

CITY OF LA JUNTA)
COUNTY OF OTERO) SS
STATE OF COLORADO)

A Regular Meeting of the Board of Utilities Commissioners of the City of La Junta, Colorado, was called to order by Chairman Frank McKenzie on Tuesday, August 15, 2023, at 4:00 p.m. in the Council Chambers of the Municipal Building.

Roll was called and the following Board Members were present:

Present Joe Ayala, Mayor
 Mike Bourget, Commissioner
 Gary Cranson, Vice-Chairman
 Frank McKenzie, Chairman
 Paul Velasquez, Council Member

Absent: none

Also present: Rick Klein, City Manager
 Bill Jackson, Asst. City Manager
 Phil Malouff Jr., City Attorney
 Melanie Scofield, City Clerk
 Paula Mahoney, Admin. Asst.
 Tom Seaba, Director of Water/WW
 Martin Montoya, Director of Engineering
 Aliza Libby, Director of Finance
 Edward Vela, City Council
 Betty McFarren, RF Gazette

MINUTES OF PREVIOUS MEETING

Chairman McKenzie asked if there were any corrections or additions to the minutes of the Regular Meeting of July 18, 2023. Hearing none, the chairman declared the July 18, 2023 minutes approved as published.

CITIZEN PARTICIPATION

1. There was no citizen participation.

REPORTS

A. ARPA Board. Gary Cranson gave the following report: June sales were affected by cooler and wetter weather in ARPA service territory. Unusual weather conditions caused significant reductions in electric sales. Peak demand was down about 8% and energy sales down 15.3%. This is not the first time sales have been impacted by weather in June. In 2019 we experienced an 18% decrease in sales compared to 2018 and then rebounded the following year with a 19% increase from 2019 to 2020.

1. **Summary of June 2023 Financial and Operating Statements:** During the month of June, revenue from power sales was less than budget by \$445,423 (16.7%) and total revenue was less than budget by \$419,843. Total cost of goods sold was under budget by 18.8%. Purchased power costs were under budget by \$275,379 (27.5%). Transmission expenses were under budget by \$49,415. Net Revenue from Operations for the month was \$531,912.
2. **Year to Date Income Statement:** Revenue from power sales was less than budget by \$591,069 (4.4%). Total revenues were less than budget by \$462,750 YTD. Interest income was \$128,266 better than budget. Total cost of goods sold was less than budget by \$631,213 (7.2%). YTD purchased power costs were under budget by \$431,878 (8.3%). YTD Transmission

expenses were under budget by \$234,653. Total YTD A & G expenses are under budget by \$48,217 (1.5%). YTD Net Revenue is \$1,566,242. Debt Service Coverage YTD is 1.28X.

3. **Operating Report:** Member Energy sales for June was 19.0% less than budget and 15.0% less than 2022. Member Energy Sales YTD was 4.5% less than budget and 3.3% less than 2022. All in cost of power to members YTD is \$0.0998 per kWh; 2.3% lower than 2020.
4. **Next Meeting** –August 31, 2023, 10:00 a.m. at Otero College in La Junta.

B. Water & Wastewater Treatment. Tom Seaba gave the following report:

1. R.O. Plant
 - Routine maintenance: flushed air relief valves, checked well static levels, sampled all RO vessels, load tested all generators, and calibrated colorimeters.
 - Assisted the line crew by flying the drone to located potential problems on a transmission line.
 - Assisted Trane in installing an additional software update on south booster HVAC. This update worked.
 - Received and installed the correct valve for pump #1 at Prairie View booster station. Now online.
 - Conducted a facilities tour for Crowley County Water.
 - Converted old fluorescent lights to LED lighting.
 - Installed new trolley and chain hoist at south booster and prairie view booster.
 - Meter reading and installation, building maintenance, and groundskeeping.
2. Distribution
 - Installation of new meters.
 - Weed control around hydrants. Hydrant maintenance and painting.
 - Main break at 6th and Smithland.
 - Assisted street department with asphalt patching.
 - Assisted with weed control on additional city properties.
 - Weed control, watering at farm.
 - Meter reading and utility billing office generated work orders, equipment maintenance.
3. Financials (Water Fund)
 - July water revenues were \$252,400. The budget for July was \$342,100. Revenues were \$89,700 below the monthly budget. Compared to 2022, revenues showed a \$46,700 decrease. Year-to-date revenue is at 74%. Budget shows we should be at 58% (\$638,500 of this is grant monies). The city billed 70,183,000 gallons of water compared to 85,097,000 in 2022.
 - Total expenses were \$529,000 with a monthly budget of \$371,500. Expenses were \$157,500 more than the budgeted amount for July (majority of this is the grant).
 - Compared to 2022, assets decreased \$1,554,300 and liabilities decreased \$9558,400. Net change in fund balance is (\$558,400) for year-to-date 2023.
4. Wastewater
 - Treated 35.254 million gallons. Removed 34.0 ft³ of screenings and 32.0 ft³ of grit.
 - RO concentrate discharge to plant was 21.378 million gallons.
 - Jetted 0.0 feet of line. Truck in for repairs. Six emergency calls and twenty-six manhole locate requests.
 - Troubleshooting air intake in headworks building. Air exchanger works on manual only.
 - Cleaned disinfection flow channel in UV building.
 - Continuing discussion and planning for repairs to orbal basin.
 - Changed oil on aeration basin blowers 1 and 2.
 - Additional plant, collection system, grounds maintenance.

5. Financials (Waste Water Fund)

- July sales were \$235,300. This was \$35,600 more than the July anticipated budget of \$199,700. However, compared to 2022 sales were up \$25,800. Year-to-date revenue is at 58%. Budget shows we should be at 56%. Revenues are up YTD.
- Total expenses for July were \$534,900. This was \$69,500 less than the anticipated budget of \$604,400. Year-to-date expenses is \$61,000 more than budgeted and \$9,500 more than 2022. Expenses are at 64%. Budget shows we should be at 58%.
- Compared to 2022, assets decreased \$953,600 and liabilities decreased \$99,100. Net change in fund balance is (\$854,457) for year-to-date 2023.

6. Other Notables:

- Level 1 water restrictions began on May 1st and continue until October 15th. Any resident requiring additional watering time may request a 20-day exemption by calling the water department at 384-7358.
- Public presentation by CDMSmith concerning SRF funding, how the program works, and how it benefits La Junta. August 22nd, 4:00 p.m. at the Municipal Building.

Chairman McKenzie: How did we do on growing grass at Holbrook?

Tom Seaba: Thanks to the rain, what we've got in the ground is doing very well. You had asked the name of the company that we were getting our special blend of seed from and just as I was about to tell you what it is, I forgot it, but they're up in Rocky Ford area. Since it's been a good wet year and there's good moisture in the ground, we're going to put some in this fall.

Chairman McKenzie: Reading the financials for water and wastewater, it looks like we're kind of in the soup on both of them. So, we have to have plans for the end of the year for that. I read on the budget for this year on utilities for the golf course is \$140,000, as you're budgeting, you've got to realize that if we make cuts there, or any other cuts that we make, we're just killing the water fund. We just got through raising the rates and if we cut them out of the sales to the general fund, the water fund is in even worse shape.

Tom Seaba: It's noted on the report. It shows that a lot of municipal accounts, due to less use of water on the ball fields, golf course and the rest of it, in an attempt to save money. They've been using less water. We're down about \$12,000 this last month.

Council Member Velasquez: Have there been any reports on the clarity of the water? I've had a few citizens say that it seems like there's a tint to it. Have you had any reports of that?

Tom Seaba: The only reports we've got was today, especially over on the east side, because the fire departments were drawing water out of hydrants over there to go fight the fire. Anytime you have high volume like that, especially when it starts and stops, it'll scour the inside of the pipes and get a little bit of discoloration that lasts for a little while. The best thing anybody can do for that is just to let the cold water faucet run for awhile and flush out your system. Any other time or from elsewhere in the city, no, I've not received any notice.

C. Electric Department. Bill Jackson gave the following report:

1. Line Crew

- Daily reads, disconnects and maintenance.
- Five linemen traveled to Sugar City for CDOT flagger training and two attended lockout tag-out training.
- The line crew set a five-wire meter loop pole for a new home at 528 Sunset Avenue.
- A blown cutout and arrester were replaced on Highway 109 North of the old Boys Ranch and also at McDonald's.

- There was an overloaded 25 kVA transformer in the 800 block of Cimarron Avenue. We added a 37.5 transformer and we did the same thing in the 500 block of Colorado Avenue.
 - The crew finished tree trimming under the power lines on the west side of town and have now started on the east side.
 - Maintenance was performed at the rodeo grounds for the upcoming Kids Rodeo.
 - A street light pole was replaced that was hit by a truck on Highway 50.
 - The city has a brief power outage on the east side of town. The cause was a forklift hit and snapped a guy wire in half while the contractor was doing bridge repair.
2. SOLAR Accounts
 - The total kWh returned to the system was 8,765 from 18 customers. A total of \$447.00 was rebated at the avoided costs. There are currently 25 solar customers.
 3. System Update
 - We continue with our LED street light replacement program. We are approximately 65% complete.
 - The small power interruptions continue to be caused by Tri-State mobile substation problems.
 4. Financials (Electric Fund)
 - Total revenue was \$905,400. This is less than the June budget of \$1,035,200 by \$129,800. Compared to 2022 sales were down 12.54%. Kilowatt usage decreased compared to 2022. Total kilowatts billed was 6,020,403. Year-to-date was \$5,493,900 which was below the \$6,226,20 budget by \$732,300. This is a 0.12% decrease for the year-to-date.
 - Expenses were \$1,200,900 for June. This is \$103,600 less than the budget. ARPA costs decreased from last June. Expenses were decreased by 2.28 % compared with 2022. Expenses exceeded revenue by \$63,000 for June 2023. Year-to-date, revenues have exceeded expenses by \$657,400.
 - ARPA: Energy decreased 15.49% from 2022. Overall kWh was decreased 15.34% from 2022. Avoided cost rate for 2022 was .04628/kWh while in 2023 it was .05087/kWh.
 - Compared to 2022, assets decreased \$40,500 and liabilities increased \$720,400. Net change in fund balance is \$657,400 for year-to-date 2023.

D. Sanitation. Martin Montoya gave the following report:

1. Still working on trying to get numbers for the cardboard idea from last month.
2. Went over the quote from Elliott Equipment Company along with the warranty and a list of repairs done on the current trash trucks.
3. In the process of getting a number from the manufacturer of our current trucks. It seems like no-body wants to give numbers on anything right now.

Chairman McKenzie: When you led us into this, we were talking about maybe leasing them.

Martin Montoya: This company came back and said that he can't come up with any way that seems feasible. It seems like no one out there will lease them.

Chairman McKenzie: There ought to be leasing companies out there that are just in the leasing business.

Martin Montoya: I think the problem is the trash truck.

Commissioner Bourget: GE Capital did a lot of construction equipment leasing. Maybe you can look into that.

4. Financials (Sanitation Fund)

- July revenues were \$132,300. This was \$47,700 above the estimated July budget of \$84,600. Comparatively, it is a 33% increase from 2022. Year-to-date revenue is at 52%. Budget shows it should be at 56%. Recycling revenues have increased steadily since its inception. There were 245 accounts participating in curb side pick-up in July. In 2022, only 228 residents participated. Total revenues were above the 2022 by \$107,300.
- Total sanitation expenses were \$88,200. This is \$4,400 below the May budget of \$92,600. Year-to-date expense is \$95,575. This is \$4,700 below the July budget of \$100,200. Year to date expense is \$86,100 less than budgeted and \$62,000 more than 2022. Expenses are at 57%. Budget shows we should be at 50%. Net change in fund balance is \$13,415.81 for year-to-date 2023.

NEW BUSINESS

A. City Manager's Comments.

1. In budget meetings this week. It's been hard. Supply chain and prices are still messed up.

B. Governing Body's Comments.

1. Vice-Chairman Cranson: Think we're all in favor of the 1% tax increase measure. If we could get free postage, the city could mail a fact sheet with the utility bills.

City Attorney Malouff: There's limitations as to man hours, the cost of paper and ink. It's just better to stay away. I would not encourage it.

Chairman McKenzie: We have to put a positive spin on it saying to have the quality of life we enjoy in this town, it's imperative that we step up and support it.

Vice-Chairman Cranson: That and the fact that 67% of the income comes from people outside of the city limits.

MOTION THAT THE UTILITY BOARD SUPPORT THE "2A" BALLOT MEASURE THAT'S COMING BEFORE THE VOTERS: Velasquez

SECOND: Cranson

DISCUSSION: There was no discussion

VOTE: The motion carried unanimously

Commissioner Bourget: What about donations?

City Manager Klein: There is a "2A" committee that has been formed. You can see Audrey Berg or Lisa Pantoya.

Commissioner Bourget: If the committee generates enough funding to pay for the time stuffing, the ink and the paper, could that pamphlet be put in the utility bills?

City Attorney Malouff: I don't know the answer. I'd want a chance to call somebody and ask. It's not a bad idea. We don't want to be in trouble. We want to do it right.

DISCUSSION CONTINUED REGARDING A FACT SHEET BEING PLACED INTO UTILITY BILLS AND ADDING INFORMATION TO THE CITY'S WEBSITE.

2. Vice-Chairman Cranson: Regarding the Conduit, is there any attorney progress or anything going on there?

Commissioner Bourget: I saw some pipe sitting on the highway.

City Manager Klein: I haven't had a chance to get with Dean as far as calling. I'm swamped out.

Chairman McKenzie: I was not going to bring this up. I was going to go to city council and ask the council what they had heard back from you because it was their charge to you to do this.

City Manager Klein: Yes.

Chairman McKenzie: That was the tact that I had planned to take but I think just to reiterate on that, I think we're going to be needing to be prepared as this thing comes further down the valley and one of these days they're going to show up with a contract to be signed and we need to be ready.

City Manager Klein: Tomorrow they're supposed to be doing an update at the Lower Arkansas Conservancy District.

Mayor Ayala: So, where are we at right now? Have we had people that said no because of conflicts?

City Manager Klein: We've had the ones go no way. Mike's given another one. I haven't had a chance to vet that out.

Chairman McKenzie: So, along with that, just adjacent to it. Just to back up a little bit, I believe the issues are that A) we don't know the cost, B) they tell us that we can't change the amount of water that we ask for and C) they've told us that we won't be able to receive our project water if we're not part of the conduit. Those are my three main issues. I think maybe on the second one, on the amount of water that we have requested that was request years ago, it might not be a bad idea. I don't know who to hire for this. This is another, who do you hire? Then, maybe we need an engineer to give us an idea how much water we need to request and why that's the number. They're saying we can't change the number that they got years ago. But, even if we find out that we can change the number, which is a big deal, because we're going to pay into perpetuity on that pipeline based on that number. We want to know that the amount of water is what we really want and I'm not convinced that we know that. I think all we know is what Mr. Kelley said a couple of decades ago. As a point of discussion, where do we find an engineer that tells us how much the city ought to be asking for?

Council Member Velasquez: For clarification, when they say we can't change the amount, if we ever need more water, does that mean we can't request more water? We're stuck to a certain amount?

City Manager Klein: These questions have been asked. On question number three, every time I see Bennetts and Boeberts reps, I keep asking, what did you find out about whether they can steal our augmentation water? They say, Rick we haven't been able to find out that they could do it but that doesn't mean they couldn't. I said, well, we need a definitive answer from the federal government.

Chairman McKenzie: That's why we need an attorney that's going to tear into them.

City Manager Klein: The other two turn out mute. If they say they can steal our water because at that point, then we're into a lawsuit.

Chairman McKenzie: We've been asking the same question for a year. We get no answers.

Commissioner Bourget: Before meeting with them, them being the conservancy district, in November, we were going to have answers.

Mayor Ayala: I have not heard one word since that meeting from anyone on that board or committee.

Commissioner Bourget: I've been told multiple times on telephone conversations or in person that they would have answers coming shortly and that's months ago. I give up.

City Manager Klein: They did get \$100 million dollars of funding but that's for the trunk line.

Chairman McKenzie: The number was \$600 odd million five years ago or four years ago, whatever the amount of inflation that we've had since then. We've not seen a new estimate of the cost of the whole thing but it's gotta be a billion.

City Manager Klein: Frank, wouldn't it seem like when they let that first contract out, they had an engineered estimate for that section of the project. Did it come in high or did it come in low.

Commissioner Bourget: That would be a good indication.

Mayor Ayala: So, back to the lawyer. You're going to be doing it with Dean's guidance?

City Manager Klein: Yes, lawyers talk to lawyers.

Chairman McKenzie: Well, we want a mean one.

City Attorney Malouff: This is not an excuse. This is a statement. We need to know to be able to define the role of the attorney and right now, in my mind, the role is still not clear for the very reasons that you just listed Chairman McKenzie as to what's going on here. If there's an expectation that we hire a fighter lawyer, to fight what? To petition a federal district court to enjoin the entire project? We need to clear up what we're looking for the lawyer to do and it's not a question of litigation at this point. It's a question of perhaps negotiation. But not litigation and the two worlds are vastly different.

Commissioner Bourget: I thought it was pretty clear. We need to know if they can withhold water. If they can, then it's a mute point. We're done. That's it. The decisions made. We need someone with the knowledge to determine that.

City Attorney Malouff: Looking back at the minutes, if I understood the charge, three, four meetings ago, was to find a lawyer that was a litigator. Litigation and negotiation or litigation and whatever you want to call it, are two different worlds. We're looking for a litigator, not a guy that's going to be asking questions. That's what you said in your minutes. It said a supplemental attorney to litigate and so that's what we've been looking for. The question is, what are they litigating? I don't know.

Chairman McKenzie: I don't think in lawyer terms. So, I don't really understand all of this. I understand a little bit more than I did. If we were litigating, it would be litigating the comment by Bill Long to me directly that if you're not in on the conduit, then you're not going to get your project water.

City Manager Klein: We do have that in writing.

Council Member Velasquez: I think, that in itself, is not a decision that he can make or any of the board can make. I believe that would take a finding from a water judge at this point. Because that's a direct threat. I think that's where we're at now. That we move towards at least having a judge make a ruling on that since it would be ultimately . . . I guess we're to the point of litigation at that point.

City Attorney Malouff: Mr. Chairman, if we're going to discuss this we need to be in executive session and I'm glad to do it right now.

Chairman McKenzie: Let's do it. Once again, is it our place to do it? All we're going to do is go in there and beat our brains in and then turn around and have city council do the work. Is it not more that city council should be in executive session at least with us or by themselves making this charge?

City Attorney Malouff: With all respect, I think there's, at least this board's level today, there's a total misunderstanding of what litigation means and how we go about it. So, I would view this executive session thing would be an educational process, not necessarily a decision-making process. But you're right. You can't make the decision without them. They're going to lean on you as to what your recommendation is.

Mayor Ayala: So, we can make an updated recommendation if that's what needs to be done.

City Attorney Malouff: But, you just don't, I know it seems like when you read the newspaper, you just can't sue anybody for any reason and frankly, that's true. There's a thing called the Cause of Action. What are we suing? Are we suing Bill Long because he hurt our feelings? Are we suing because somebody didn't give us an answer? Are we suing because we want to stop the project in total? What are we asking the litigator to do? And that's not been defined. You can't sue Bill Long because he said that. That's not actionable. There's no point of action there. He may be right, he may be wrong, but we can't sue him for it.

Chairman McKenzie: Been bashing Bill Long out here and it's going out on Facebook.

MOTION TO GO INTO EXECUTIVE SESSION FOR A CONFERENCE WITH THE CITY ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS UNDER C.R.S §24-6-402(4)(b): Cranson

SECOND: Bourget

DISCUSSION: There was no discussion

VOTE: The motion carried 5-0

Council went into Executive Session from 5:03 p.m. until 5:34 p.m.

There being no further business, the meeting adjourned at 5:34 p.m.

ATTEST:

CITY OF LA JUNTA

Melanie R. Scofield, City Clerk

Frank McKenzie, Chairman