

**SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY**

**MINUTES OF THE BOARD OF DIRECTORS MEETING**

*(May 15, 2008)*

The Board of Directors of the San Francisco Bay Area Water Emergency Transportation Authority met in regular session at the offices of the San Francisco Bay Conservation & Development Commission, San Francisco, CA.

**1. ROLL CALL AND CALL TO ORDER**

Chair Charlene Haught Johnson called the meeting to order at 1:11 p.m. Directors present were Chair Johnson, Vice Chair Anthony Intintoli and Directors Beverly Johnson and John O'Rourke. Chair Johnson led the Pledge of Allegiance.

**2. REPORT OF BOARD CHAIR**

Chair Johnson acknowledged that it was Executive Director Steve Castleberry's last day at WETA. She thanked Mr. Castleberry for his many contributions to the WTA and WETA and noted that Mr. Castleberry would be available to assist during the transition to a new Executive Director if needed.

**3. REPORT OF DIRECTORS**

None.

**4. REPORTS OF STAFF**

Mr. Castleberry introduced Peter Friedmann of Lindsay, Hart, Neil & Weigler. Mr. Friedmann presented a Federal Legislative Report and a brief history of his work with WTA and WETA, noting that although the political climate was not favorable for funding the WTA during its initial years, efforts to enlist labor organizations and ferry advocates from Seattle and elsewhere for Bay Area ferry service resulted in \$22 million in funding. Although the political situation has changed dramatically since then there is still intense competition for funds. He noted that he continues to work with a coalition of public ferry operators from Washington State, New York/New Jersey, Alaska and North Carolina to develop more support. Several upcoming items of interest include legislation for federal funding for transit security, which the WETA will be eligible for once it is operating vessels, and climate change legislation which will include funding for transit. Mr. Friedmann is working to ensure that ferries will be part of that mix. He noted that federal funding does not go to operating costs and that it is possible that this may change as a part of the climate change legislation due to transit operators' concerns over rising fuel costs. Mr. Friedmann thanked WETA for supporting his efforts and looked forward to continuing success.

Mr. Castleberry introduced Shane Gusman of Broad & Gusman who presented a State Legislative Report. Mr. Gusman noted that due to a \$17.2 billion budget deficit it appeared \$1 billion in public transit funding would be cut, but that in the event that the Governor's bid to sell the State Lottery fails with voters a state sales taxes may come into play and may help restore some transit dollars. Regarding SB 1093 cleanup legislation, Mr. Gusman said the legislation had been placed on a suspense file until the budget issues are resolved but that it was expected Senator Perata would ensure action would be taken on the bill soon. Mr. Gusman noted that costs related to the cleanup legislation were expected to be approximately \$100,000 and that

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WETA will likely be able to seek reimbursement from the state. He added that Amalgamated Transit Union has been pushing to include language in SB 1093 specific to feeder buses and that language regarding funding from bridge toll increases was also possible.

Mr. Castleberry added that although the transit funding cuts would have catastrophic effects on public transit, they will not directly affect WETA since WETA is not currently receiving funding from those sources.

Vice Chair Intintoli asked if bridge toll increases could be used to help solve operational funding issues and if there would be language included that would assure passengers that levels of service would be maintained. Mr. Castleberry noted the bill currently exists only in a nebulous form and that over the summer these concerns can be addressed and included in the bill's language.

**5. CONSENT CALENDAR (Item 6)**

Director Johnson made a motion to approve the minutes from the May 1, 2008 Board of Directors meeting. Vice Chair Intintoli seconded the motion and the item carried unanimously.

**6. ACTION ITEM – AUTHORIZE FILING AN APPLICATION WITH MTC FOR \$3 MILLION FY 2008/2009 RM2 OPERATING FUNDS**

Deputy Director of Finance and Administration Nina Rannells presented this item and noted a correction to "FY 2008/09" in the Recommendation paragraph.

Director Johnson made a motion to approve the item. Director O'Rourke seconded the motion and the item carried unanimously.

**7. ACTION ITEM – APPROVAL OF AMENDMENT NUMBER 7 TO ABAG AGREEMENT FOR PROVISION OF SUPPORT SERVICES**

Ms. Rannells presented this item regarding support services and noted that ABAG has been providing services to WETA at a much lower cost than would be otherwise possible. Mr. Castleberry added on a related note that GASB audit would summarize the cost of staff benefits. Director Johnson asked if audit results would come back to the Board. Ms. Rannells indicated that they would.

Director Intintoli made a motion to approve the item. Director O'Rourke seconded the motion and the item carried unanimously.

**8. ACTION ITEM – APPROVE AMENDMENT NUMBER 9 TO THE AGREEMENT WITH NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP (NGKE) FOR THE PROVISION OF LEGAL SERVICES**

Mr. Castleberry presented an amendment to the NGKE agreement for legal counsel, noting that expenses for the prior year had been higher than expected due to the WETA transition and Nichols Brothers bankruptcy, and that this year's anticipated expenses were lower as a result. He also gave a general overview of the contract renewal process and history for Agenda Items 9, 10 and 11.

Director Johnson asked why amendments were used instead of issuing new contracts. Mr. Castleberry replied that it could be done any number of ways but that the amendment process allowed for a simplified method of auditing costs over an extended period since all costs would be tied to a single agreement.

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Director Intintoli made a motion to approve the item. Director Johnson seconded the motion and the item carried unanimously.

**9. ACTION ITEM – APPROVE AMENDMENT NUMBER 7 TO THE AGREEMENT WITH LINDSAY, HART, NEIL & WEIGLER, LLP FOR THE PROVISION OF FEDERAL LEGISLATIVE REPRESENTATION**

Manager of Community Relations Shirley Douglas presented this amendment to the agreement with Lindsay, Hart, Neil and Weigler, LLP.

Director Intintoli made a motion to approve the item. Director O'Rourke seconded the motion and the item carried unanimously.

**10. ACTION ITEM – APPROVE AMENDMENT NUMBER 4 TO THE AGREEMENT WITH BROAD & GUSMAN FOR THE PROVISION OF STATE LEGISLATIVE REPRESENTATION**

Ms. Douglas presented this amendment to the agreement with Broad & Gusman.

Director O'Rourke made a motion to approve the item. Director Johnson seconded the motion and the item carried unanimously.

**11. ACTION ITEM – APPROVAL OF CIRCULATION OF DRAFT DBE PROGRAM**

Ms. Douglas presented a draft DBE Plan, reviewed the process of circulating the plan, and noted that the final DBE Plan would be brought back to the Board for approval after the public comment period.

Vice Chair Intintoli asked if the definition of a DBE was a federal definition. Ms. Douglas said that it was. Mr. Castleberry noted that WETA is not a certifying agency. Ms. Douglas added that the certifications used to create the plan were from Caltrans data.

Director O'Rourke made a motion to approve the item. Director Johnson seconded the motion and the item carried unanimously.

**12. ACTION ITEM – APPROVAL OF TRAVEL BY DIRECTORS TO INTERFERRY CONFERENCE**

Mr. Castleberry presented this item to approve travel of up to two Board members to the Interferry Conference this coming year. Due to WETA Administrative Code, the costs related to Board travel exceeding 100 miles is required to receive Board approval. He noted the unique learning opportunity that the Interferry conference presented.

Director O'Rourke asked about the policy for staff to attend. Mr. Castleberry noted that no approval was needed for staff and that typically one staff member would attend along with Board members. Director Johnson asked that more information and advance time be given to Board members for conferences. Mr. Castleberry responded that details about the conference had only just arrived and would be provided to the Board. Chair Johnson noted that the previous year's conference had been highly informative. Director O'Rourke said that the next Executive Director should attend.

**Public Comment:**

Gene Rexrode of San Francisco stated that as a planner working for the Golden Gate Bridge District's ferry service 33 years ago he had been a founding member of Interferry, had served on its Board for 12 years, and was currently an honorary member. He encouraged attendance

for both WETA Board members and staff and noted the authenticity and usefulness of the information presented at the conference.

Director Intintoli made a motion to approve the item. Director O'Rourke seconded the motion and the item carried unanimously.

**13. ACTION ITEM – POSITION ON SENATE BILL 1093 AND RELATED ACTIONS**

Before the item was introduced, Vice Chair Intintoli asked WETA counsel Danielle Gensch if there was any conflict of interest. Ms. Gensch stated that the issue had been considered and that it was not believed that any conflict was present for either Vice Chair Intintoli or Director Johnson specific to this matter. Vice Chair Intintoli and Director Johnson asked that Board members be advised prior to meetings if there were any potential conflict of interest issues. Ms. Gensch agreed that was preferable and added that NGKE represented the WETA Board as a whole and that if individual Board members had specific concerns they should consult their personal or city attorneys. She further added that is in the best interest of all parties to avoid any such conflicts and that NGKE will continue to carefully consider any potential issues.

Ms. Rannells then presented the item regarding WETA's position on SB 1093 and summarized WETA's ongoing work with the cities of Alameda and Vallejo. Vice Chair Intintoli asked if the services were taken over by WETA if potential fare increases would be subject to CPUC approval. Mr. Castleberry replied that WETA would be exempt due to language in SB 976. Ms. Rannells added that as a recipient of federal funding, WETA would be required to establish a process for fare increases and that such a process would be brought back to the Board.

Ms. Rannells further detailed SB 1093 and the related proposed amendments. Mr. Castleberry added that beyond detailing the process of consolidation, this was an opportunity for WETA to lay out its vision. Ms. Rannells added that the second part of the action was regarding RM1 and RM2 funds, which per SB 976 are to be paid directly to WETA. MTC had asked that the WETA Board take action to allow them to directly allocate these funds to the cities of Alameda and Vallejo until such time as SB 1093 is formalized. Director Johnson asked if there was anything in the resolution contrary to the position of City of Alameda staff. Ms. Rannells indicated that she did not believe so, but that two items not yet covered that are of interest to the cities include the clarification of future Board member representation and WETA's public participation process. Director Johnson asked if these issues had been addressed yet in the cleanup legislation. Ms. Rannells indicated that she believed some language had been proposed but it was not yet clear if it would be included.

**Public Comment:**

Mr. Gary Leach, Vallejo Public Works Director, commented that Vallejo's position was that the cities of Alameda and Vallejo would each present three Board appointment nominees to the Governor from which one Board member representing each city would be selected. He added that this was not final language and was potentially controversial.

Director Johnson suggested that if this language proved controversial that something else be introduced to ensure representation from Alameda and Vallejo. Ms. Rannells replied that this was an issue that should be led by the cities and not by WETA. Mr. Castleberry added that WETA has taken no position on the issue. Director Johnson asked that the Board be advised of any conflicts between WETA and the cities.

Vice Chair Intintoli made a motion to approve the item. Director O'Rourke seconded the motion and the item carried unanimously.

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**14. ACTION ITEM – APPROVE AMENDMENT NUMBER 3 TO THE AGREEMENT WITH ROMA DESIGN FOR SOUTH SAN FRANCISCO TERMINAL DESIGN SERVICES**

Manager of Planning and Development John Sindzinski presented an amendment to the Roma Design contract which included an authorization to request additional RM2 funding for the project from MTC. Director Johnson asked if there was any further information on green building design. Mr. Sindzinski indicated that a report on the South San Francisco terminal and LEED Certification for future projects was being prepared and would be brought back to the Board next month.

Director O'Rourke made a motion to approve the item. Vice Chair Intintoli seconded the motion and the item carried unanimously.

**15. ACTION ITEM – AUTHORIZE NEGOTIATION WITH AN EXISTING SAN FRANCISCO BAY AREA PUBLIC FERRY OPERATOR FOR INTERIM USE AND RELEASE OF RFP FOR WARRANTY PERIOD BAREBOAT CHARTER AGREEMENT FOR GEMINI AND PISCES**

Manager of Marine Engineering Mary Frances Culnane noted that vessels Gemini and Pisces will be delivered before WETA will be able to use them and that the vessels should be put into operation as soon as possible in order to exploit the benefits of the Warranty Period. She noted that several operators would have suitable routes and would likely want to run the boats. Ms. Culnane added that bareboat charters would be at almost no cost to WETA. Chair Johnson asked why there would be any cost at all if WETA leased the vessels. Ms. Culnane noted that operational costs for the vessels were higher due to cost of urea and other factors. She added that WETA would also add additional terms restricting the use of the boats and to allow WETA to regularly board and inspect.

Director Johnson asked if the interim use would likely be by a public operator. Ms. Culnane indicated that that was likely, but that by including an RFP for bareboat charters to private operators there could be increased bidding. Mr. Castleberry added that Alameda had expressed interest in operating the boats but that other options should be kept open. Ms. Culnane further explained the definition of a bareboat charter at the request of Director Johnson. Director Johnson expressed concern that any operator be chosen carefully. Ms. Culnane stated that any agreement would be brought back to the Board for approval. Director O'Rourke suggested that minimum qualifications for the operators be established. Ms. Culnane answered that US Coast Guard provided regulatory oversight for qualifications. Director O'Rourke suggested that that should be taken as a minimum requirement and that WETA could exceed that. Ms. Culnane acknowledged this and said qualifications would be outlined in any agreement. Mr. Castleberry added that to some degree potential operators had already been vetted by the public agencies running the current ferry services and that an agreement with a public operator was highly preferable. Vice Chair Intintoli asked that any agreement come back to the board before it was entered into. Ms. Culnane indicated that it would be and added that this was only a motion to enter into negotiations.

**Public Comment:**

Marina Secchitano of IBU appreciated the consideration of current operators and highly trained crews during the transition period and thanked Keith Stahnke for his role in establishing the high levels of service and qualifications for crews in Vallejo and Alameda as well.

Capt. Ray Shipway of Masters Mates & Pilots expressed satisfaction that the new boats would be delivered soon and thanked WETA for its support and encouragement. He acknowledged

Ms. Secchitano and Capt. Nancy Wagner's contributions to the former WTA Board and looks forward to a continued relationship with WETA.

Daniel Reidy, an attorney representing Harbor Bay Maritime and Alameda/Oakland Ferry, spoke in support of moving forward with this item.

Vice Chair Intintoli made a motion to approve the item. Director O'Rourke seconded the motion and the item carried unanimously.

**16. PUBLIC COMMENT**

Marina Secchitano presented Mr. Castleberry with an acknowledgement of his service to WTA and WETA.

**17. RECESS INTO CLOSED SESSION AND REPORT ON CLOSED SESSION**

Chair Johnson called the meeting into closed session at 2:50 p.m. Upon reopening of the meeting at 3:05 p.m. Chair Johnson reported that Nina Rannells had been appointed Interim Executive Director.

**18. ADJOURNMENT**

All business having concluded, the meeting was adjourned at 3:10 P.M.

Respectfully Submitted,

Board Secretary

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