

# LAMONT PUBLIC UTILITY DISTRICT REGULAR MEETING MINUTES

Monday June 22, 2015 6:00 P.M.

Meeting Location:  
District Office  
8624 Segrue Road  
Lamont CA, 93241

## 1. Call to Order/Roll Call

Board President Prado called to order the regular meeting at 6:00 pm on Monday, June 22, 2015 at the office of the Lamont Public Utility District. All Board Members were present. Staff present included General Manager/District Secretary Nick Turner, District Counsel Alan Peake and District Interpreter Mario Sanchez.

## 2. Pledge of Allegiance – Led by President Prado

## 3. Board Member announcements

Director Gonzalez stated that he had comments on the May 20, 2015 meeting minutes. The General Manager recommended waiting until the consent agenda to discuss those comments. Director Gonzalez agreed.

Director Prado thanked everyone for their support of the community workshop to discuss the Brown Act.

Director Sanchez suggested posting the proposed annual budget on the website.

## 4. Public Comment

Angelica Munoz from Building Healthy Communities introduced herself and the organization. She spoke about the organization's new action plan. She stated that one of the priorities identified by the communities is the need for improved water quality and infrastructure and point source polluters. She stated that the organization is seeking input on the new action plan from the state holders throughout the communities. She offered to give a presentation to the Board on their new action plan.

Petra Villanueva asked if Director #1 can be a private investigator. She stated that his last report to the Board he was talking about Director #3 and his use of water. She understands that Director #3 can use water as long as he pays for it. She asked if Director #1 can come to the office and request the information of anyone. Director Gonzalez responded that he received a complaint and that is why he came asked for the information of Mr. Cruz. He offered to bring the complaint and show the General Manager. Petra states that she needs clarification because this is not right.

Danny stated that he was review past agendas and came across something that stated that \$200,000 was missing. He stated that he would like to have answers where that money is. If something is going on, they will make changes and keep making changes until everything is legit. He stated that he will be coming to every meeting until he gets answers to where it is at. He stated that he has witnessed several things happening back and forth here and that the Board needs to work together. There are too many egos here or something.

Jesus Ramirez stated that at past meetings, the District is requesting its customers conserve water. He asked when did the District first request that its customers begin conserving. He stated that even though people are conserving, the District is charging the same amount.

Miguel Sanchez Jr. inquired about the Well #19 project and requested that the project description on the District's website be updated.

Jose Muralles stated that he knows this is public meeting but asked if people not living within the District's service area attend the meetings. Everyone responded with yes.

Veronica Lopez stated that the non-metered customers are constantly wasting water. The General Manager stated that the District is 100% metered and that any water wasting should be reported to the District.

## 5. Staff Reports

A. District Counsel – Nothing Reported

B. District Engineer –Nothing Reported

C. General Manager

### i. Will Serves issued for the Month

Pending Will-Serve for two Commercial Ag Facilities. Will-Serve Letter issuance is pending the determination of a conservation standard for commercial ag customers.

### ii. Online Customer Payments

The payments page has been edited and has been forwarded to the web designer for final edits. Hopefully before our next meeting, the District will be offering online payment options for its customers.

### iii. Water Use Restrictions

Water use in May 2015 decrease by 32% as compared to May 2013. This exceeded the District's conservation standard of 28%.

## 6. Consent Agenda

The General Manager noted that Director Sanchez had requested revisions to the May 20, 2015 meeting minutes which the General Manager did not have time to address prior to the meeting and therefore the General Manager requested that those meeting minutes be pulled from the consent agenda and brought back for consideration and approval at the District's next regular board meeting. The Board agreed.

**Motion to approve all items on the Consent Agenda except the May 20, 2015 meeting minutes.**

First Motion–Director Sanchez

Second Motion–Director Cruz

Approved. All in favor. Vote 5–0

## 7. Regular Agenda (6:20pm)

### A. Report and Possible Minute Action: Consideration and possible approval of Recology's application for modifications to Conditional Use Permit; **General Manager, Nick Turner**

The General Manager reported that Recology is preparing to submit a request for modifications to their existing Conditional Use Permit (CUP) to the County of Kern. The proposed modifications include, amount ten others, the new aeration system that will reduce VOCs and odor. Recology is here tonight to explain the proposed modifications and to answer any questions that the Board Member, Staff or community members may have.

Greg Pryor provided some history on the facility. He then explained each of the proposed modification included in the application for modifications to the CUP.

Director Hernandez stated that a letter be sent to the County suggested that the facility be monitored. Mr. Pryor stated that the recycling center is already monitoring monthly by the local enforcement agency. The enforcement agency is pleased with Recology's progress to clean up the facility. Mr. Pryor also stated that the air board has also visited the facility and performed an inspection.

Director Hernandez stated that the District needs some sort of insurance that the County will be monitoring these changes. Mr. Pryor explained that this is an application only. The County will review and either approved or not the proposed modifications before the changes will be implemented.

Director Sanchez stated that one of the requirements of the new lease amendment is the monthly air quality reporting on top of the required inspections.

Gabriel Godinez asked if the truck wash is lined. Mr. Pryor stated that it is lined with concrete.

Director Prado stated that she does not see any problems with the request. She stated that the District and Recology are here to work together.

### **Motion to approve the execution of Recology's Application for Modification's to their existing Conditional Use Permit**

First Motion–Director Cruz

Second Motion–Director Sanchez

Approved. All in favor. Vote 5–0

### B. Report and Possible Minute Action: Employees to obtain Class B driver's license; **General Manager, Nick Turner**

The General Manager reported that the Board requested that Staff look into whether or not the District's insurance company, SDRMA, has requirements for obtaining Class B driver's license and whether or not there are discounts available for having obtained a certificate from a certified truck driving school. SDRMA has no preference on how an employee may choose to obtain their Class B license. An insurance premium discount is available only if an employee attends an OSHA certified truck driving school. This one time discount off

the District's insurance premium for attending an OSHA certified truck driving school is \$215. Staff's recommendation continues to be that 2 to 3 District employees obtain their Class B license by taking and passing written examination to obtain a driver's permit and then acquiring the necessary behind the wheel experience using District Staff and District equipment. If these employees choose to attend a truck driving school to obtain their Class B license, it would be at their cost.

The General Manager stated that Director Sanchez previously suggested a small stipend to reimburse those employees that choose to attend a truck driving school. Staff agreed and recommended that an employee that obtains a Class B driver's license using a certified truck driving school should be compensated for doing so via a salary increase of \$0.50/hr., up to a total of \$2,000.

Director Sanchez stated that this is fair proposition to compensate the employees that makes the effort to obtain the driver's license.

Director Hernandez asked the General Manager how many employees he is wanting to obtain a Class B license. The General Manager stated a total of three and the District already has two.

Director Sanchez clarified that this is not a raise, but rather a stipend to recoup any cost associated with obtaining a license. It is a one-time stipend only.

The General Manager stated that the District's employee that already has and maintains his Class B license still has the risk associated with has a Class B license but doesn't have the \$2,000 cost that others have spent to acquire their license. Does the District want to compensate him the same.

District counsel stated that the District will have to treat each employee the same whether they are paying to obtain their license now or already has their license. District counsel suggested having the General Manager bring back revised position descriptions.

The General Manager stated that he agrees that all employees need to be treated the same but the reason he brought this up in discussion is because the employee that already has his license doesn't have the \$2,000 to be reimbursement over the two year period therefore the District would need to designate a time period in which the \$0.50/hr. stipend would be provided to those employees.

Director Cruz agreed that the stipend is fair.

**Motion to approve a \$0.50/hr. stipend for those employees approved to obtain and maintain a Class B driver's license up to a total of \$2,000**

First Motion—Director Gonzalez

Second Motion—Director Hernandez

Approved. All in favor. Vote 5–0

- C. Report and Possible Minute Action: Consideration and possible approval to submit an application for USDA Emergency Grant Funds for a water main extension project to serve four residences located near the intersection of Fairfax Rd. and Mountain View Rd. (Possible Annexation No. 29); **General Manager, Nick Turner**

The General Manager reported that as was discussed during the District's May board meeting, four (4) parcels located at the westerly end of Mountain View Rd., at Fairfax Rd., are nearly without water because the shallow groundwater well which feeds their parcels has nearly run dry as a result of the current drought. The property owners are interested in permanently connecting to the District's water system. The property owners are currently working with Self-Help Enterprises to acquire emergency grant funding through USDA. Self-Help Enterprises has obtained preliminary approval from the State to completely fund this project with grant funds. The grant funds would cover all costs associated with the project including but not limited to annexation fees and connection/capacity fees. The District would not be responsible for any costs associated with this proposed project. Self-Help Enterprises is prepared to begin the application process. Self-Help Enterprises has requested and been provided an overall project budget from the District. The overall project cost including 15% contingency is estimated to be \$444,781. Of that project cost, \$86,516 is engineering related expenses including design, bidding and construction phase services. In order for Self-Help to begin the application process, they need the District to approve the submittal of an application for grant funding for this project.

Abigail explained that Self Help is requesting approval to submit an application for grant funding. Because of the drought, emergency grant funding is available to those agencies that are willing to absorb small water system that are without water. The funding would be 100% grant funding for the project. Abigail reiterated that there will be no cost to the District for this project. Abigail clarified that the agenda item states approval to submit an application to USDA and rather she is requesting approval to submit applications to USDA, DWR and SWRCB just in case all the project costs are not covered by the USDA grant. Abigail stated that she also has the Notice of Exemption prepared and ready for execution by the Board. She stated that all applications are due to be submitted to the State by the middle of July.

Gabriel Godinez asked if there are any issues with connection fees, are they incorporated in to the costs as well or is there an exemption for these fees. The General Manager stated that the overall cost estimate does include connection and capacity fees.

**Motion to approve the submittal of Applications for Grant Funding for the Fairfax Rd Consolidation Project to USDA and if needed SWRCB and/or DWR.**

First Motion—Director Gonzalez

Second Motion—Director Cruz

Approved. All in favor. Vote 5–0

**Motion to approve the filing of a Notice of Exemption for the Fairfax Rd Consolidation Project**

First Motion—Director Sanchez

Second Motion—Director Gonzalez

Approved. All in favor. Vote 5–0

**Motion to approve the engineering budget received from AECOM for the Fairfax Rd Consolidation Project in the amount of \$86,516.**

First Motion–Director Cruz

Second Motion–Director Gonzalez

Approved. All in favor. Vote 5–0

**D. Report and Possible Minute Action: Consideration and possible adoption of 2015-2016 Annual Budget; General Manager, Nick Turner**

The General Manager presented the proposed annual budget for 2015-2016 fiscal year. He notes both a capital projects and finance committee meeting was held last week to discuss the proposed budget.

The General Manager explained that on page 1 of 8 of the proposed budget is a summary of the District's revenues & expenditure. The summary includes 'actuals' for 2013-14, 'projected' for 2014-15 and 'budgeted' amounts for 2015-16. For fiscal year 2015-16, the proposed budget forecasts \$3,533,050 of operating revenue, and \$3,063,565 of operating expenditures. The net difference is a positive \$469,485 which is available for projects and unanticipated maintenance at the Board's discretion.

The General Manager stated that much of the proposed 2015-16 budget is similar to the projected totals for 2014-15. Some of the differences in revenues include: Water Sales decreased by \$100,000 due to water conservation, Rents and Leases increases by \$25,000 due to the new lease with Recology, Connection and Capacity Fees increased by \$300,000 due to anticipated commercial connections, Interest and Dividends increased by \$20,000 due to a change in the District's investments and Annexation fees increase by \$10,000 due to an annexation at Mt View and Fairfax. Some of the differences in expenditures include a decrease in CalPERS due to the lack of arrears due this coming year, consultant services are have increased due to the possible hiring of a water wasting patrol officer, Principal Payments are up due to annual payments on the Water Well #19 project loan, Sewer Operations and Maintenance (O&M) decrease by 25,000 due to the sewer cleaning and video inspection project, Shop, Office and Grounds O&M decrease by \$136,000 due to the Tank Demolition Project performed in the 2013-14 FY and Utilities increased by \$55,000 due to anticipated increases in power cost.

Director Gonzalez asked what is the accounting and auditing budget for FY 2014-15. The General Manager explains that it is about half of that for FY 2013-14 that this is because nearly four years of audits were completed during the FY 2013-14. In addition, the District hired an accountant consultant during that period of time and his costs are also included.

Director Sanchez asked, on Item #3 (PERS), what was the reason why the District had to pay the arrears. The General Manager stated that it is his understanding that past Board opted out of PERS for some period of time and when the District reinstated PERS, there were fees that had to be paid by the District.

Miguel Sanchez Jr. asked what the reason was why the past audits were not completed. The General Manager stated that he is uncertain as to why they were not completed. Miguel Sanchez Jr. asked if this was around the time that the \$200,000 was lost. The General Manager stated that it was part of that whole period of time.

Director Gonzalez asked how employee salaries compare to other Districts. The General Manager stated salaries between Districts vary because each District is different. For example Arvin CSD operates and maintains a water system, whereas the District operates and maintains a water and sewer system. This means that the District's employee must have greater knowledge, knowledge of both water and sewer system operation and maintenance including certifications. There is double the work with the same amount of employees. The General Manager stated that California Special Districts Association publishes a salary survey for the state, of which most agencies participate. Based on the salary survey, the District's employee fall within the salary range for their positions. He stated that the District doesn't have turnover of its Staff. Staff does a good job at their jobs and there is something to be state about that.

Director Gonzalez asked how employee salaries are increased. The General Manager stated that salaries are increased in accordance with the salary matrix put in place in 2011 or 12.

Danny asked if everyone employed is certified in accordance with their job. All employees are now certified.

Jesus Ramirez asked where the \$200,000 is included in budget. District Counsel stated that it is not a budget item. The General Manager stated that the District is currently investigating the issue.

Gabriel Godinez asked if the District has any idea as to when the misappropriation took place. District stated that this is not the agenda but stated yes. Mr. Godinez requested that this be placed on the next agenda for discussion. District Counsel recommended that the Board not place this on the agenda as an agenda item.

The General Manager explained that page 4 of 8 lists the proposed needed capital improvement projects for the 2015-16 FY which include Water Well #19 (\$1.07 million/\$0.86 million state grant); TCP treatment at Well #18 (\$600,000); District Office Expansion/Remodel (\$400,000); Purchase of Sewer Jetting & Vacuuming Equipment (\$375,000); 'Plan B' for Effluent Disposal (\$125,000); Mountain View Road Water Main Extension (\$450,000); and Purchase of Effluent Disposal Land (\$500,000). The District anticipate a total Grant Revenues being received of approx. \$2.4 million to cover some of the costs of these projects.

The General Manager stated that no additional Staff is anticipated to be needed for the fiscal year 2015-16.

The General Manager stated that proposed Consultant Services for fiscal year 2015-16 includes Engineering for capital improvements projects, Legal for instituting and coordinating litigation, Translation for conducting meeting in both English and Spanish, Accounting for assisting the District with audits and financial statements, Hydrogeologist for monitoring groundwater around the wastewater treatment plant and effluent use areas, Agronomist for monitoring the District's effluent use areas.

The General Manager stated that the Board continues to act with good judgment by setting aside \$1.5 million as an emergency reserve fund. The Board has also invested a total (\$6.3 million) in CalTRUST which is anticipated to maximize the return on the District's funds.

The General Manager stated that page 2 of 8 lists the projected available capital as of June 30, 2016 as \$6,331,906. This total is after all the capital projects designated for the 2015-16 fiscal year are completed and this total does not include the \$1.5 million designated as

emergency fund. Staff feels the proposed budget is fiscally responsible and meets the District's needs.

Director Sanchez suggested that proposed annual budget be posted online for review by the public. He also suggested that the Board and administration look into the expenses and benefits. He stated that he is uncertain as to how long the District can sustain a 5, 10 or 15% annual increase in these expenses.

Director Sanchez recommended allowing a 30 day review of the proposed annual budget.

District Counsel stated that we would need to hold a special meeting on June 29<sup>th</sup> to adopt a resolution extending the FY2014-15 appropriations for until the new budget is adopted.

**Item tabled to the District's July 27, 2015 budget.**

- E. Report and Possible Minute Action: Consideration and possible adoption of the Board Meeting Calendar for the 2015-16 fiscal year; General Manager, Nick Turner

The General Manager stated that Director Sanchez requested the District consider adopting an updated board meeting calendar based on a fiscal year in lieu of a calendar year. Other entities, such as the school districts, that hold regular monthly board meetings, adopt their board meeting calendar based on a school year or similarly, a fiscal year. Adopting our board meeting calendar based on the same may help several Board Members determine availability and would potentially avoid conflicts in meeting dates throughout the year.

The Board agreed to change the November 2015 board meeting to November 16<sup>th</sup> and the December 2015 board meeting to December 14<sup>th</sup>.

**Motion to approve adoption of the Board Meeting Calendar for the 2015-16 fiscal year subject to the proposed changes**

First Motion—Director Sanchez

Second Motion—Director Gonzalez

Approved. All in favor. Vote 5–0

- F. Report and Possible Minute Action: Consideration and possible approval to become a member of the *Greater Lamont Chamber of Commerce*; General Manager, Nick Turner

Director Sanchez abstained from the Discussion due to involvement with the Greater Lamont Chamber of Commerce.

The General Manager stated that the District is not a business and therefore most of the benefits that a typical business would gain by being a part of the Chamber, we may not experience. He stated there are some benefits in being a member and those include being more involved in the community and being available to answer questions and address concerns of the community related to the District.

The General Manager stated in lieu of being a member, the District could just attend the meetings as a non-member.

Angelica Munoz stated that the Chamber's monthly meeting are held on the second Tuesday of the month, currently at Casa Lopez Restaurant.



The Board directed the General Manager to attend the meetings as a non-member for several meetings and then report back to the Board what the benefits are for participating in the Chamber's monthly meetings.

**No motion. Information Only.**

**G. Report and Possible Minute Action: Consideration and possible response to California Endowment's letter regarding their independent analysis of the District's Plan B for Effluent Disposal; Board President Prado**

President Prado stated that she brings this item back to discuss the response the District received from the Endowment regarding our May 27, 2015 letter refusing to support the Endowment's review of the District's Plan B. She stated that the letter receiving from the Endowment is fine except for their claim that the District is not transparent. She stated that if the Endowment and Building Healthy Communities think the District is not transparent, she invites them to attend the District's board meetings because this is the first time someone from their group has attended our meetings.

Angelica Munoz clarified that she is not with California Endowment. She is with Building Healthy Communities and these two groups are separate. She stated that the Endowment funds Building Healthy Communities to do work, just like KEEN is funded by the Endowment, but Building Healthy Communities is not the Endowment. She stated that the Endowment's letter stating that the District is not transparent has nothing to do with Building Healthy Communities' action plan.

Director Gonzalez stated that Gustavo Aguirre has been to District meetings so many times. He stated that even when he wasn't a board member, Mr. Aguirre offered to help the District. Director Prado stated that she recalls the first time Mr. Aguirre came to the District's Board meetings to discuss Plan B was when Director Gonzalez and Sanchez became a board member. She stated that in the past, Mr. Aguirre came to one meeting to complain about Community Recycle.

Director Prado stated that she rejects Annalisa Robles stating that the District is transparent. She never comes to the meetings and doesn't know whether or not the District is transparent. Director Prado stated that Ms. Robles needs to come to the District's meeting and explain how we are not transparent.

Director Gonzalez asked Director Prado why it has taken so long for the District to discuss the missing money if the District is transparent. Director Prado stated, like Mr. Peake stated to you, this is an investigation and discussing this would put the District in danger.

Director Prado stated that she works for her community and she is transparent. She stated that she is going to speak up when someone states that she is not transparent.

Director Hernandez stated how could California Endowment know whether or not we are transparent. She stated that Gustavo Aguirre has come to our meetings to discuss things but never to discuss Plan B. Director Gonzalez stated that Mr. Aguirre was at the David Head

for the community meetings. Director Hernandez stated that he could have come here but he hasn't.

Danny stated that he was just called out. He stated that he hasn't been to a meeting in a long time due to his job but his wife comes. He stated that there is no team work going on here. He stated that it is always the new and the old and that has to stop. As a communities we don't care if you have a rift with each other, handle it. He stated that you are now serving the communities, you are held accountable and that is all the community cares about. He stated that his advance to the Board is to be more transparent and listen to the public.

Director Hernandez stated that he (Danny) has already been told that it is under investigation.

District Counsel stated that it is his understanding that the objective of the agenda item is that there was a concern about the language used in the letter from California Endowment regarding Plan B and that Plan B was not transparent and whether or not the Board would like to Staff to prepare a response to the letter. The letter would detail all the workshops and meetings, flyers and newspaper ads, the District has pursued detailing Plan B.

Director Sanchez clarified that the Board as elected officials, have a responsibility to the people that elect them. He stated that anyone can approach any of the Board Members regarding any issue. He stated that this is when the District needs to invite them to the District's meetings to be a part of the discussions. He stated that Director Prado has three votes but asked if the Board is going to be inclusive as a Board or is she going to run her out agenda. He stated that the District needs to comply with the Freedom of Information Act and the District must comply. He stated that it is the Endowments money and they can spend it however they want. He stated that as president, President Prado has a duty to represent the entire Board.

President Prado stated that the reason she is concerned is because at the District's last meeting, Director Sanchez voted against sending the original letter to Annalisa Robles and it is fine. She stated that everyone is working very hard to be transparent.

**Motion to approve the preparation of a written response to California Endowment's letter regarding their analysis of the District's Plan B for effluent disposal.**

First Motion–Director Cruz

Second Motion–Director Hernandez

Approved. Vote 3–2

- H. Report and Possible Minute Action: Consideration and possible approval to fund water valve and sewer manhole cover raise to grades as a result of a County Roads Project on Habecker Road and Hall Road; **General Manager, Nick Turner**

The General Manager stated that the County is pursuing a road widening project along Habecker and Hall Roads. As a result of the project, which is currently out for bid, 2 water valves, 2 fire hydrants and 9 sewer manholes will be required to be raised to grade. The

County is stating that it is the District's responsibility to cover the cost of the raise to grades. The County is requesting that the District perform the work or pay for this portion of the County's project costs. Staff has requested that the County provide the District with documentation that states that the County has statutory authority on Habecker and Hall Roads. Staff is currently waiting for this information. Staff estimated this work to cost \$7,500 to \$10,000.

Director Hernandez asked if the Board has to approve this item or can the Board wait until Staff receives a response back from the County.

The General Manager stated that because of timing of the County's project and the District's next board meeting, he recommended approving the expenditure of a not to exceed amount of \$10,000 with the understanding that this will not be spent unless the County can prove that they have statutory authority to require that the District pay to raise the utilities to grade. If the County doesn't have that authority, then the District will not pay for this work.

Director Sanchez suggested that Staff report back to the Board on the outcome of this matter.

**Motion to approve the expenditure of a not to exceed amount of \$10,000 with the understanding that this will not be spent unless the County can prove that they have statutory authority to require that the District pay to raise the utilities to grade**

First Motion—Director Sanchez

Second Motion—Director Cruz

Approved. All in favor. Vote 5-0

**I. Information Only: Adoption of conservation standard for Commercial Ag Customers; General Manager, Nick Turner**

The General Manager stated that although the District exceeded its May 2015 conservation standard of 28%, Staff feels that it is still in the District's best interest to pursue the commercial agriculture deduction which the State is allowing. Staff has met with representatives from both Kern Ridge and Grimmway. Kern Ridge's usage is up and they are looking at how they can further reduce their water use, specifically its wash down water use. Grimmway's usage is also up. In addition, Kern Ridge's water use is up when compared to 2013 because they have closed their facility in Arvin and moved the processing to Lamont. Therefore, the tonnage of carrots processed has nearly double but the water use is only up about 25%, meaning the "per tonnage water use" is actually down. The representatives from Grimmway claim they have their own well onsite that they could use in lieu of using District water. Both companies are in the process of analyzing their water usage. Staff expects that at the District's next regular board meeting, they will be recommending a conservation standard for commercial agriculture customers for the Board to consider adopting.

The General Manager noted that one of the requirements of the State to deduct commercial agricultural use from the District's overall production is to develop and implement an

Agricultural Water Management Plan. Staff has looked into this requirement and because the District doesn't provide water to 10,000 acres of agricultural land and because the District has an Urban Water Management Plan, the District appears to be exempt from this requirement.

No questions received.

**Information Only. No action.**

- J. Report and Possible Minute Action: Report from General Manager regarding the development located at 9001 Weedpatch Hwy and possible direction from Board; Director Prado

Director Sanchez abstained from the discussion due to his ownership of the project.

Director Prado stated that this item is a continuation of last month's discussion on Mr. Sanchez' project. She stated that she wants to be clear that this is not personal. She stated that she asked Staff to present all the documentation related to this project. She stated that she has looked at all the documentation and wants the Board to understand the situation and to take direction from District Counsel on how to proceed with this project.

Director Gonzalez stated that this is personal. He stated that he remembers Director Cruz taking pictures of Mr. Sanchez' development at night time. This is personal. Director Cruz stated that he has never taken pictures of Mr. Sanchez' development, but he should have. Director Cruz stated that he saw the Contractor dumping sewer from one of the trailers in to one of the sewer pipes on the property and he said he should have taken pictures of it. Director Gonzalez stated that this is personal.

The General Manager presents the documents the District has on file that pertain to the development located at 9001 Weedpatch Hwy. The documents were presented in chronological order.

The 1<sup>st</sup> document is Resolution No 317, adopted on 10-18-90, which establishes a policy and information on capacity fees in 1990. According to the resolution, capacity fees are due at the time of plot plan submittal. Plot plan submittal takes place prior to a Will-Serve Letter. He notes the no distinction made between residential and commercial.

The 2<sup>nd</sup> document is Resolution No 328, adopted on 3-17-94, which provided clarification as to when fees are due. It states that all fees including plan check, connection and capacity, inspection, etc. are due to the District prior to plan review and issuance of a Will-Serve Letter. This resolution specifies conditional versus unconditional.

The General Manager notes that these two resolutions are clear in their intent to collect fees prior to plan check and prior to issuance of a Will-Serve Letter.

The 3<sup>rd</sup> document, dated 1-12-17, is a request from Mr. Ramirez, the previous owner of the development, for a Will-Serve Letter.

The 4<sup>th</sup> document is Resolution No 397, adopted on 3-26-07, which established a policy for the issuance of Will-Serve Letters. Similar to Resolution No. 328, notes the difference between a conditional and unconditional Will-Serve Letter. This resolution states that Will Serve letters may establish limiting conditions such as quantity, timing or other limiting conditions. The reason for these limiting factors is because the District had a cease and desist order (CDO) in place at the time and was limited as to future sewer connections.

During the majority of the 2000s, the District was under a cease and desist order preventing additional sewer connections until additional capacity was added to the WWTP in 2008, at which time the CDO was lifted. When the District is limited in the services it can provide, it issues Conditional Will-Serve Letters establishing conditions the District must meet in order to provide the services. For example, the District can't issue an unconditional Will-Serve Letter until such time that it has added capacity at its WWTP and the cease and desist order is lifted. A conditional Will-Serve Letter is issued specifically to outline the conditions that the District has. They are the District's conditions and not the applicant's conditions. During the CDO, only a Conditional Will-Serve Letter could be issued which didn't require payment of fees. The resolution states that fees are due prior to receiving an Unconditional Will-Serve Letter.

Jesus Ramirez stated that he is here in favor of Mr. Sanchez and Mr. Cruz. He inquires about the Rancho Linda Apartment and why that development was allowed to connect when there was the CDO.

The 5<sup>th</sup> document is a Conditional Will-Serve Letter issued to Ramirez on 4-28-07. The General Manager points out that the conditions pertaining to the CDO were listed on Ramirez' Conditional Will-Serve Letter. It states that an Unconditional Will-Serve Letter will not be issued until all connection and capacity fees have been paid. It also states that the Will-Serve Letter expires one year from the date of issuance, as do all Will-Serve Letters. The reason for the expiration clause is that District needs to be aware of those developments that are planning to connect to its systems. If construction on a particular development doesn't begin within one year, an updated Will-Serve Letter is required.

The 6<sup>th</sup> document is information from KernData.com indicating that Mr. Sanchez purchased the property located at 9001 Weedpatch Hwy from Ramirez on 10-12-09.

The 7<sup>th</sup> document is the Conditional Will-Serve Letter issued by Tracie White for Mario Cervantes for 9001 Weedpatch Hwy on 11-17-10. The Will Serve Letter was issued in the amount of one (1) residential equivalent. The Will Serve Letter states that it expires one year from issuance. The Will Serve Letter is labeled as 'Conditional' although there were no conditions at the time because the CDO had previously been lifted.

District Counsel stated that Resolution No. 397 required the Will Serve Letter be approved by the Board. This is a Will Serve Letter that was not approved by the Board.

The 8<sup>th</sup> document is information from KernData.com indicating that Mr. Sanchez obtained building permits on 12-9-10 for the project located at 9001 Weedpatch Hwy. A permit for each building was issued as well as a grading permit. Also included are copies of four building permit inspection reports obtained from the County for this development. The report indicate when work was inspected, for example rough grading in 2012.

The 9<sup>th</sup> document is a letter from the Interim General Manager to the Board declining Mr. Sanchez' request for an updated Will-Serve Letter. The letter states that the request was being denied because of several factors including an ongoing litigation related to the waterline installed in front of the property and Mr. Sanchez' refusal to pay the District's fees. The General Manager acknowledges that he, as District engineer, previously calculated the fees to be approx. \$68,000. This calculation was sent in an email to Tracie White, which the District's copy has been misplaced. The letter prepared by the Interim General Manager also notes that a conditional Will-Serve Letter is related to District conditions and that there were no District conditions at the time the original Will-Serve Letter was issued to Mr. Sanchez for this project.

The 10<sup>th</sup> document are meeting minutes from the District's August 3, 2012 Board Meeting indicating that District Engineer, at the request of the Board, presented a slideshow detailing how connection and capacity fees are calculated.

The 11<sup>th</sup> document is a letter dated 10-29-12 from the Interim General Manager noting that development plans for Building 3 were not received or misplaced. The General Manager stated that when plans are submitted and fees are recalculated, Staff will perform a site visit to verify the fixtures installed.

The 12<sup>th</sup> documents is Resolution No 415 clarifies that all fees for commercial developments are due prior to the issuance of an Unconditional or Conditional Will-Serve Letter.

The 13<sup>th</sup> document is a letter sent Robert Sawyer, County of Kern Building Inspection, informing the County that construction at 9001 Weedpatch Hwy had begun without a valid Will-Serve letter from the District. Typically the standard procedure is when an applicant requests a building permit from the County, the County requests that the applicant obtain a Will-Serve Letter from the District before the building permit will be issued. Typically the County will not issue a building permit without a valid Will-Serve Letter.

The 14<sup>th</sup> and last document is a letter approving the installation of a portion of the water service lateral to the development. The Caltrans encroachment permit process required the water service installation within Caltrans R/W be installed at same time a gas service. The end of the water service is terminated behind the sidewalk and the service valve is currently locked.

The General Manager acknowledged that he has presented the documents that the District has on file but that there may be other additional documents related to the development that the District does not have possession of.

The General Manager noted that he previously met with Mr. Sanchez and that Mr. Sanchez intends on submitting building plans for review within the next 30 days. Mr. Sanchez has also proposed to pay the fees for Building 3 soon and proposed to pay for the other two building at a later date.

Angelica Munoz stated that this is an example of being transparent and thanks the Board of discussing it but asked is this detailed of a discussion will be had for all developments that owe. She asked if the District is going to be this thorough for all developments.

Director Prado stated that this particular project was being discussed to inform herself and the other Board Members about the situation with this development. Director Gonzalez stated that he can read the documents himself. He stated that he doesn't need the documents presenting for him.

Director Cruz stated that the District is presenting this detailed information for this development to clarify the situation and that the District's process has not be followed.

Danny stated that this seems personal. Director Cruz stated that this is not personal. The District is just following the resolutions.

Jesus Ramirez enquires again about the Rancho Linda Apartments and their connection during the period of time when the CDO was issued.

The General Manager stated that there is an exception in one of the resolution for this development. He stated that he is uncertain as to the reasoning behind the exception. He clarifies that this exception is not an exception for connection and capacity fees but rather

an exception to the CDO. Contrary to the CDO, this development was allowed and fees were still due in accordance with the District's resolutions.

Mr. Sanchez clarifies that the presentation doesn't show the letter the District issued to Mr. Ramirez. He stated that it was a valid Will-Serve Letter and the County agreed with that. He stated that he started construction eleven months after receiving the Will-Serve Letter. He stated that the County said they could not stop construction because if the Will-Serve Letter is valid for one year and started construction within that year, you are allowed to continue building.

Director Cruz asked who issued the Will-Serve Letter. Mr. Sanchez stated the LPUD. Director Cruz asked who specifically. Mr. Sanchez stated the Director Cruz has the letter. He stated that the point is that he had a valid Will-Serve Letter that the County accepted.

Director Hernandez stated at the last meeting that Mr. Sanchez stated that you began your construction without permission from LPUD. She stated that Salas issued him a letter. Mr. Sanchez stated that the County is who issues building permits, not LPUD. Mr. Sanchez stated that it is not his fault if LPUD and the County are not on the same page. He stated that he doesn't have control over that. He stated that if you don't agree with the County, it is not his problem. Mr. Sanchez stated the Director Hernandez is misinformed.

Mr. Sanchez stated that he already spoke with the General Manager and he is going to meet with him. He stated that you guys are not going to have anything else to complain about. The Board is going to have to do what the community wants us to do. He stated that the Board is wasting people's time. He stated that one of the conditions of the County is that he will never get his certificate of occupancy until the District's fees are paid. He asked what the District's concern is.

Director Prado stated that she is here as a Board Member to implement the Ordinances. She stated that Mr. Sanchez doesn't follow the Ordinance. She stated that she is not a Board Member to do whatever she wants. She stated that Mr. Sanchez needs to follow the Ordinance.

Mr. Sanchez stated that he followed the Ordinance. He stated that Resolution No. 397 states clearly that when he got the letter from the District, he got a conditional Will-Serve Letter. The difference is between a conditional and unconditional Will-Serve letter. That is what the District doesn't understand.

Danny asked the Board if when Mr. Sanchez pays his fees, will the Board be okay with that. Prado responds and says she is here to following the ordinance, therefore yes. Danny asked the Board if after Mr. Sanchez pays his fees and this matter is put to rest, will this sector work together. Danny stated that this situation seems personal. Director Prado stated that this is not personal. He stated that you can keep say it is not personal until your blue in the face.

Mr. Cruz said that they are just following the ordinance and that they just want everything the legal way.

Danny states that we come and we pay our water. Danny stated that what we want to do is keep the community okay. If you don't want to do that, there is someone else ready to take your spot.

Hernandez asked if Danny lives here.

Danny states no. Danny stated that now you're scared of what I am saying because he is being straight up. Prado and Hernandez stated I am not scared.

Danny said not scared like that. Danny said the community is fed up with this. He says there are a lot of field workers that don't want to get involved but some have started to speak amongst themselves and it is just a matter of time before they get together and all come to the meetings. He stated that he know Sanchez is a man of his word and the community knows him. He stated if you are bringing this subject up at meetings it is because it is something personal and you shouldn't be up on the Board. You solve personal matters elsewhere.

Director Cruz stated based on the Resolution, Mr. Sanchez should pay before construction begins. He stated that the Will-Serve Letter was not approved by the Board Members, so it was not a valid Will-Serve Letter.

District Counsel agreed and stated that Resolution No. 397 stated that the Will-Serve Letter must come to the Board to be approved and it was not. He stated that another issue here is the conditional versus unconditional Will-Serve Letter. A conditional Will-Serve Letter is not one that has the conditions on the developer. A true conditional Will-Serve Letter is one where the District is restrictive on supplying that particular service.

District Counsel stated that it is up to the Board on how to proceed with this matter.

Director Prado wants to know the Board's options.

Director Cruz asked if plans are currently with the District. The General Manager stated no.

Mr. Sanchez stated that plans were submitted in the past and some of them were lost. He stated that the fees are going to be paid. The District doesn't have any to worry about because in order for him to occupy those building, he has to have a certificate of occupancy from the County.

Director Cruz stated that Mr. Sanchez went backwards through the process.

Director Prado asked District Counsel to bring back options to the Board.

Miguel Sanchez Jr. asked Director Cruz to explain how Mr. Sanchez went through the process backwards.

Director Cruz stated the Mr. Sanchez obtained a permit first without having a valid Will-Serve Letter.

Mr. Sanchez stated that is a total lie. He stated that Director Cruz doesn't know how the process works.

Director Cruz stated yes he does. He stated that he bring the plans first and fees are calculated. He asked the General Manager what the process is. The General Manager explained the typical Will Serve Request process.

Danny stated that some of the Board Members seats are going to be up soon and there is going to be new people filling those seats. He stated that you have to care about your community. He stated that if you only care about yourself, that is a good way to find your way out real quick.

Prado stated thank you.

Danny stated don't thank me. He stated that you sat here. He stated you are done here.



**Motion to have legal counsel bring back to the Board options on how the Board can proceed with this matter.**

First Motion–Director Hernandez

Second Motion–Director Cruz

Approved. All in favor. Vote 3-1, 1-abstained

**8. Closed Session (Report on Closed Session)**

- A. Conference with legal counsel regarding potential threat of litigation; Government Code §54956.9 (d)2

Information was provided and by unanimous consent direction was given; Mr. Sanchez abstain from the discussion.

**Adjournment (9:43pm)**


A motion was made by Director Cruz and seconded by Director Hernandez to adjourn the Regular Board Meeting of the Board of Directors of the Lamont Public Utility District, held on Monday, June 22, 2015 at 6:00 pm.

Approved. All in favor. Vote 5-0.

ATTEST:

x  \_\_\_\_\_

Leticia Prado, Board President  
Lamont Public Utility District

x  \_\_\_\_\_

Nicholas Turner, Board Secretary/General Manager  
Lamont Public Utility District