the Board, for that work later on.

Again, I apologize for the rather ungraceful way of bringing this topic but it seemed to be the only practical way of doing it given the timing.

COMMISSIONER HAMILTON: Well, I have no problem with that. And I appreciate the answer. That's great with me. I just wonder if in conjunction with that, unless no other Board members are interested, whether you might distribute the core information to the Board just so we can look at it.

MR. HARWOOD: I would be happy to get an informational email out to the Board and key staff so that you can enjoy – which is emphasized – so that you can enjoy the Environmental rulemaking sort of process and that you will let us know what questions you have about that as we go through it. It is an informed topic. It's fairly dense and involved as you all know. But I will be very happy to get something out to the Board in between these Board meetings to keep you apprised of what's happening.

COMMISSIONER HAMILTON: Thanks.

MR. HARWOOD: Okay.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Kyle and James for the update on the Triennial Review. As Rick said, we haven't made comments for a number of years so I think that it is important that we do start commenting. And since we have previous comments that fall in line with this I hope that you will make them and then you can bring them to the next Board meeting for ratification.

MR. HARWOOD: Thank you, Commissioner. We'll plan on bringing it back on December 3rd.

CHAIR VIGIL COPPLER: All right. Any other questions or comments?
Thank you very much.

8. ACTION ITEMS: DISCUSSION

a. Discussion and Possible Action on the 2018 BDD LANL MOU Extension of Term for One (1) Year and Update on Negotiations

MR. CARPENTER: Madam Chair, thank you and Kyle or James chime in when you need to. This is another deadline that we're pushing up against, another big ticket item. We've had recently this week I thought a pretty good meeting with the folks from DOE and LANL on the MOU and regarding the extension. We have a number of items to work through with them. Some of them technical and some of them are probably more policy related – the lines get blurred sometimes. But we're making progress. We're turning in the right direction but we need to, especially because there's been a lot of turnover on their side, in fact, we just learned earlier this week that Ben Underwood the attorney for them who has been very good to work with, he's retiring now. So that mixed in with Covid makes it sort of slow going.

We're asking for an extension of the existing MOU with the Board's concurrence. And then we'll continue to be negotiating terms and conditions of the MOU as we move forward but without the pressure necessarily of a time constraint. I don't know if Kyle or James Bearzi if you want to add to that or not.

MR. HARWOOD: Yes, thank you, Rick. I'd like to just take the Board briefly through the memo in the packet and then also share the extension which I only received from my counterpart at the Lab since the packet was produced.

So as Rick indicated we have the current MOU expiring before the next Board meeting, December 1. As I think many of you are familiar, we have a sort of one over arching principle which is to have a positive and productive relationship with the Department of Energy and that gets more specifically defined as support for the ENS and then support for water quality. These are all in your memo in your packet. And as many of you know we've been working since May on a new MOU. It's been slow going as I think we have reported to you. We attempted to summarize some of DOE's responses to the Board's Principles Agreement from earlier this year. There's been some agreement and then some, I won't say disagreement but some reticence to embracing what the Board is requesting in additional to what the current MOU contains. So we are recommending here at the end of the memo to extend the current MOU for one year. We are hoping we won't need a whole other year and we'll be back in front of this Board with a new MOU before this one year has passed. But by extending for a year we feel that we clearly and unequivocally qualify for another \$96,000 grant which is used by Rick and his staff to conduct water quality sampling. So by extending a full year, even if we don't need it all, we unequivocally avail ourselves of that additional grant money.

The balance of the memo in your packet is to show the 26 principles that the Board approved and that's the numbered black ink sections and then you'll see the blue responses from the Lab, sort of giving you some insight on where we are in the back and forth. The intent is that the memo really provides a high level summary of all of these responses. So when you get to the second page of the memo, this is intended to give a high level summary of where we stand.

Turning just to the action item before the Board, this is what I received back from DOE a few short days ago since the packet was introduced. This is language that I prepared for your information so what it does is it just describes the current MOU with the Board. It describes that the current MOU in Article I allows for it be renewed. We talk about the extraordinary year of 2020 sort of confounding our efforts to get this negotiation done and that this one-year extension does not preclude the ability of the parties to utilize the full three years.

When we're done with the discussion, I'd like to ask the Board that the staff recommendation from Rick and myself and James and other people and Jay Lazarus who worked on this is for the Board to vote to authorize the chairperson to go ahead and sign this before the December 1 deadline and for us to get it back up to the Lab so it can be countersigned and reset the date of expiration to December 1 of next year. I'm happy to stand for any questions, Madam Chair. Thank you.

CHAIR VIGIL COPPLER: Okay, Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. Kyle, so who is offering the extension?

MR. HARWOOD: This is a joint request. This was raised by the Lab a month or two ago and I said, Not ready to talk about the extension. I think we can still strike a deal that we can both recommend to our respective clients. That did not happen. But with the proceeding 60, 90 days and so we're both recognizing that the MOU expires December 1 and that it is in the interest of both parties, I think, to extend it.

COUNCILOR ROMERO-WIRTH: And what is the sticking point to getting a deal?

MR. HARWOOD: The Board has directed us to request the reinstallation of E-109.9 which is a major project requiring significant funding. The Board, if we go back to the principles that the Board asked us to advance, so here this reference to E-109 is a very expensive new piece of construction. It's also described here. There is also the complication of samplers and I actually owe Commissioner Hansen an explanation. This was a question that she raised at the last Board meeting that we are still working on. There has been some cooperation, I think it's fair to say, on LANL's part to jointly inspect and prepare a report on the current conditions. I can go through the detailed status of things but we are basically working on all 26 of these principles that we requested. And you'll also note that we had some big unknown expenses associated with a couple of these items.

We were unable to do the detailed negotiation that we had hoped to do this summer and fall because of limitations on staffing and difficulties with meeting and also staff. We had a major change up at the Lab with the site office manager Doug Hintze leaving. We now have the major change of Ben Underwood leaving, I think effective tomorrow. So we have essentially been unable to make the progress that we had hoped to make on this, Madam Councilor.

COUNCILOR ROMERO-WIRTH: So, Madam Chair and Kyle, so it is basically the fact that we are pushing for more and in addition they don't have the staff to properly negotiate with you and this Board to come to an agreement in a nutshell.

MR. HARWOOD: I think that's fair, Madam Councilor.

COUNCILOR ROMERO-WIRTH: And the \$96,000 grant comes from where? Is that from LANL or is that from somewhere else that requires that we have this agreement?

MR. HARWOOD: Mackie may be able to share more detail about the contracting process. My understanding is that it's the Department of Energy money but Mackie, you've always got such a great perspective on these things, please help.

MACKIE ROMERO (Finance Manager): Madam Chair, Councilor Romero-Wirth, Kyle is right, the money comes from the Department of Energy. We will probably have to work with them to get an extension and allocate some additional funding. And we didn't spend all of our money last year so maybe they will just allow us to continue spending that to cover the additional \$96,000. But if they don't reach out to me, I will reach out to them to make sure we get that grant extended.

COUNCILOR ROMERO-WIRTH: And does that, Madam Chair and Mackie or Kyle, in order to be eligible for that money do we have to have an agreement in place for a year? Could we have an agreement in place that was for less than a year? Here's where I am going with this: I just wonder – maybe a year is perfectly reasonable but if it were six months would that create more sense of urgency to get this done? Is there an urgency to get this done and does the election even though we don't know the outcome yet, if there is a change in administration is that going to help at all with the nature of DOE and I think what you characterized as their reticence? That's a barrage of questions, sorry.

MR. HARWOOD: Thank you, Councilor. I think we're hoping that in 2021 regardless of the administration there will be a renewed interest in cleanup at the Lab. I don't know what to expect if the current administration continues or if there's a change in administration. But we are hoping for a redoubling of efforts at the Lab for cleanup and being good neighbors like this EMS and water quality sampling MOU contains. Without getting into the unknowns of where we are around the federal leadership, I think we are hoping for increased leadership on environmental issues.

I think you're picking up on a comment I made initially, which is we are hoping we don't need a full year. But federal contracting process is about as complicated as anything that I have ever worked on and that includes some very complicated things. So it seemed that the safest way to make sure that we can assess the full \$96,000 was to do a full one-year extension that way there's no problem at the federal contracting end for getting that grant. I do think that there's a priority on this. I think we all are coming out of an extraordinary year where things that we had hoped to get done didn't happen and with an extension we will be overdue on extending this MOU and I for one, very much hope that with the Board's support we will get to a new MOU quickly. But we do have changes in the site office manager, the now lawyer to the site office and so it seems to me that for the sake of making sure we get the full \$96,000 a one-year extension is the simplest way and if the Board wants to give Rick and I a tighter deadline like April or June or something to get to a certain place in negotiations, we will do that. So the two don't have to be connected I guess is what I'm also pointing out. If you want to get to a certain place earlier than the end of next year, that doesn't need to be the same schedule as the extension. I hope that is responsive, Councilor.

COUNCILOR ROMERO-WIRTH: Okay. So we could – it seems to me that we do want to come to an agreement sooner if it's possible. Replacing those people

on LANL's side, are there people on the wings or are they going to have to have a hunt to replace those folks so it might take awhile?

MR. HARWOOD: There is already a replacement to Mr. Hintze and his name is Kirk Lachman. I don't know much about him. But replacement for Mr. Underwood is going to be really important because we're obviously talking about drafting and negotiating an agreement. The news was, the last two sentences of our last meeting and Ben shared that he was leaving very shortly so I have not even had a chance to figure out who his replacement is. But between the holidays and the election I think it would not be unsurprising to think that we would be ramping up the new work effort in January and hope that it doesn't take more than a couple of months to hopefully shake hands on something that is acceptable to the Board. And if we aren't able to agree on something that is acceptable to the Board that they also agree with, that we would have something for you all to talk to other decision makers about.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair and thank you Kyle. I do think that based on what you just said, that okay, one year seems okay. But it seems like if we can come to an agreement and whatever we need to do to hold people's feet to the fire to incentive that, we should. That's all I have. Thank you.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: Thank you. I agree with the one-year extension but I just want to re-emphasize how important the E-109.9 station or some station that will give us more data than what we're getting at the moment and how important that is to the MOU. I do believe that doing this for a year will allow us the \$96,000 which I would not want to see us lose for sampling. So that way we're clean and if we can get this done in six months that would be fantastic. If we can get it done in nine months, I think that's okay. Knowing how it is to deal with LANL and EM-DOE, I think we're safe doing a one-year extension.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you. I also agree on the extension which makes sense for all the reasons stated. I'm not sure that this is a question. I think maybe it's intended to hopefully generate a few comments and response, but having read through some of the Lab's responses to their current reticence on some of the things we were asking for including 109.9 makes me think that there's not a lot of – I don't anticipate that we'll be successful on all of those. I don't see them – I think it would be difficult to move the needle. That is my perception of their responses to several of things. I don't know what you think about that or whether we even need to discuss it. But I think we're going to have as much trouble next year on some of these negotiations and I'm concerned about that. Thank you, Madam Chair.

CHAIR VIGIL COPPLER: You're welcome. Former Councilor Ives.

MR. IVES: Thank you, Madam Chair. I must admit that having read the negotiations focus on the following issues section in the memorandum it sounds like DOE has basically said, we'll do what we did last year but we ain't doing anything else. So I don't see any movement on their part to expand the Memorandum of Understanding in any way, shape or form. That is disappointing.

The other question that I was going to ask is what is the amount of that that is unspent from the prior year Memorandum of Understanding?

MS. ROMERO: Madam Chair and Mr. Ives, the amount from fiscal year 19/20 that was unspent was \$38,615. That's the amount that wasn't spent of the \$96,000 that was allocated from the DOE.

MR. IVES: And so what happens to that money at this point in time that was unspent?

MS. ROMERO: It still remains because our grant was a three-year grant. It stays. I just don't know if they roll it forward. I know we had some unspent money from the previous three-year grant and we actually had to sign off on something that we no longer needed the money. We had a small balance of \$2,000 that we didn't spend from the 15-18 grant and we had actually signed something saying we were done with that money. I'm not sure, I may have to reach out to the DOE and ask them if we could still spend that money or not.

MR. IVES: Right, I guess I would say that I would only hope that that money can be retained and applied perhaps to some of these unfulfilled expansions of the MOU. I would hate to see that money go back because this is a \$100,000 or \$96,000 amount, so \$38,000 would be roughly 40 percent and I'd hate to see that go back and I'd love to make sure that whatever we're doing this year as this gets renewed actually uses all that funding in a constructive way towards these purposes. So, I'd love to keep that money devoted back in to the MOU and these issues and see it all move forward especially in light of the fact that we don't seem to be getting any traction on expanding it from LANL. Thank you, Madam Chair.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. Thank you, former councilor Ives, I appreciate your comments on the amount of money that has not been spent.

I would like to see us possibly ramp up our sampling so that we can spend this money. I know that that's up to staff. And I know that this year is an exception because of Covid. But I don't want to see us lose any of money and I would like to see us have more money. I am, as you all know, a huge advocate for this E-109.9 station and if we have \$38,000 maybe we can find some location or place where we can do some sampling or put in a sampler of some kind or some telemetry or radar or something that will help us have better information than we are getting out of LANL and out of DOE.

MR. HARWOOD: Very well. Madam Chair, I would like to suggest that when we bring you an update at the December meeting, we get you a status update on the then current balance and what the plans are for expenditure, confirming that we'll be eligible for a new grant funding in 2021. And to make sure that we are using that grant in the manner that the Board has said which is making sure we get the best benefit from it.

COMMISSIONER HANSEN: With that, I would like to move that we extend the 2018 BDD LANL MOU extension of terms for one year and get an update at our next meeting.

COUNCILOR ROMERO-WIRTH: Second.

CHAIR VIGIL COPPLER: Is there any further discussion?

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

8. MATTERS FROM THE BOARD

CHAIR VIGIL COPPLER: Any matters from the Board? Commissioner Hamilton.

COMMISSIONER HAMILTON: Thank you, Madam Chair. So at the last meeting if I recall correctly, Attorney Long reported out to us that the City had settled a prohibitive practices complaint with regard to the BDD and part of we are being required to pay the overtime that they otherwise would have had to pay to the operators except for the fact that they made the unilateral furlough decisions. I wonder if I could request that perhaps at our next meeting the City can report to us on how they intend to pay for that settlement. I mean in particular, whether they intend to bill the partners for that settlement or pay it themselves. If we could put that on the agenda, I would really appreciate it.

CHAIR VIGIL COPPLER: Rick Carpenter, do you see any problem with that?

MR. CARPENTER: Madam Chair, no, I don't. I think maybe I should check in with HR and see what they tell me. I can and can't say but what is a matter of public record. I have no problem reporting that out to the Board.

CHAIR VIGIL COPPLER: Okay, thank you.

COMMISSIONER HAMILTON: Just for clarity, I am not requesting any HR information on personnel. I am requesting information on how the City is going to pay for the settlement.

CHAIR VIGIL COPPLER: More of a financial question, right?

COMMISSIONER HAMILTON: Exactly.

MS. ROMERO: Madam Chair, Commissioner Hamilton, I will be able to report that out at the next meeting.

COMMISSIONER HAMILTON: Thank you.

CHAIR VIGIL COPPLER: Okay. Any other person from the Board – Commissioner Hansen.

COMMISSIONER HANSEN: I just want to comment that I love that Councilor Romero-Wirth and Mr. Harwood are both sitting on the river [virtual backdrops] and I hope you're not too close to one another. I appreciate that and seeing the different elevations.

MR. HARWOOD: I just want to thank Bernie for providing these wonderful images. Thank you, Bernie.

CHAIR VIGIL COPPLER: Any other comments from the Board? I have one. I was remiss at the time of our minutes and I want this to go in this portion of the meeting. I should have read this at the time of the minutes: I will state for the record and our minutes that the only matter discussed during the executive session of our last Board meeting of October 1, 2020 was the matter stated in the motion to go into executive session and no action was taken.

JAMIE-RAE DIAZ (Administrative Assistant): Madam Chair, Joni Arends' number is in the attendees, if you want to let her provide her public comment. If you wanted to go back to that?

CHAIR VIGIL COPPLER: I think we should allow it because I said we would get back to her.

6. MATTERS FROM THE PUBLIC [Cont. Page 2]

CHAIR VIGIL COPPLER: Ms. Arends, we can give you two minutes.

JONI ARENDS: Yes, thank you, Madam Chair. I submitted an email about the update on the BDD Board LANL MOU and I think that you all have it. I want to make sure that in the negotiations as they go forward that the responsibility doesn't fall on BDD staff and consultants to obtain information from LANL. CCNS has problems using the electronic public reading room over the last six months. It's some kind of problem where we're getting a screen shot that says that if we click on the link that is provided it can be used as a form of tracking or it can also be a scam. So this is just an example of what the public is dealing with. I think it would be stronger for DOE to have to submit the documents directly to Board staff and consultants.

And I just want to add one more comment that over the years I have seen letters with cc's to almost a whole page of people so it's not going to be a big thing for LANL to include BDD staff and consultants on these letters.

That's my main comment and I appreciate the opportunity. Thank you for accommodating me.

CHAIR VIGIL COPPLER: Thank you for commenting. We appreciate you being here.

[A discussion ensued regarding the link for the Executive Session.]

9. NEXT MEETING: Thursday, December 3, 2020 at 4:00 p.m.

10. ADJOURN

11. EXECUTIVE SESSION

In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDDB is a participant, including, without limitation: *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District Case No. D-101-CV-2018-01610

COMMISSIONER HANSEN: I will make the motion that we adjourn and go into executive session in accordance with the New Mexico Open Meetings Act NMSA 1978, to discuss regarding pending litigation in which the BDDB is a participant, including, without limitation and everything else that is written on our agenda, if that's adequate, Ms. Long.

NANCY LONG (BDD Counsel): Yes, Madam Chair, the caption that is on the agenda.

CHAIR VIGIL COPPLER: Do I have a second.

BOARD MEMBER HELMS: Second.

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

Councilor Vigil Coppler	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye

Councilor Romero-Wirth
Mr. J.C. Helms

Aye
Aye

[The Board adjourned and met in executive session at 5:05 p.m.]

ADJOURNMENT

Chair Vigil Coppler declared this meeting adjourned at approximately 5:05 p.m.

Approved by:

JoAnne Vigil Coppler, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

YOLANDA Y. VIGIL
SANTA FE CITY CLERK