

MINUTES
LASSEN MUNICIPAL UTILITY DISTRICT
SPECIAL BOARD MEETING
MARCH 4, 2008
5:30 P.M.

ITEM NO. 1: CALL TO ORDER, FLAG SALUTE AND ROLL CALL:

The Special Board meeting of the Lassen Municipal Utility District was called to order at 5:30 PM by President Bowden.

Board Members Present: Bud Bowden (President), Jay Dow (Vice-President), Matt Lavacot (Treasurer), and Wayne Langston (Director).

Absent: Director Nagel.

Also Present: Acting General Manager Ray Luhring, Engineering & Operations Manager Dave Folce, General Counsel Jaimee Jones, Accounting & Finance Manager Bill Stewart, Facilities Manager Paul Glau, Business Office Manager Keri Richards, Energy Services and Compliance Specialist Theresa Boucher, IT/GIS Coordinator Mike Malone, Engineering Technician Liz Griffin, Accounting Technician Cady Schroeder, Executive Assistant Karen Rollings, Administrative Assistant Chris Yarbrough, and Board Secretary Jerri Kresge.

ITEM NO. 2: APPROVAL OF AGENDA:

Director Langston requested that Agenda Item 11 be heard before Agenda Item 10. A motion was made by Director Dow and seconded by Director Langston to approve the agenda with this change. Floor opened for public comment. No comment. Motion passed unanimously.

ITEM NO. 3: INVITATION FOR PUBLIC COMMENT:

[President Bowden opens the floor for public comment after pointing out the Rules for Public Comment.]

- David Schroeder felt the former general manager should not be vested in lifetime benefits, as he received a year's salary and that is enough. If benefits are granted, the Board should give full disclosure to the public on why they made this decision.
- Eileen Spencer talked about the information she had given to the Board regarding suggestions on how to change the method of LMUD personal expense reporting. She felt that the employees' current practice of doing expense reports was very disturbing. She commented on the vagueness of information on past Board members' timesheets and said the public has a right to full disclosure on how the District's money is being spent.
- Gordon Ponting commented on a letter he received from General Counsel Jones in response to his letter sent to the Board regarding failure to follow the Brown Act. He said Ms. Jones' letter did not adequately address the questions he asked. He said that the Board is tasked to do the right thing by adhering to the Brown Act when conducting District business.
- Jim Lovercheck stated that employees at LMUD's Service Center were physically locked out of their space and this did not send the right message. He personally felt that the work environment has deteriorated.

ITEM NO. 4: STAFF MEMBERS' REPORTS:

- None.

ITEM NO. 5: BOARD MEMBERS' REPORTS:

- Director Langston commented on a situation that past management was looking at regarding standby call out reports and the alleged falsification of timesheets. He said this matter is no longer being pursued, as the firm performing the audit was sent a letter to cease any work they were

doing for the District and to return their entire work product. He personally did not agree with this. Certain California Penal Codes state that the misuse of public funds is a felony. He felt that anyone who is a party to, or has knowledge of this misuse, is subject to the law. Director Langston stated that he has a real problem with this kind of abuse and he will not be held liable for any of these infractions. He stated that he wants to go on record as not supporting current management's decision to stop pursuing this matter. He wants to see the audit firm's work product when the District receives it.

- Director Langston stated that he has repeatedly asked to see where the money is coming from for the raises that were given to Bargaining employees under the current MOU; and the salary adjustments given to management in June, 2007.
- Director Langston commented on a letter sent by General Counsel Jones to Lisa Gast of the Law Firm of Duncan and Weinberg, on behalf of the Board, to cease work they were doing for the District. He does not recall that the Board made this decision together – rather, it was a management decision.
- Director Lavacot asked when the alleged falsification of timesheets took place. AGM Luhring responded in October, 2006. Director Lavacot stated this should have been addressed and settled in 2006. He said if a business is going to function as a business, matters such as this must be handled immediately. He stated that he understood management's position and disagreed with Director Langston.
- Director Bowden asked if timecards were pulled randomly for the audit. AGM Luhring stated that when the alleged offenses took place, he gave the general manager a certain number of suspect timecards, but the GM did not pursue the investigation any further.
- Director Dow stated that matters like this are management's responsibility and the investigation should have been done in-house.

- Director Dow said the opportunity exists for the District to add load through Ag pumps. Staff will do a study of the impact to the District's system if load is added through Ag pumps, including pricing justification, and present to the Board for their consideration at the next Board meeting.
- Director Dow said the District needs to review the PDCA (Power Delivery Cost Analysis) and the rate increases that were implemented over the past two years. He is not sure these were done properly.
- Director Lavacot stated he had reviewed the PDCA worksheet and it shows a line loss of 11% which equates to one million dollars a year. He would like to see a study to get this line loss down to a level where a savings can be realized over a period of time. AGM Luhring said this would be a good workshop topic where staff could present some preliminary studies.
- Director Lavacot asked about the District's organizational chart and how long the Executive Assistant and Administrative Assistant's positions had been in place. He asked if these positions were necessary. AGM Luhring replied that the Executive Assistant position had been in place for two years and the Administrative Assistant for 14 months. He felt that these positions were necessary as the dynamics of the District have changed considerably, especially at the Service Center, where the Administrative Assistant supports all personnel at this facility. AGM Luhring stated that the Executive Assistant supports the general manager and he is looking at moving several human resource functions to this position contingent on adequate training.
- Director Dow felt that the District needed a knowledgeable Human Resource person. He stated that the District needs to improve on efficiencies, look at productivity and analyze new positions that have been added.

a. Board Members' Meetings Attended Report

- President Bowden commented on a meeting he attended with AGM Luhring and General Counsel Jones at the

Western Area Power Administration office in Folsom to review the power contracts the District has with Western. He said the people at Western were very helpful and felt this was a good start in understanding the power contracts.

ITEM NO. 6: CONSENT AGENDA:

- A motion was made by Director Dow and seconded by Director Langston to approve the Consent Agenda as presented. Floor opened for public comment. No comment. Motion passed unanimously.

ITEM NO. 7: ACCOUNTING & FINANCE MANAGER REPORTS:

- Accounting & Finance Manager Stewart reported on the Cash Position Report, the Balance and Income Statement and the Check Register included in the board packet.

Board discussion ensued. Accounting & Finance Manager Stewart responded to the Board of Directors' questions.

- Accounting & Finance Manager Stewart reported on the following Demands for Payment included in the board packet:
 - EES Consulting for \$180.00.
 - Law Office of Nielsen, Merksamer, et al, for \$4,205.32.
 - Battles Consulting for \$9,645.89.

After Board and Staff discussion, a motion was made by Director Lavacot and seconded by Director Langston to pay EES Consulting. Floor opened for public comment. No comment. Motion passed as follows: Directors Bowden, Lavacot and Langston – aye; Director Dow – no.

Board discussion ensued regarding the Demand from the Law Office of Nielsen, Merksamer, et al. It was felt that the amount of the bill was excessive, but it was also recognized that the former general manager did have the authority to enlist this type of service and incur this expense (under \$10,000) without Board approval; and that the District may be obligated to pay this bill. There being no further Board discussion, a

motion was made by Director Dow and seconded by Director Langston to open negotiations with this Legal Firm regarding the amount of their bill; and that General Counsel Jones will be the Negotiator for the District. Floor opened for public comment.

- Eileen Spencer commented that this type of extravagant spending with legal firms was not uncommon in the past and felt it was because the Board did not receive sound legal advice from the District's General Counsel

There being no further discussion, the motion passed unanimously

Board and Staff discussion ensued regarding the Demand from Battles Consulting. The District has received this firm's entire work product and there was a valid contract on file. There being no further discussion, a motion was made by Director Langston and seconded by Director Dow to pay the Demand from Battles Consulting. Floor opened for public comment. No comment. Motion passed unanimously.

ITEM NO. 8: REPORTS FROM ACTING GENERAL MANAGER:

- Meetings attended: (1) Met with an energy company who will possibly be buying property in Susanville to produce biomass and wind energy, etc. (2) Western Area Power Administration meeting in January to discuss the District's power contracts.
- UAMPS/IPP3: Did not attend the February meeting. There will be more information at the March meeting regarding the pending litigation against the City of Los Angeles and other entities that allegedly breached their IPP3 Contract.
- Upcoming Meetings and Conferences: CMUA Annual Conference will be held March 12-14. Good opportunity for the new Board Members.

ITEM NO. 9:

**REPORTS FROM ENGINEERING & OPERATIONS
MANAGER:**

- Westwood Substation: The new transformer has been installed and all the testing came out positive.
- Outage Report: Items 1 and 2 on the Outage Report were caused by windstorms in the Valley. Items 3 and 4 were caused by a breaker that did not close in the Milwood Substation. A bid will be obtained to correct this problem. Because the bid amount will be over what management can approve and is not in the District's budget, it will go before the Board for consideration. AGM Luhring asked about doing a RFP (Request for Proposal). Director Dow asked what the cost would be. EOM Folce did not know at this time. Hopefully the quotes will be completed within two weeks. President Bowden said that the District should look at all available options.
- EOM Folce stated he met with Cooper Power Systems regarding the SCADA System. The breakers are being tested to make sure they are working properly. Completion should be the second week of April.

ITEM NO. 11:

**CONSIDERATION OF REVIEW OF ALL LMUD
LEGAL EXPENSES AND CONSIDERATION OF IN-
HOUSE GENERAL COUNSEL: (Heard before Item
No. 10)**

- District Counsel Jones stated that the former general manager had asked her to do the In-House Counsel Estimated Worksheet included in the board packet.
- Director Dow asked what the legal costs were last year. Accounting & Finance Manager Stewart replied \$600,000+. Director Dow compared this to the estimated amount on the worksheet (\$288,000). He asked General Counsel Jones if the items on the worksheet were considered together in

her amended contract. General Counsel Jones replied that they were. Director Dow stated that, this being the case, the amended General Counsel Agreement amount rounded off, equates to approximately \$70,000 per year, and to him, it appears to be a simple decision. He felt that the Board should review the agreement at regular intervals.

ITEM 10: CONSIDERATION OF AMENDMENT OF GENERAL COUNSEL AGREEMENT:

- Director Langston said a breakdown of the duties for the first 40 hours included in the retainer amount of \$5,000 should be in the agreement. He stated that, in the past, Independent Contractors such as the General Counsel were not given health benefits as set forth in No. 3f of the agreement, but this is the District's choice. He said the Board should review all the monthly bills related to this agreement before they are paid.

There being no further discussion, Director Dow made a motion to accept the amended General Counsel Agreement between LMUD and Jaimee Jones. Motion seconded by Director Lavacot. Floor opened for public comment.

- A member of the public asked why this agreement was not put out to bid.
- Director Dow responded the reason for not going out to bid is that the District is not looking for a new General Counsel; rather the existing General Counsel's Agreement is being amended.

There being no further discussion, the motion passed unanimously.

ITEM NO. 12: CONSIDERATION OF EXPENSE REPORTS FROM FORMER GENERAL MANAGER:

Board discussion ensued regarding the expense reports for November and December, 2007, submitted by the former general manager prior to him

leaving the District. General Counsel Jones responded to the Board of Directors' questions. She asked that Lines 23, 31, 32, 33, & 34 be removed from the itemized list of expenses included in the board packet.

Director Dow made a motion to pay the former general manager the total due as stated on the itemized list and remove the items requested by General Counsel. The motion was seconded by Director Lavacot.

- Director Langston asked if these deductions were legal under the former general manager's contract. General Counsel Jones replied that the items in question were not related to a contract; rather they were purchased with a company credit card. Director Langston asked where the information came from for the compilation of these deductions. General Counsel Jones replied from LMUD office staff.
- Business Office Manager Richards stated that Item 12 on the list should be removed as this was returned.

Director Dow amended his original motion to include the removal of Item 12. The second to the original motion concurred with this amended motion. Floor opened for public comment.

- Eileen Spencer thanked the Board for taking this action. She said it does send the right message, although all the former general manager's expenses were not addressed.
- President Bowden responded that the Board could not act on anything that was not included in the materials presented to the Board for their consideration.
- Vice-President Dow responded that according to the Brown Act, the Board is only obligated to act on items that are on the agenda.

There being no further discussion, the motion passed as follows: Directors Bowden, Dow and Lavacot – aye; Director Langston – no.

ITEM NO. 13: CONSIDERATION OF VESTING FORMER GENERAL MANAGER IN DISTRICT BENEFITS:

- Director Langston stated that the former general manager received a letter from the District's General Counsel stating that District benefits would not be granted. Past practices have shown that benefits were vested to former GM's even if similar discrepancies existed in their contracts. Director Langston felt the

Board should be aware of past practices as there is a possibility of pending litigation against the District.

- President Bowden stated the former general manager was terminated and therefore, should not receive benefits.
- General Counsel Jones said the termination provisions of the former general manager's contract are very clear – he is not entitled to benefits. She stated that past practice shows that only once were benefits granted to a former general manager and individual contracts should not be compared.

No further action was taken by the Board.

ITEM NO. 14: CONSIDERATION OF SCHEDULING FINANCIAL WORKSHOP FOR MARCH:

- Accounting and Finance Manager felt that workshops will be very beneficial and suggested holding the workshops mid-month during the day. He stated that there should not be action items on the agenda. He suggested some dates with the first being March 20th for the Financial Workshop.
- Director Dow suggested holding the workshops immediately before the regular board meetings. He felt this was the most efficient use of time.

There being no further discussion, the Board concurred on holding the Workshops immediately before the regular board meetings. The Financial Workshop will be on March 25th at 3:30 PM. The next two tentative dates for workshops will be April 22nd and May 27th at 3:30 PM.

ITEM NO. 15: FUTURE BOARD MEETING SCHEDULE:

- President Bowden stated that the next regular board meeting will be held on March 25, 2008, at 5:30 PM in the LMUD Boardroom located at 65 S. Roop Street, Susanville, CA.

ITEM NO. 16: CLOSED SESSION:

- President Bowden read the Closed Session Items.

The Board adjourned to Closed Session at 8:07 PM.

A. Public Employee Appointment – Title: Interim General Manager.

B. Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Section 54956.9):

1. Steven Trevino and Amy Trevino v. Lassen Municipal Utility District, et al. U.S.D.C. Eastern District Action No. 2:07-CV-02106 LKK DAD.

ITEM NO. 17 **REPORT OF ACTION TAKEN (IF ANY) IN CLOSED SESSION**

The Board returned to Open Session at 8:35 PM.

The following was orally reported for Closed Session Items 16A & 16B:

- No reportable action was taken.

ITEM NO. 18 **ADJOURN:**

There being no further business, the meeting was adjourned at 8:37 PM.