

LAMONT PUBLIC UTILITY DISTRICT REGULAR MEETING MINUTES

Monday, April 27, 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 6:03pm on Monday, April 27, 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 Sanchez requested that the meeting minutes for March 30, 2015 be pulled from the agenda and requested a meeting with the General Manager to review the minutes.

4. Public Comment

Gerardo Tinaco – Mr. Tinaco introduced himself as the new South Kern representative from Community Water Center. He requested information from President Prado regarding training that she previously requested of Community Water Center. President Prado stated that she is looking for training for new board members, specifically for Spanish speaking board members.

5. Staff Reports

A. District Counsel – Stated that under item 7A, it is his understanding that there is a gentlemen's agreement between the three solar presenters and that each group will wait outside during each other's presentation. The presenters all confirm counsel's understanding. Counsel noted that we can't make them leave the meeting but this is what they have agreed to do themselves.

B. District Engineer –Nothing Reported

C. General Manager

i. Funding for Additional Street lighting from CBDG

The General Manager stated that on November 14, 2014, Staff submitted an application to the County of Kern for possible funding through their CBDG program. On April 7, 2015, the District received correspondence from Kern County Planning and Community Development informing the District that its proposed project to install street lighting in some of the dark areas of town was not being recommended by CBDG to the Kern County Board of Supervisors for funding during FY 15'-16'. The General Manager suggested submitting another application next funding cycle.

Director Sanchez stated his support to resubmit an application for CDBG funding next funding cycle.

ii. Compliance with Arsenic MCL

The General Manager stated that the 1st quarter 2015 arsenic results from Well #12 are 9.9 ppb. Compliance with the arsenic MCL is based on a “rolling annual average” with the MCL being 10 ppb. The District’s rolling annual average for the first quarter of 2015 is 9.9 ppb. Therefore, the District is currently in compliance with the Arsenic MCL. According to the SWRCB, the District is not required to mail arsenic notifications to its customers this quarter.

iii. Use of District Equipment

The General Manager stated that on several occasions in the recent past, Recology and Arvin CSD have requested the use of District equipment, specifically headsets used for translation, and a projector screen and projector. We haven’t had any problems getting the equipment back and it has never been damaged. The General Manager requested input from the Board regarding their desire to continue or discontinue this practice.

Director Cruz stated that he doesn’t see a problem with allowing Recology and Arvin CSD borrow the District’s equipment.

Director Sanchez voiced his opinion in support of allowing these entities to borrow the equipment as long as damaged equipment is replaced by the agency that borrowed the equipment.

iv. Will Serves issued for the Month

8217 Bernard Ave – This home owner is adding 2 bedrooms, 1 bathroom and a garage to their existing house.

v. Water Use Restrictions

The General Manager stated that water use in March 2015 remained about the same as it was in March 2013. The gallons/capita/day remains very low at 100.4 GPCD. Although this is a very low GPCD, the District is not achieving a 25% reduction in water use. Beginning May 4th, the District’s updated water use restrictions will take affect limiting the number of days irrigation of outdoor landscaping is allowed. Hopefully this will help the District reach its conservation standard of 28%. If it doesn’t, the District may need to look at further reducing the number of days irrigation of outdoor landscaping is allowed. Staff is looking into other ways to encourage conservation such as additional flyers or posters to make sure the community is aware of the need to conserve, encouraging high water users to reduce water use and possibly lowering the system pressure.

vi. **Reminder that Board Meeting for May is on May 26, 2015**

The General Manger reminded the Board that the District's meeting for May 2015 was moved to May 26, 2015 due to the Memorial Day holiday.

Director Sanchez requested that the meeting be rescheduled due to a conflict he has with that date. The General Manager stated that he will look into rescheduling the meeting.

vii. **Conference call with Engineer for California Endowment's Plan B study**

The General Manager stated that last week, Director Sanchez received an email from Ray Yep of V&A Consulting Engineers requesting a conference call to discuss the California Endowment's Plan B Study. The California Endowment is proposing to fund a study to analyze the District's Plan B while knowing that the District has already selected a Plan B and has already begun the implementation of that Plan B for effluent disposal. The General Manager stated that he shared with Mr. Yep the same information that he shared with Annalisa Robles during the meeting that President Prado, Director Sanchez and he had at the District office with the California Endowment and Community Water Center Representatives.

Mr. Yep is requesting a meeting with the General Manager to discuss the District's selected Plan B. He is requesting 3 hours of the General Manager's time initially and there may be additional site visits as well.

The General Manager stated that before committing to assist Mr. Yep with this Plan B study, he wanted to make sure that he Board supports this Plan B study being prepared by the California Endowment.

Director Gonzalez asked if we can put this item on the agenda for our next board meeting so that we can discuss the benefits of having a second opinion.

Director Prado stated that she rejects the study. She stated that the Board has already accepted the best Plan B for the District. The District looked for help with developing a Plan B for a long time. She stated that she doesn't want to confuse the community. This is the best Plan B. If we accept this study, we are sending a message to the community that the District's selected Plan B is not good for the community and this is not true.

Director Cruz stated that he agrees with Director Prado. He stated that the District had struggled for a long time and this help would have been good a year and a half ago. The Plan B we have is perfectly fine and that we do not need another study. He recommended that the Endowment use the funds somewhere else.

Director Hernandez stated the District has been waiting for help for a long time and it never came. The Plan B is done and we are advancing and the community knows it. Supporting this study would confuse the community.

Director Sanchez stated that this group is not proposing to change anything. He stated that some of the Board Members may not understand what the Endowment is proposing to do. He stated that they can proceed with the study if they want to and that they do not need the blessing of the District. Director Sanchez stated that they are proposing to review the Plan B. If they find something beneficial, the District could incorporate it into the District existing Plan B. It would be up to the District to decide whether not the change would be approved.

Director Prado stated that it is very clear what was discussed in the meetings. She stated that she is not confused. She stated that the District has a good Plan B and she is happy with the Plan B.

7. Consent Agenda

Director Cruz requested that Consent Agenda Item #6Eii be pulled from consent for a separate motion due to the location of his property in relation to this project.

Director Sanchez requested that the Meeting Minutes for March 30, 2015, Consent Agenda Item #6B be pulled for revisions.

Motion to approve all items on the Consent Agenda excluding Item 6Eii.

First Motion–Director Gonzalez

Second Motion–Director Sanchez

Approved. All in favor. Vote 5–0

Motion to approve Consent Agenda Item #6Eii.

First Motion–Director Gonzalez

Second Motion–Director Sanchez

Approved. Vote 4–0, Director Cruz abstained.

8. Regular Agenda

A. Report and Possible Minute Action: Presentations by potential solar system providers; General Manager, Nick Turner

The General Manger reported that over the past several years, the District has been looking at installing a Solar Photovoltaic (PV) System at the District’s WWTP to offset energy costs at both the WWTP and the District’s other facilities. On October 2, 2014, the District completed a formal RFP process for the future installation of a solar PV system. Proposals were received from Borrego, HelioPower and Opterra Energy Solutions. Each proposal included the technical part of the proposal and the associated pricing proposal. On October 27, 2014, the Board of Directors approved budgets received from AECOM and Urban Futures Inc. to perform a technical and financial review of the three proposals. On December 16, 2014, the results of the technical and financial reviews were presented to the Board of Directors.

A representative from each of the companies that submitted solar proposals was present at the board meeting. Each representative presented their updated proposal and addressed questions posed by both the Board of Directors and Staff.

Information Only.

B. Information Only: Update on New Groundwater Regulations proposed by the State; General Manager, Nick Turner

The General Manager reported that on March 17, 2015, the State Water Resources Control Board (SWRCB) adopted expanded emergency regulations to safeguard the states remaining urban water supplies. These expanded emergency regulations include a number of additional urban water use restrictions, of which include mandatory restrictions on the number of days that outdoor irrigation of ornamental landscaping or turf with potable water is allowed. On March 30, 2015, the District's Board of Directors adopted Resolution No. 428, which among other restrictions, prohibits the irrigation of outdoor landscaping on Mondays, Wednesdays and Fridays. The District's latest water use restrictions take effect May 4, 2015. On April 1, 2015, Governor Brown directed the SWRCB to implement mandatory water reductions in urban areas to reduce potable urban water usage by 25% statewide. To achieve these savings, the SWRCB expedited an emergency regulation to set usage targets for all urban water suppliers. On April 7, 2015, the SWRCB release a draft framework for the emergency regulation. After receiving a significant number of comments from urban water suppliers, the SWRCB released a second version of the draft framework on April 17, 2015. The deadline to submit comments on the second version of the draft framework was April 22, 2015. Staff submitted a comment letter to the SWRCB on April 22, 2015 indicating the District's concerns with several aspects of the draft framework. The latest draft framework established a water conservation standard for each urban water supplier based on its "gallons per capita per day" or (GPCD) during July thru September 2014. The schedule lists the District's GPCD at 197.5, which corresponds to a water conservation standard, as defined in the draft framework, of 32%. In other words, the District is required to reduce its water production by 32%. The data used by the SWRCB to determine the GPCD was obtained through required monthly reporting. In reviewing the data used by the State to determine the District's GPCD, Staff feels that revising the reporting, specifically the population, will lower the District's GPCD such that the conservation standard would be reduced to 28%. It is thought that the District experiences monthly population fluctuations throughout the year as a result of an increase in migrant farm workers. These fluctuations must be accounted for to accurately determine the GPCD. Staff is researching how to justify this increase and will then revise the monthly reports accordingly. The State is allowing revised reporting as long as a justification for the change is provided.

The restrictions included in the District's Resolution No. 428 will hopefully result in significant reductions in water production. If it doesn't, the Board may need to consider reducing the irrigation of landscaping to 3 days per week, in lieu of the 4 days, which begins on May 4th. Staff has also identified the high users and will monitor their usage.

The SWRCB's draft emergency regulations may allow the deduction of commercial Ag use from the overall production before being compared to the 2013 production to determine the percentage conservation. If allowed by the SWRCB, this would significantly help the District reach the 28 or 32% conservation standard. If not, the District will expect that the commercial Ag users, as well as all other users, reduce their usage by the conservation standard.

District counsel stated that another component of the SWRCB's recommended conservation measures is to help encourage conservation through a tiered rate structure. In other words, water is cheaper at a level 1 use and would go up with each tier. The appellate courts have struck down tiered rates as a violation of Proposition 218. An agency must justify each tiered rate by showing how much it costs an agency to produce that water. Tiered rate structures are allowed as long as the rates are justified under Proposition 218. District Counsel stated that this case was a real blow to water conservation through tiered rates.

Director Sanchez stated that it is time to start looking into who are the high users in the community and educating the community on how important it is to meet the District's conservation goal.

Information Only

C. Report and Possible Minute Action: Consideration and approval of Purchasing Policy and Procedures; General Manager, Nick Turner

The General Manager stated that the District is need of a more in depth Purchasing Policy. At the last Board Meeting, the Board discussed the possibility of purchasing a vacuum and jetting truck for cleaning the District's sewer collection system. Public agencies have the ability to utilize cooperative agreements for the purchase of equipment and supplies. The process for this type of purchase is not covered under the District existing purchasing policy. This Policy sets forth regulations that must be followed by District personnel. The Policy designates the General Manager, as the purchasing agent. Some of the functions of the purchasing agent include processing the purchase of all suppliers, equipment and services for the District, negotiating and recommending contracts for purchases, procurement of the purchased supplies and equipment, preparing and recommending administration regulations to the Board, and assure that every bidder complies with this Policy and all applicable state and/or federal regulations. The Policy establishes the procurement procedure. The Policy requires that purchase orders be prepared. The Policy details the formal bid procedure for purchases over \$15,000 and the informal bid procedure for purchases under \$15,000. The Policy also details the process of procuring supplies and equipment in the event of an emergency. The Policy establishes the approvals required for a purchase depending on the cost of the expenditure. The Policy also addresses surplus supplies, equipment and property (salvage or sell). The Policy also permits Cooperative Purchasing/Intergovernmental Agreements for the purchase of common supplies, equipment and services.

Motion to approve the Purchasing Policy and Procedures.

First Motion–Director Cruz

Second Motion–Director Sanchez

Approved. All in favor. Vote 5–0

D. Report and Possible Minute Action: Consideration and approval of Contract Change Order No. 2 for the Well #5 Emergency Generator Project to Brough Construction Inc. in the amount of (\$380) credit; District Engineer, JT Gardiner

The District Engineer reported that this is a deductive contract change order for costs District incurred as a result of the Brough Construction's electrical subcontractor wiring the well incorrectly during construction, which then required the District's electrical consultant to correct the problem.

Motion to approve Contract Change Order No. 2 for the Well #5 Emergency Generator Project to Brough Construction Inc. in the amount of (\$380) credit.

First Motion–Director Sanchez

Second Motion–Director Cruz

Approved. All in favor. Vote 5–0

- E. Report and Possible Minute Action: Consideration and approval of Contract Change Order No. 6 to Brough Construction for the Water Well #19 Project in the amount of \$1,486.72; District Engineer, JT Gardiner

The District Engineer stated that this contract change order includes the relocation of a chemical tank and the construction of a concrete slab for the air compressor.

The District Engineer stated that 80% of the change order costs will be paid for using the project's grant funding.

Director Sanchez asked who designed the slab for the air compressor. The District Engineer states AECOM.

Director Gonzalez asked if the Contractor is responsible for the change. The District Engineer stated that the Contractor is responsible for the performance of the compressor. Director Gonzalez stated that he is responsible and that it is his job.

Motion to approve Contract Change Order No. 6 to Brough Construction for the Water Well #19 Project in the amount of \$1,486.72

First Motion–Director Cruz

Second Motion–Director Hernandez

Approved. All in favor. Vote 5–0

- F. Report and Possible Minute Action: Consideration and approval to release project retention to Brough Construction for the Well #13 Site Improvements Project in the amount of \$9,363.88; District Engineer, JT Gardiner

Director Hernandez abstained from the discussion due to the proximity of her property to this project location.

The District Engineer stated that this is the final progress pay estimate for the Well #13 Site Improvements Project in the amount of \$9,363.88. This pay estimate will release retention to Brough Construction forty days following the filing of the Notice of Completion which falls on May 10, 2015.

Motion to approve the release of the project retention to Brough Construction for the Well #13 Site Improvements Project in the amount of \$9,363.88

First Motion–Director Sanchez

Second Motion–Director Cruz

Approved. Vote 4–0, 1 abstained

- G. Report and Possible Minute Action: Consideration and approval to release project retention to Brough Construction for the Well #5 Emergency Generator Project in the amount of \$9,485.00; District Engineer, JT Gardiner

The District Engineer stated that this is the final progress pay estimate for the Well #5 Emergency Generator Project in the amount of \$9,485.00. This pay estimate will release retention to Brough Construction forty days following the filing of the Notice of Completion which falls on May 10, 2015.

Motion to approve the release of the project retention to Brough Construction for the Well #5 Emergency Generator Project in the amount of \$9,485.00

First Motion–Director Cruz

Second Motion–Director Sanchez

Approved. All in favor. Vote 5-0

- H. Report and Possible Minute Action: Consideration and approval to release project retention to Brough Construction for the Bernard & Palm Waterline Relocation and Valve Replacement Project in the amount of \$47,050.72; District Engineer, JT Gardiner

Director Cruz abstained from the discussion due to the proximity of her property to this project location.

The District Engineer stated that this is the final progress pay estimate for the Bernard Ave & Palm Ave Waterline Relocation and Valve Replacement Project in the amount of \$47,050.72. This pay estimate will release retention to Brough Construction forty days following the filing of the Notice of Completion which falls on May 10, 2015.

Motion to approve the release of the project retention to Brough Construction for the Bernard & Palm Waterline Relocation and Valve Replacement Project in the amount of \$47,050.72

First Motion–Director Sanchez

Second Motion–Director Gonzalez

Approved. Vote 4-0, 1 abstains

- I. Report and Possible Minute Action: Consideration and approval to have a forensic audit of the District conducted; General Manager, Nick Turner

District Counsel asked if the Board could table the item until after closed session due to the lateness of the hour.

Director Sanchez stated that he would like to move on with this, it is just one issue. He stated his desire to discuss the item and that the community is here to listen.

Director Gonzalez stated his support for discussing the issue. He stated that it will not take that long.

The General Manager stated that at the Board's request, Staff has made contact with eleven accounting firms inquiring about having a forensic audit performed. The General Manager stated noted that not all accounting firms perform forensic accounting. Staff spoke in length with three accounting firms, including the District's current auditor Daniels Phillips Vaughn and Bock, about forensic accounting. According to Patrick Paggi of Daniels Phillips Vaughn and Bock, forensic audits focus on a specific problem area rather than an all-encompassing audit of an agency's finances. The District's annual audit is an audit of the District's overall finances and policies and procedures. Mr. Paggi explained that a forensic audit covering all of the District's finances and procedures would be very expensive and especially for a period of 2010-2014. A forensic accountant would need to know exactly what the District is trying to accomplish or specifically what is the District's area of concern. Even with this information, defining the scope and fee is nearly impossible. All three accounting firms that Staff spoke with stated that they would propose a unit price, for example \$350/hr, and would work to some threshold established by the District, for example \$30,000. The auditor may or may not have been able to conclude anything when the full budget is expended. The Board then need to decide whether or not to authorize additional money or conclude the forensic audit.

Staff noted that previously, the Board requested that the District's auditor attend the board meeting to discuss forensic accounting. The General Manager stated the Mr. Paggi was unable to attend the meeting because he was out of town. Mr. Paggi did say that he is more than willing to attend a future meeting to explain forensic accounting and answer any questions that the Board may have on forensic audits.

The General Manager asked the Board if they would be interested in tabling this discussion to our next board meeting so that Mr. Paggi could be present to discuss forensic accounting with the Board or alternatively Staff could proceed to gather formal quotes from at least three forensic accounting firms.

Director Gonzalez asked if the General Manger has an administration certificate. The General Manager asks for clarification as to what he is referring to. Director Gonzalez stated that in the past Director Sanchez recommended that the District hire a certificated accountant assist the auditor with the audits.

Director Sanchez stated that the District needs to have qualified personnel. He states that a forensic analysis is way overdue because the District has never had the personnel to take care of the problems that the District has had. The community has the right to know that the District cannot find over \$200,000. If the District would have had the right personnel in place, the District wouldn't be in this mess. He stated that the Board has known that something has been going on but it seems that nobody wants to do anything about it. He stated that we need a restructuring of staffing.

Director Cruz asked the General Manager to explain to Director Sanchez what the District has done related to the matter. The General Manager explains that the District is currently working on two separate forensic audits, which are addressing is issue.

Director Sanchez asks if the General Manager knows why the District neglected to perform regular audits between 2009 and 2013. The General Manager stated that doesn't know why because he wasn't working with the District at that time. The General Manager stated that the 2010 & 2011, 2012 and 2013 audits were all performed within a six month period,

all of which were prepared several years after the fact. When the auditor is preparing the 2010 audit and is identifying issues in 2010, there is no way to fix or address those problems in 2011 because we are in 2014. And the same goes for 2011, 2012 and 2013. This is why the same issues continued to reoccur in subsequent audits until the 2014 audit. In the 2014 audit, most of the past problems were addressed because Staff had time to implement appropriate changes to the accounting policies and procedures.

Director Sanchez stated that he is proposing a restructuring of personnel. The District needs to have an accountant or CPA working for the District. The General Manager shouldn't have to babysit the work of the person in charge of the accounting.

Director Hernandez asked who the General Manager was in 2009. Director Sanchez stated that it was Eco Recourse and Eco Resources lost \$40,000-\$50,000 of District funds. After Eco Resources, the District kept the same personnel and the District has had the same issues.

The General Manager stated that the problems clearly stops in June of 2013. The problem identified by the auditor, stop around the end of the 2012 fiscal year.

Director Sanchez stated that there still hasn't been a restructuring. Director Sanchez stated that he doesn't expect the General Manager to know everything. He stated that it is not the General Manager's job to be the accountant. He stated that the District doesn't have the qualified individuals to prevent and implement the finding that the auditor had.

Director Prado stated that she doesn't like this situation. She stated that sometimes the Board Members make the wrong discussion and that we need to fix the problems.

Director Prado states that this is not the time to discuss this. She states that the employees have rights.

Director Sanchez states that as long as we don't say names, we should be okay.

Director Sanchez stated that the problem here is the District's inability to act when they discover things are happening. They just let the problems drag and drag and drag. He stated that if he is the person that finds that the District lost \$200,000, I would be the first one to say that we need restructuring. He stated that the Board are the elected officials to oversee the financial wellbeing of the District. He stated for example, the District paid David Powell over \$2,300 to revise the same thing that Tracie does, such as verifying that the financial statements match with each other. Director Sanchez stated why should the District be paying thousands of dollars to consultants on top of a \$100,000 salary to a person that is not qualified and doesn't have the knowledge to keep the books straight. He stated that the District needs a restructuring. He stated that this District is just bleeding money.

Director Hernandez stated that ever since Director Sanchez has been a board member all he has done is accuse other Board members of things. She stated that Director Sanchez talks about ethics, and that he shouldn't be accusing the other board members of things.

Director Sanchez stated that he is not accusing anyone on the board of anything. He states that it is the Board's obligation to oversee the operations of the District.

District Counsel suggested that the Board agendaize this for possible restructuring and bring this back at the next meeting to talk about restructuring to have someone more knowledgeable about accounting. Director Prado stated yes. Director Sanchez stated yes.

The General Manager stated that this District may have bled in the past but it is not bleeding now. The General Manager stated that he is involved in over 90% of this District's accounting and he stated that he knows there has not been a penny missing for over the past two years, and he stated that he is 100% confident in that statement. Over the last year and a half, Staff has diligently looked into this problem. The old Board Members and Staff have been and are currently conducting several forensic investigation into this problem. He stated that it keeps being said that the District hasn't done anything to address this problem. The General Manager stated that he wants to be clear that the District hasn't just sat back and done nothing. We have been continuously looking into this problem for over a year and a half now and we continue to look into it. Staff will continue to bring back more information to the Board as we have it.

Closed Session/Report on Closed Session

- A. Potential initiation of litigation; Government Code §54956.9 (d)1

Information was provided, no action was taken.

Adjournment (10:02pm)

A motion was made by Director Cruz and seconded by Director Sanchez to adjourn the Regular Board Meeting of the Board of Directors of the Lamont Public Utility District, held on Monday, April 27, 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