



LOS ALAMOS

County of Los Alamos

Minutes

Board of Public Utilities

1000 Central Avenue
Los Alamos, NM 87544

*Cornell Wright, Chair; Steve Tobin, Vice-chair;
Stephen McLin, Eric Stromberg, and Charles Nakhleh, Members
Philo Shelton, Ex Officio Member
Steven Lynne, Ex Officio Member
Denise Derkacs, Council Liaison*

Wednesday, November 16, 2022

5:30 PM

Council Chambers & Zoom
<https://us06web.zoom.us/j/85994890278>

REGULAR MEETING

1. CALL TO ORDER

The regular meeting of the Incorporated County of Los Alamos Board of Public Utilities was held on Wednesday, November 16, 2022 at 1000 Central Ave., Council Chambers. Board Chair Cornell Wright called the meeting to order at 5:30 p.m. Members of the public were notified of the ability to participate and provide public comment in person or via Zoom. The following board members were in attendance.

Present 5 - Wright, McLin, Nakhleh, Stromberg and Shelton

Remote 1 - Tobin

Absent 1 - Lynne

2. PUBLIC COMMENT

Chair Wright opened the floor for public comment on items on the Consent Agenda and for those not otherwise included on the agenda. There were no comments.

3. APPROVAL OF AGENDA

Chair Wright called for discussion and a motion to approve the agenda. Mr. Shelton commented that item 6.B. had an error in the staff report so an addendum was distributed to the board the morning of November 16th. A copy of the revised staff report is **attached** to these minutes. Chair Wright recommended that the agenda be approved as amended.

Member McLin moved that the agenda be approved as amended. The motion passed by the following vote:

Yes: 5 - Board Member Wright, Board Member Tobin, Board Member McLin,
Board Member Nakhleh and Board Member Stromberg

4. BOARD BUSINESS

4.A. Chair's Report

Chair Wright reported on the following items:

- 1). He commended DPU for the amount of information shared regarding the November 16th power outage. Information was shared by Ms. D'Anna on Face Book, Twitter, Code Red, Press Releases and Next Door.
- 2). Election of BPU Chair is on the agenda in December. He encouraged all board members to consider running for chair. He has served for two years and stated that the board, staff and the public benefit from shared leadership. He hopes that all members serve at least once.
- 3). A presentation by UAMPS is planned for a Special BPU Meeting on January 11, 2023/

4.B. Board Member Reports

There were none.

4.C. Utilities Manager's Report

Mr. Shelton and Mr. Marez opened with a special presentation on the power outage that began on November 13 and was resolved on November 16. A copy of their presentation slides are **attached** to these minutes. The responded to board member inquiries and provided clarifying information as appropriate.

Mr. Shelton reviewed his written report which is also **attached** to the minutes. He provided summarized comments and responded to board member inquiries as appropriate.

4.D. County Manager's Report

Ms. Julie Williams-Hill, LAC Communications & Public Relations Administrator represented the County Manager. She also commended DPU staff for their work on the power outage and thanked Ms. D'Anna for all of the information that she shared with the public.

4.E. Council Liaison's Report

Councilor Derkacs highlighted items from recent council meetings. Details are available in the council minutes available on the website
There were no board member questions or comments.

4.F. Environmental Sustainability Board Liaison's Report

Mr. Shelton stated that he has been in communication with the ESB staff liaison. He also mentioned that Council approved new ESB members a their November 15 meeting. However, the new ESB members do not attend their first meeting until November 17. He anticipates that a liaison to the BPU will be appointed by December.

4.G. General Board Business

4.G.1. [16381-22](#) Agenda Templates for 2023 BPU Regular Meetings and Work Sessions

Chair Wright called for board discussion; there was none.

Member McLin moved that the Board of Public Utilities approve the agenda templates for the 2023 BPU Regular Meetings and Work Sessions as presented. The motion passed by the following vote:

Yes: 5 - Board Member Wright, Board Member Tobin, Board Member McLin, Board Member Nakhleh and Board Member Stromberg

4.G.2. [16380-22](#) 2022 Board of Public Utilities Annual Self Evaluation

Chair Wright reviewed revisions to the 2022 BPU Self-Evaluation Questions. He only received comments from Member Stromberg, so he requested that all board members review and he will make a second revision. He opened the floor for public comment, there was none. Chair Wright asked members to submit their responses and the board will discuss at the next reasonable opportunity.

4.H. Approval of Board Expenses

There were none.

4.I. Preview of Upcoming Agenda Items

[16047-22](#) Tickler File for the Next Three Months

Chair Wright opened the floor for discussion on upcoming agenda items. He stated that the self-evaluation discussion may be moved to January if the December agenda is too full. He reminded the board of the Special Meeting on January 11, 2023. Mr. Shelton also stated that UAMPS will present on Alternative Resource Options at the December 7th meeting.

5. PUBLIC HEARING(S)

5.A. [16330-22-b](#) Approval of Modifications to the Department of Public Utilities Rules & Regulations GR 13 Disconnection and Reconnection of Service, and GR 17 Presentation and Payment of Bills

Ms. Garcia presented and provided the following summary:

At the October 19th regular BPU meeting, staff presented proposed changes and additions to Rules 13.08, 13.09, and 17.05. BPU directed staff to revisit the rules in their entirety to remove redundancies and clarify sections that were not included in the last presentation. Staff worked with the Attorney's office to complete the requested changes, which are included in this presentation. The following information is repeated from the previous staff report covering the larger proposed changes to the rules.

In 2021, BPU approved AGR21-57 with IC Systems for accounts receivable collection services. At this time, staff found there was no clear guidance regarding which inactive accounts will be referred to a collection service or lien under NMSA 1978 section 3-37-6&7. The proposed rules will clarify account collection and property lien processes for both customers and staff.

The purpose of property liens is to recover unpaid charges for electric, gas, water, sewer and refuse services by the county. Currently under NMSA 1978 section 3-37-6, DPU will lien properties with outstanding balances of charges imposed by county ordinances for utility services. Under this law, landlords may submit notice in writing to DPU clarifying tenant and owner responsibility of payment for services. If a "landlord" letter is on file with DPU, any inactive accounts with outstanding balances are referred to 3rd party collection

services. If a letter is not on file, the responsibility falls to the owner of the property and a lien is processed through the attorney's office and filed with the county clerk's office.

These rules will clarify and provide further information to customers regarding the process of collections, how accounts are referred to collection services, which accounts will have liens placed, how the liens are processed and calculated, and how release of liens are handled with DPU. These rules capture current practices and are in compliance with related laws and regulations.

In addition, DPU is proposing changes to GR 17.05 Payment of Bills. Changes to this rule is to provide guidance to customers and staff regarding refunds on active accounts. Common practice is to roll forward any credit balances on active accounts and apply them to the next bill for services. This cuts down on administrative time and resources spent preparing and processing refunds for small amounts. This rule change would clarify and memorialize common practices in customer care.

These rules were presented to BPU at the regular session on October 19, 2022. The board requested that staff expand the revision and updates to other sections of GR-13 and GR-17 to ensure accuracy and consistency throughout the rules. These requested changes have been included in the final packet for board consideration.

If the new rules presented are not approved, DPU will continue current practices under NMSA 1978 section 3-37-6 and NMSA 1978 section 3-37-7 regarding accounts receivables and property liens, but will not have clear parameters for accounts referred to 3rd party collection agency vendors or how long liens should be held on accounts. If rule changes for Presentation and Payment of Bills is not approved, staff will continue to work with customers regarding refunds and applied credits. The fiscal and staff impact is that approval of the recommended additions of rules will capture current practices and help clarify processes for customers and staff.

The following documents were provided in the meeting packet.

A - GR 13 Disconnection and Reconnection of Service

B - GR 17 Presentation and Payment of Bills

Chair Wright opened the floor for discussion. Members did point out some minor typos which Ms. Garcia said she could easily correct and would not affect the intent of the documents. She also responded to board member inquiries and provided clarifying information as appropriate. Chair Wright opened the floor for public comment; there was none.

Member Wright moved that the Board of Public Utilities Approve the Amendments to the Department of Public Utilities Rules and Regulations, Disconnection and Reconnection of Service and Presentation and Payment of Bills. The motion passed by the following vote:

Yes: 5 - Board Member Wright, Board Member Tobin, Board Member McLin, Board Member Nakhleh and Board Member Stromberg

- 5.B. [OR0963-22-a](#) Approval of Ordinance No. 722 Authorizing the Execution and Delivery of a Water Fund Project Loan/Grant Agreement for Construction of Phase II of the Bayo New Non-Potable Water Tank and Existing Tank Upgrades.

Mr. Alarid presented and provided the following summary:

Ordinance 722 will authorize the Department of Public Utilities (DPU) to execute the attached loan/grant agreement to construct phase II of the new Bayo non-potable water tank and construct improvements to the existing storage tank. The New Mexico Finance Authority (NMFA), through the Water Trust Board (WTB) has awarded the DPU a grant in the amount of \$2,190,000 and loan in the amount of \$1,460,000 (0% interest, 0.25% annual fee, 20-year term) in the 2022 funding cycle. As a condition of the award the DPU must match \$400,000 to the cost of the project.

DPU received a loan/grant from the NMFA/WTB in 2020 in the amount of \$900,000 for the project. Inflation from the time of submitting the application to the time of award caused the price of the project to more than double, so the project was split into two phases. The 2020 award was used to fund Phase I of the project which consists of the site piping, metering and miscellaneous site improvements to accommodate the new tank. The 2022 award will fund Phase II of the project which will complete the new tank and make improvements to the existing open top tank. The storage will be increased from 190,000 gallons to 1,000,000 gallons. This will allow a full day's discharge to be captured from the plant, increasing the amount of water that can be delivered to the community for irrigation.

The ordinance is scheduled to be introduced in the November 29, 2022 Council meeting and the public hearing is scheduled on December 13, Council meeting. The loan/grant closing is scheduled for January 20, 2023. The project was designed in-house and is shovel ready. The project will be bid as soon as the loan/grant closing is complete and be constructed in the fall 2023. If the ordinance is not approved staff will consider the project next year when Water Trust Board applications are due.

The project has been budgeted in fiscal year 2023 in the amount of \$2,929,880, which meet DPU's match requirement. BPU established a goal to maintain the debt service coverage ratio of 1.6 or greater for every fiscal year. Attachment C shows the projected debt service coverage ratios are projected greater than 1.6.

The following documents were provided in the meeting packet:

- A - Ordinance 722
- B - WPF-5673 Loan/Grant Agreement
- C - Credit & Debt Analysis

Chair Wright opened the floor for board discussion; there was none. He then opened the floor for public comment; there was none.

Member Stromberg move that the Board of Public Utilities approve Ordinance 722 and forward to Council for approval. The motion passed by the following vote:

Yes: 5 - Board Member Wright, Board Member Tobin, Board Member McLin, Board Member Nakhleh and Board Member Stromberg

6. CONSENT AGENDA

Member McLin moved that the Board of Public Utilities approve the items on the Consent Agenda as presented and that the motions in the staff reports be included in the minutes for the record. The motion passed by the following vote:

Yes: 5 - Board Member Wright, Board Member Tobin, Board Member McLin, Board Member Nakhleh and Board Member Stromberg

- 6.A. [16036-22](#) Approval of Board of Public Utilities Meeting Minutes

I move that the Board of Public Utilities approve the meeting minutes as presented:

- 6.B. [16421-22a](#) Award of Bid No. IFB 23-41 for the Purpose of the Utilities Portion of the 33rd, 34th & Arkansas Street Road Roadway and Utility Upgrade Project with TLC Plumbing and Utility.

I move that the Board of Public Utilities approve the Award of Bid No. IFB 23-41 for the Purpose of the Utilities Portion of the 33rd, 34th & Arkansas Street Road Roadway and Utility Upgrade Project with TLC Plumbing and Utility, in the Amount of \$772,460 and a contingency in the amount of \$115,869, for a total of \$888,329, plus Applicable Gross Receipts Tax and forward to Council for approval.

- 6.C. [AGR0823-22a](#) **Approval of Services Agreement No. AGR23-917 with DUB-L-EE, LLC in the amount of \$500,000, plus applicable gross receipts tax, for the purpose of On-Call and Emergency Utility Repair Services**

I move that the Board of Public Utilities approve Services Agreement No. AGR23-917 with DUB-L-EE, LLC in the amount of \$500,000, plus applicable gross receipts tax, for the purpose of On-Call and Emergency Utility Repair Services and forward to Council for approval.

7. BUSINESS

- 7.A. [16633-22](#) Approval of Agreement No. AGR23-911, Collection Agreement Between the Incorporated County of Los Alamos and the U.S. Department of Agriculture, U.S. Forest Service Santa Fe National Forest.

Mr. Shelton presented and provided the following summary:

As part of the San Ildefonso Native Claims Settlement Act of 2005, Los Alamos County is authorized to purchase six parcels of land adjacent to the townsite for fair market value. While the transfer of these parcels is already authorized by this congressional act, certain NEPA and other clearance work must be performed by the Forest Service before the lands can leave federal jurisdiction and pass to the County. A majority of these activities must be performed by the Forest Service, and the County is obligated to reimburse the government for the cost of this work. Los Alamos County has been encouraging the Forest Service to proceed with this work since the Act's passage in 2006, but were informed that they would not begin our work until transfer of lands to San Ildefonso Pueblo was completed. The San I land transfer was completed in 2011. To date the Forest Service has completed much of the work in a prior collection's agreement at

approximately \$247,620.

This Agreement lists the individual tasks to be completed by the Forest Service as well as other tasks to be completed by the County with USFS oversight. Included in the County's obligations are hiring an archaeologist to complete cultural surveys of the parcels, boundary surveys, and real estate documentation. The USFS will complete the NEPA clearances and perform appraisals on all the parcels. This work is expected to take approximately three to four years to complete for all the parcels.

Money for completion of the preparatory work under this Agreement will be shared with the general fund in a 50/50 split, DPU's portion of which is included in the Water Production budget for FY23. Money for actual purchase of the parcels has not been budgeted by Utilities or by County general fund. Once land appraisals are completed then a budget can be established for the land purchases.

As a federal agency, the USFS requires environmental and lands survey work be performed to their standards. The split of work between County and USFS that appears in the Agreement was negotiated in an effort to keep costs down. There is no alternative to the USFS performing the work included in the Agreement if the County still wants to acquire the land parcels.

It is currently anticipated that the DPU and General County will split these costs. There is some staff impact for managing the County's portion of the required work. FY23 Water Production budget has a budget of \$150,000 for this land acquisition costs and the Forest Service Contract is anticipated to use \$104,056 of this budget. If approved, staff will prepare a budget revision for the General County portion of their portion of these costs.

The following documents were provided in the meeting packet:

A - AGR23-911_Collection Agreement Between LAC_USDA_USFS

B - USFS_Tracts_Contour

Chair Wright opened the floor for public comment; there was none. He then opened the floor for board discussion; all members participated. Mr. Shelton responded to board member inquiries and provided clarifying information as appropriate.

Member Nakhleh moved that BPU approve Agreement No. AGR23-911, Collection Agreement Between the Incorporated County of Los Alamos and the U.S. Department of Agriculture, U.S. Forest Service Santa Fe National Forest in an amount not to exceed \$208,111.43, plus Applicable Gross Receipts Tax, the costs to be shared equally between the Utility Department of Public Utilities and the General County, for the purpose of clearance surveys and land appraisals prior to conveyance of lands to Los Alamos County and forward to County Council for approval. The motion passed by the following vote:

Yes: 4 - Board Member Wright, Board Member Tobin, Board Member Nakhleh and Board Member Stromberg

No: 1 - Board Member McLin

8. STATUS REPORTS

16042-22

Status Reports

Mr. Shelton reported that the following informational status reports were provided to the Board in the agenda packet:

- 1). Electric Reliability Update
 - 2). Accounts Receivables Report
 - 3). Safety Report - Mr. Shelton provided additional information about a tort claim.
- Mr. Shelton responded to board member inquiries and provided clarifying information as appropriate. There was no public comment or board discussion.

9. PUBLIC COMMENT

Chair Wright opened the floor for public comment on any items; there was none.

10. ADJOURNMENT

The meeting adjourned at 7:20 p.m.

APPROVAL

Board of Public Utilities Chair Name

Board of Public Utilities Chair Signature

Date Approved by the Board

ATTACHMENTS:

1. Utilities Manager Report 11/16/2022
2. November Power Outage Presentation
3. Revised Staff Report: Award of IFB 23-41