

MINUTES
LASSEN MUNICIPAL UTILITY DISTRICT
REGULAR BOARD MEETING
September 23, 2008
5:30 P.M.

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

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

Roll Call by Board Secretary Jerri Kresge:

Director Nagel – present
Director Dow – present
Director Lavacot – present
Director Bowden – present
Director Langston - present

Also Present: General Manager Ray Luhring, Electric Operations Manager Dave Folce, General Counsel Jaimee Jones, Facilities Manager Paul Glau, Business Office Manager Keri Richards, 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:

President Bowden requested that the order of Agenda Items No. 11 & 12 be reversed. 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.]

- Ron Beauchman commented on the recent Grand Jury Report and stated that it refers to alleged inappropriate actions by a LMUD Board Director for personal gain, thereby creating a possible conflict of interest. Mr. Beauchman felt that, in light of these findings, this Board Director should relinquish his seat on the LMUD Board.

ITEM NO 4: STAFF MEMBERS' REPORTS:

- Business Office Manager Richards reported that the major portion of the business office remodel is complete, but there are still some ergonomics issues to be worked out in the front office. She said that there have been mixed reactions from the public regarding the remodel. Ms. Richards wanted to make the Board aware of some change orders that were necessary for “hidden” items that could not be detected at the time the bidding process took place, i.e., replacement of the rotted lumber in the sub floor; and the old ceiling ballasts needed to be removed and replaced. The total amount for the change orders was \$2,809.00 for labor and materials.

Board discussion ensued. Office Manager Richards responded to the Board of Directors’ questions. It was the consensus of the Board that the additional expense for the change orders was within the budgeted amount for the office remodel and therefore, was a justifiable expense. No further Board action was taken.

ITEM NO. 5: BOARD MEMBERS' REPORTS:

- None.

a. Board Members’ Meetings Attended:

- President Bowden stated that he participated in a PG&E/Invenergy conference call on September 8th, along with Director Lavacot and General Manager Luhring. The Interconnection Agreement between LMUD and Invenergy was discussed.

- Director Dow stated that a Geothermal Energy Conference was being held in Reno next week and said he plans on attending at his own expense. He felt this conference would be beneficial; and that the District may want to send a representative from LMUD to become familiar with this vital energy resource that is right in our backyards.
- Director Lavacot stated that he and Director Langston, who are members of the Audit Ad Hoc Committee, attended the Audit Exit Meeting on September 18th. The auditors commented that they felt the attitude had improved considerably at LMUD and that upper management was on track. The auditors also felt that the District's practices were on target and that the Board had been keeping their feet to the fire. Director Langston stated that the final audit should be ready in about 30 days.
- President Bowden stated that he had been interviewed by the auditors and one of their concerns was the 2007/08 Grand Jury Report which sites LMUD for certain infractions. He assured the auditors that management will prepare a response to the Grand Jury which is due November 18, 2008.

ITEM NO. 6: CONSENT AGENDA:

A motion was made by Director Langston and seconded by Director Lavacot to approve the Consent Agenda as presented. Floor opened for public comment. No comment. A call for the vote was as follows:

Director Nagel – aye
 Director Dow – aye
 Director Bowden – aye
 Director Lavacot – aye
 Director Langston – aye

Motion passed unanimously.

ITEM NO. 7: ACCOUNTING & FINANCE MANAGER REPORTS:

- In the absence of Accounting & Finance Manager Stewart, General Manager Luhring reported on the Cash Position Report, the Balance and Income Statement and the Check Register included in the board packet. He noted that the Rate Stabilization Fund had been increased to \$4,200,000. He also noted that the 1996 bond series debt had been paid off as of September, 2008.
- Director Langston requested that the financial report be presented in a “redline” version to show the changes from month to month. GM Luhring said he will pass on this request to Accounting & Finance Manager Stewart.

ITEM NO. 8: REPORTS FROM GENERAL MANAGER:

- Meetings attended:
 - On August 28th, GM Luhring, Electric Operations Manager Folce and Executive Assistant Rollings attended NERC Portal training via the internet (Web Ex presentation). Starting on October 1, 2008, it will be a requirement to go through the portal for NERC compliance.
 - Participated in a conference call with PG&E on September 8th regarding the Interconnection Agreement request from Invenergy for their proposed Horse Lake Wind Farm Project. This agreement is between LMUD and PG&E, not Invenergy and PG&E. A System Impact Study will need to be prepared and LMUD’s upfront cost is \$40,000 which will be reimbursed by Invenergy.
 - GM Luhring and Electric Operations Manager Folce met with representatives from Truckee Donner, Plumas Sierra REC, the City of Fallon and UAMPS on September 10th to discuss transmission possibilities using Sierra Pacific’s Reno to Alturas Line

(RAT Line), with the long term goal of severing ties with the CAISO.

- GM Luhring and Electric Operations Manager Folce met with representatives from the Reno Sierra Pacific office on September 22nd. There was discussion on the possibility of LMUD connecting to the RAT Line. Sierra Pacific is willing to work with LMUD toward this goal and suggested that LMUD participate in the Sierra Sub-Regional Planning Group meetings, the next one to be held on November 4th in Reno. Electric Operations Manager Folce will give a presentation of LMUD's facilities at this meeting.
- Energy Services & Compliance Specialist Theresa Phillips gave a presentation on the *Smart Built* Homes Rebate Program at the UAMPS monthly meeting on September 16th. Ms. Phillips did an excellent job and feedback from UAMPS members was very positive.
- A PDCA Ad Hoc Committee meeting and an Audit Ad Hoc Committee meeting were both held on September 18th.

➤ Upcoming Meetings and Conferences:

- WAPA Informal Rate Hearing meeting on October 7th.

➤ Other GM Matters:

- LMUD's response to the Grand Jury will be presented to the Board at their 11/13/08 special board meeting at 5:30 PM. The response is due by 11/18/08.

ITEM NO. 9: REPORTS FROM ELECTRIC OPERATIONS MANAGER:

- Outage Report: Electric Operations Manager Folce stated that the outages in September were caused by a damaged

conductor in the Standish Substation, a scheduled planned outage on Russell Road and a tripped breaker in the Milwood Substation caused by a windstorm.

- Capital Projects Update: The 60 kV project in the Milwood Substation will start the first part of October.

**ITEM NO. 10: REPORT FROM AD HOC COMMITTEE.
CONSIDERATION OF AMENDING RATE
SCHEDULE PDCA (POWER DELIVERY AND COST
ANALYSIS):**

- Director Dow and Director Langston were appointed as members of the PDCA Ad Hoc Review Committee. Director Dow stated that one of the main purposes of reviewing the PDCA was to clean it up and make it more generic. In the past, if a power increase was deemed necessary after going through the mechanics of the PDCA worksheet, the increase was implemented and presented to the Board as an information item only. It is recommended that any rate increases should be brought before the Board for consideration and for public input. Director Dow stated that the current PDCA Policy appears to be a policy and operating procedures in one document. He stated that the Draft Rate Schedule PDCA with the Ad Hoc Committee's recommendations/changes is before the Board tonight for their review and comments. He asked if the committee should continue to work on the PDCA and refine into a policy and a separate operating procedure and bring back to the Board. Director Dow also asked if a Standing Committee should be appointed versus an Ad Hoc Committee to continue working on the PDCA.
- Director Langston felt the original PDCA document was worthwhile in the beginning, but as time went on, it was apparent that

changes needed to be made as the document was too wordy and descriptive. He felt that the PDCA was not a policy, but an operating mechanism and felt a single page policy needs to be derived from this mechanism. Director Langston stated that the District's current policy book needs to be updated and streamlined.

- Director Langston commented on some of the changes in the draft PDCA document that were made by the Ad Hoc Committee. He felt very strongly that the rate increase cap of ½¢ should not be changed as this will give the ratepayers a budgeting benchmark.
- Director Nagel felt that since this document directly applies to rates, a public hearing should be held to address the modifications to the document and to give the public an opportunity to comment. General Counsel Jones said a public hearing would be necessary because the document states how rates would be changed.
- President Bowden felt that the current Ad Hoc Committee should continue to work on the document instead of appointing a Standing Committee.

There being no further discussion, a motion was made by Director Dow and seconded by Director Langston to schedule a public hearing for the modified Rate Schedule PDCA document (to include General Counsel review); and the date of the public hearing to be determined by the General Manager to coincide with public hearing advertising requirements as per the law.

There being no further Board discussion, the floor was opened for public comment. No comment. A call for the vote was as follows:

- Director Nagel – aye
- Director Dow – aye
- Director Bowden – aye
- Director Langston – aye
- Director Lavacot – aye

Motion passed unanimously.

ITEM NO. 12: DISCUSSION AND POSSIBLE ACTION
REGARDING BROWN ACT TRAINING FOR BOARD
DIRECTORS: (To be heard before Item 11 as
requested by President Bowden)

- General Manager Luhring stated that staff had contacted an attorney firm in Sacramento who does Brown Act training. This firm had conducted harassment training for the District and comes highly recommended. The cost would be between four and five thousand dollars. He said that staff would also check with power organizations such as NWPPA, CMUA, etc. to see what Brown Act training they offer, if any. As suggested by the Board, other entities will be invited to attend the training and share in the cost.

There being no further discussion, a motion was made by Director Langston and seconded by Director Nagel to instruct the General Manager to schedule Brown Act training through whatever entity he feels is most beneficial to LMUD and others; and to schedule the training for sometime in November, 2008. Floor opened for public comment.

- A member of the public suggested holding the training after the November 4th election so that if there are changes in board membership for both LMUD and other local boards, these new members will have the opportunity to attend the Brown Act training.

Director Langston amended his original motion to include “the training will be held after the November 4th election.” The second to the motion (Director Nagel) concurred with this amendment. A call for the vote was as follows:

- Director Nagel – aye
- Director Dow – aye
- Director Bowden – aye
- Director Langston – aye
- Director Lavacot – aye

Motion passed unanimously.

ITEM NO. 11: DISCUSSION AND POSSIBLE ACTION REGARDING DISTRICT GUIDELINES FOR APPOINTING COMMITTEE MEMBERS; AND WHEN TO APPOINT AN AD HOC COMMITTEE VERSUS A STANDING COMMITTEE:

- President Bowden felt this item should be discussed, but not until after the Brown Act training.
- Director Nagel stated this item should be addressed now as it ties into the Rate Schedule PDCA which is currently being reviewed by the Ad Hoc Committee. He gave a brief history of the District's involvement with Standing Committees versus Ad Hoc Committees. He stated that when Standing Committees meet, a board meeting is required. This involves more time and preparation. Short term Ad Hoc committees are good because the duties are rotated amongst the board members giving each of them the opportunity to be involved in District operations.
- Director Dow stated that there are times when it would be appropriate to have board meetings, especially when addressing District policies which, he felt, should be a function of a Standing Committee. Director Langston agreed with Director Dow and said an example as to when an Ad Hoc committee would suffice is when addressing the PDCA Operating Mechanism as previously discussed in Item 10.
- General Counsel Jones stated that the purpose of a Standing Committee is to do on-going work on one subject matter. She said an Ad Hoc committee reviews various subjects within a certain timeframe (2 or 3 meetings).
- Director Dow suggested that committee appointments should be made during the Board's organizational meeting in January. He felt the District needs clear guidelines on how committees will be appointed.
- General Counsel Jones said the District has been following Robert's Rules of Order, but if specifics are what the Board desires, then they should adopt a policy on appointing committees.

- President Bowden still felt that this item should be addressed after Brown Act Training, as lack of this training was the crux of the problem. He quoted from both Robert's Rules of Order and the Brown Act on the subject of appointing committees.
- Director Dow and Director Langston felt that President Bowden was missing the point, as he was reading statutes that applied to what constitutes a meeting, not on how committees will be appointed.
- President Bowden disagreed and continued to quote from statute which he felt directly related to the procedure for appointing committees.
- Director Dow stated that it is important to address this issue now because in light of certain past events, he is not sure if he is on or off the Invenergy Interconnection Ad Hoc Committee. President Bowden responded to Director Dow that he chose to remove him from this committee and appoint Director Lavacot who he felt was a better fit for this committee. Director Dow felt that personal bias was the reason for his dismissal from the committee, hence the importance of having clear guidelines in place on how committee members will be appointed or removed. President Bowden felt that as Board President, he had the authority to appoint or dismiss committee members when appropriate.
- Director Langston disagreed and felt the entire Board needs to be involved with appointments of committee members.
- General Counsel Jones said that Section 11909 of the MUDA (Municipal Utility District Act) states that the acts of the Board shall be expressed by motion, resolution or ordinance by the affirmative vote of at least three directors of a five-ward district. She stated that the Board President has been allowed to make appointments in the past, but if this is to become an issue, it will need to be accomplished formally as set forth in the MUDA.
- Director Dow stated he sincerely wants to adopt something that is above board and ethical which will benefit everyone.

Director Dow made a motion that (1) All committees, whether Standing or Ad Hoc, will be by nominations from the floor and appointed by motion and a majority vote of the Board; and (2) All existing committees will be ratified by this procedure. Director Langston seconded the motion.

- President Bowden stated it is not appropriate to include past actions. Existing appointments should remain as is.

There being no further discussion, the floor was opened for public comment.

- Ron Beauchman stated that as a ratepayer, he feels the Board President should have the authority to remove any committee member who he feels is not acting in the best interest of the District; and that this procedure should stay in effect.

A call for the vote was as follows:

Director Nagel – no
Director Dow – aye
Director Bowden – no
Director Langston – aye
Director Lavacot – no

Motion failed.

Director Nagel made a motion that (1) The Board President be given the authority to make or change appointments to Ad Hoc Committees in open session; (2) Standing Committees should be appointed by Board motion in open session; and (3) In the event of an emergency, the General Manager will be given the authority, when a Board meeting cannot be held, to appoint two Board members to an Emergency Committee. Motion seconded by Director Lavacot.

- Director Dow stated that if the District follows the MUDA, the motion by Director Nagel does not follow these guidelines. He felt that the Invenergy Interconnection Ad Hoc Committee should have been a Standing Committee just by the nature of the committee's makeup.
- General Counsel Jones wanted to dispel any misconceptions and stated that the General

Manager has the authority to pick two Board members for a committee anytime the need arises. She also wanted to clarify that the Board President does not have any authority above the other Board members.

There being no further discussion, the floor was opened for public comment. No comment. A call for the vote was as follows:

Director Nagel – aye
Director Dow – no
Director Bowden – yes
Director Langston – yes
Director Lavacot – yes

Motion passed.

ITEM NO. 13: CONSIDERATION AND APPROVAL TO PURCHASE THIRTY, 60 FOOT POLES FOR A CAPITAL IMPROVEMENT PROJECT. ESTIMATED COST IS BETWEEN \$40,000 & \$50,000:

- Electric Operations Manager Folce stated that it is estimated that 39 Class A poles will be needed for a capital project with a cost of \$63,387.
- General Counsel Jones asked if this purchase had gone out for bid. Mr. Folce said that the bid was sent to four vendors, but only one responded. Ms. Jones questioned why only one response. Mr. Folce said it had to do with the size and type of treatment of the poles and not all vendors can accommodate this requirement.
- Director Langston asked what the life of the poles was. Mr. Folce responded approximately 40 years.

Director Nagel made a motion to approve the purchase of the poles not to exceed \$64,000. Motion seconded by Director Dow. Floor opened for public comment. No comment. A call for the vote was as follows:

Director Nagel – aye
Director Dow – aye
Director Bowden – aye
Director Langston – aye
Director Lavacot – aye

Motion passed unanimously.

ITEM NO. 14: DISCUSSION REGARDING CANCELING THE OCTOBER 28, 2008 REGULAR BOARD MEETING AND RESCHEDULING:

- General Manager Luhring said that he and General Counsel Jones will be out of town on October 28th. The Board agreed to cancel the October 28, 2008 board meeting and directed GM Luhring to reschedule the meeting and advise them of the date. No further Board action was taken.

ITEM NO. 15: FUTURE BOARD MEETING SCHEDULE:

- TO BE DETERMINED.

ITEM NO. 16: CLOSED SESSION:

- President Bowden read the Closed Session Items.

The Board adjourned to Closed Session at 7:43 PM.

A. Conference with Legal Counsel – Existing Litigation
(Subdivision (a) of Government § 54956.9):

1. Steven Trevino and Amy Trevino vs. Lassen Municipal Utility District, et al. U.S.D.C. Eastern District Action No. 2:07-CV-02106 LKK DAD.
2. David L. Jenne vs. Lassen Municipal Utility District Lassen County Superior Court Case #42831.
3. Eileen Spencer vs. Lassen Municipal Utility District, California Court of Appeal, 3rd Appellate District, Case #36791, C048829, C047584.

B. Public Employee Performance Evaluation (Pursuant to Government Code §54957). Title – General Manager.

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

The Board returned to Open Session at 8:16 PM.

The following was orally reported for Closed Session Items 16A – 1, 2 & 3; and Item 16B:

- No reportable action was taken.

ITEM NO. 18: ADJOURN:

There being no further business, the meeting was adjourned at 8:17 PM.