

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY
MINUTES OF THE BOARD OF DIRECTORS MEETING

(February 5, 2015)

The Board of Directors of the San Francisco Bay Area Water Emergency Transportation Authority met in regular session at the WETA offices at Pier 9, Suite 111, San Francisco, CA.

1. ROLL CALL AND CALL TO ORDER

Chair Jody Breckenridge called the meeting to order at 1:03 p.m. and led the Pledge of Allegiance. Other directors present were Director Timothy Donovan and Director Anthony Intintoli.

2. REPORT OF BOARD CHAIR

Chair Breckenridge noted attendance at an outreach meeting with WETA staff and the United States Coast Guard which was included in the Executive Director's report.

3. REPORT OF DIRECTORS

No reports.

4. REPORTS OF STAFF

Executive Director Nina Rannells referred the Board to her written report and offered to respond to any questions. She then reported on several additional items.

Firstly, Ms. Rannells reported on her January 23 attendance along with Manager of Planning and Development Kevin Connolly and Senior Planner Chad Mason at a meeting of the West Contra Costa Transportation Advisory Committee, noting that the committee had approved Measure J funds for consideration to the Contra Costa Transportation Authority at their February 17 meeting in support of the Richmond ferry service. She added that Mr. Connolly had also attended a committee meeting on February 4 at which the funding had also been approved.

Secondly, Ms. Rannells reported she and Chair Breckenridge met on January 22 with USCG Rear Admiral Joseph Servidio of the Eleventh Coast Guard District and also attended a meeting the next week with Administrative/Policy Analyst Lauren Gularte and Operations Administrator Kevin Donnelly on Treasure Island, both as a precursor to developing a scope for an updated emergency response plan.

Ms. Rannells then introduced Mr. Donnelly who delivered an overview of the recently completed East Bay Terminal Refurbishment Project. Mr. Donnelly noted that Operations Manager Keith Stahnke had been the mastermind of the project and that due to Mr. Stahnke's planning and expertise, along with that of WETA's contractors and consultants, the projects had been executed successfully.

Mr. Donnelly reported on the details of the work performed and added that there had been no negative impact to operations and that service from the East Bay to SF was maintained by closing only one terminal at a time on the Oakland/Alameda route.

Director Intintoli noted that the Board continued to have a vacant seat and asked Attorney Stan Taylor to confirm his understanding that, as only three members were in attendance, in the event that all three

did not agree on an item it would be held over. WETA counsel Stanley Taylor of Nossaman LLP replied that that was correct and that any item would require three votes in favor to pass.

Director Intintoli referred to the financial report and noted that farebox recovery looked good. Ms. Rannells agreed, stating that the system overall stood at 51% and noting individually the services had different costs and revenue fluctuation throughout the year.

Ms. Rannells then discussed the written legislative updates included in the report. She reported that in an earlier teleconference with WETA Federal Legislative Representative Peter Friedmann of Lindsay Hart, LLP, Manager of Finance and Grants Lynne Yu and Administrative Policy Analyst Lauren Gularte that Mr. Friedmann said he had been approached by Minority Leader Pelosi's office regarding the language and eligibility criteria relating to the FTA formula for the ferryboat discretionary grant program and that they were looking into ways to increase funding for the program.

5. CONSENT CALENDAR

Director Intintoli asked what a duct bank was. Mr. Connolly explained that the duct bank was a series of pipes used as utility ducts, the leasing of which would avoid the need for underground excavation. Chair Breckenridge asked if the 30 year term on the lease was customary. Mr. Connolly said that it was.

Director Donovan noted that there are multiple ducts and expressed a concern that there might be other utilities utilizing those ducts in the future. Mr. Taylor noted a non-intrusion provision which WETA asked be included in the lease agreement which would require WETA's consent prior to any disturbance of the ducts. Director Donovan asked if this would be a cost savings to the project. Ms. Rannells suggested that considering the unknowns which had been uncovered during site excavation that \$30 for 30 years of duct bank seemed like a very good deal.

Public Comment

Jerry Bellows of the Maritime Administration asked about the \$5,000 fee to be paid upon execution of the lease. Ms. Rannells replied that it was a deposit which was largely returnable upon conclusion of the lease. Chair Breckenridge further clarified that \$1,400 of the \$5,000 was a non-returnable administrative fee.

Director Intintoli made a motion to approve the consent calendar which included the Board of Directors meeting minutes of January 8, 2015 and a lease agreement with the Pittsburg Power Company and Lennar Mare Island, LLC.

Director Donovan seconded the motion and the consent calendar carried unanimously.

Yeas: Breckenridge, Donovan, Intintoli. Nays: None.

6. APPROVE CONTRACT AWARD TO BAY SHIP & YACHT FOR REFURBISHMENT OF FERRY VESSEL PERALTA

Manager of Public Information and Marketing Ernest Sanchez presented this item requesting Board approval of a contract award to Bay Ship & Yacht for the refurbishment of the MV *Peralta* in an amount not to exceed \$3,387,385 and to authorize the Executive Director to negotiate and execute an agreement and all other documents necessary to support this work. Mr. Sanchez noted that Mr. Stahnke had planned this item from inception and that he had been managing the item on Mr. Stahnke's behalf.

Director Donovan asked how many contractors on the contract opportunity distribution list were in the Bay Area. Administrative Analyst Scott Houston replied that he was uncertain regarding the geographic breakdown. Director Donovan noted that only two proposals had been received and asked if three proposals were required in order to approve a contract. Mr. Taylor replied that any number of responsive proposals was sufficient. Director Donovan asked what the fee was for missed work days. Mr. Sanchez replied that it was \$3,600 per day.

Director Donovan asked if the award would meet the required DBE participation. Ms. Gularte replied that WETA's DBE program established a participation goal but not a requirement, adding that there are very few DBEs available for shipyard related work.

Director Intintoli asked what the cost would be for Phase 2 of the work. Mr. Sanchez replied that it would be approximately \$1 million. Director Intintoli asked if Phase 1 would be completed in time for the summer schedule. Mr. Sanchez said that it would be and that it was unlikely that a substitute vessel could be obtained in time for the summer schedule in the case where the vessel work is not completed on schedule.

Ms. Rannells noted that Mr. Stahnke had looked extensively for suitable, lease-able replacement vessels for use during the work period and had not found anything. Chair Breckenridge noted that there was limited availability across the nation and that compatibility would be an issue in any case. Mr. Sanchez said that the Alaskan ferry vessel *Klondike* may have been suitable but that it would have required a return to Alaska by March.

Public Comment

Mr. Bellows reported that WETA had been mentioned in Marine News regarding the boom in the shipbuilding business.

Chair Breckenridge added that shipyard and drydock availability was extremely tight everywhere and that work needed to be scheduled well in advance.

Director Intintoli made a motion to approve the item. Chair Breckenridge seconded the motion. Director Donovan voted no.

Yeas: Intintoli, Breckenridge. Nays: Donovan.

Accordingly the motion failed.

Chair Breckenridge asked Mr. Taylor if the item could be held-over for consideration until all four Board members were present at the March meeting. Mr. Taylor indicated that the item could be reviewed pursuant to a reconsideration motion.

7. APPROVE PROPOSITION 1B PROGRAM OF PROJECTS AND AUTHORIZE AGENCY OFFICIALS TO EXECUTE PROGRAM REQUIREMENTS

Ms. Rannells presented this item requesting that the Board authorize actions related to the FY2013/14 and FY2014/15 Proposition 1B Waterborne grant programs including approving projects for transmittal to the California Governor's Office of Emergency Services and authorizing the Executive Director, Attorney and Finance and Grants Manager to execute grant program documents and to take all other actions as may be required to obtain funding.

Chair Breckenridge asked for more information on what the \$13 million in the 2014/15 budget for vessels would mean for WETA. Mr. Rannells replied that it would be available to support replacement

of existing vessels and the purchase of one additional backup vessel, clarifying that funding from an additional source or sources would be required to fund vessel projects.

Public Comment

Mr. Bellows noted that these funds did not appear to consider the Central Bay Operations and Maintenance Facility.

Ms. Rannells replied that the maintenance facility project was considered to be fully funded. Senior Planner Michael Gougherty added that WETA would be releasing bid documents for the project during the coming summer and that construction was expected to commence in 2016.

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

Yeas: Breckenridge, Donovan, Intintoli. Nays: None.

8. APPROVE AMENDMENT TO AGREEMENT WITH ROMA DESIGN GROUP FOR DESIGN AND ENGINEERING SERVICES FOR THE DOWNTOWN SAN FRANCISCO FERRY TERMINAL EXPANSION PROJECT

Mr. Gougherty presented this item requesting that the Board approve Amendment No. 3 to Agreement #10-005 with ROMA Design Group in the amount of \$3,620,000 to provide Phase II Preliminary and Final Design services for the Downtown San Francisco Ferry Terminal Expansion Project and authorize the Executive Director to execute the amendment.

Director Donovan asked if the design included LEED certification goals and if the documents included options for solar and other alternative energy sources. Mr. Gougherty replied that LEED goals did not apply directly to projects such as the Downtown San Francisco Ferry Terminal Expansion Project which did not include HVAC systems, but that other goals such as "Zero Net" were more applicable. He added that solar was already included as an option, noting that the project was in a historic district and that this would need to be considered for inclusion of the solar element.

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

Yeas: Breckenridge, Donovan, Intintoli. Nays: None.

9. AUTHORIZE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE LEASE AGREEMENT AND RIGHT OF ENTRY PERMIT WITH CITY OF ALAMEDA FOR THE CENTRAL BAY OPERATIONS AND MAINTENANCE FACILITY

Mr. Gougherty presented this item requesting that the Board authorize the Executive Director to negotiate and execute a Lease Agreement and a Right of Entry Permit with the City of Alameda and take any other such related actions to acquire property for the Central Bay Operations and Maintenance Facility.

Mr. Gougherty presented an overview of the project area and introduced Danielle Gensch of Nossaman LLP who had negotiated the lease agreement.

Chair Breckenridge expressed a concern for security as the maintenance facility was exposed with very few other buildings in the area. Mr. Gougherty noted that there would be an eight foot fence and other security elements in place. Chair Breckenridge acknowledged these precautions but reiterated the

disposition of the surrounding area and that anyone in the area would be able to walk right up to the fence.

Director Intintoli asked about the relocation of the least tern nesting area. Char Breckenridge noted that they were a protected species and that once nested they would not relocate on their own. Mr. Gougherty added that it was a significant colony and important habitat for the least tern and that WETA had coordinated with the National Marine Fisheries Service and the US Fish and Wildlife Service to ensure WETA adopted the proper mitigation measures to not negatively impact the tern colony.

Mr. Gougherty also noted during development of the project staff had been made aware that harbor seals were pulling out onto existing pier structures. He said that staff had initiated a consultation with a group at NOAA with jurisdiction regarding the Marine Mammal Protection Act in order to ensure that WETA's activities would not negatively impact the seals. Mr. Gougherty added that staff had also been working on the issue with the City of Alameda and BCDC and that an agreement with the City to potentially fund an alternative haul-out site once the existing structure was demolished.

Chair Breckenridge stated a concern about hazardous materials at the site and asked if the lease provided for remediation in the event issues were uncovered. Mr. Gougherty noted that during the Phase 1 environmental site assessment the site was found not likely to be contaminated and that the assessment did not recommend the need for a Phase 2 assessment. He added that sediment sampling on the waterside site indicated that materials could be relocated to other marine sites, which was a relatively clean standard.

Ms. Gensch agreed, noting that the primary concern was US Navy's historical use of the property and that the most likely contaminant would be petroleum given its prior use as a marina. She added that the hazardous materials section of the lease, Section 12, was one of the most heavily negotiated sections of the lease. Ms. Gensch reviewed the relevant lease terms in detail.

Chair Breckenridge said that from her perspective Ms. Gensch has negotiated this part of the lease to minimize risk to WETA to the best of her ability. She then asked if it was difficult to find suitable sites for WETA facilities. Mr. Gougherty said that other sites which had been considered had significant and critical constraints but that this location had everything WETA required.

Director Donovan asked that if WETA located a preferable site in the future if it would be tied to the current site with the lease. Ms. Gensch replied that Section 20 of the lease stated that WETA did not need to remove or restore the site at lease termination. She said that there had been no early termination terms negotiated in order to get the best possible deal for WETA but that it could be done if needed.

Public Comment

Veronica Sanchez, Masters, Mates & Pilots said that she was very supportive of the project and was looking forward to MM&P engineers staffing the facility. She said that MM&P would want input regarding staffing issues and design. Ms. Sanchez also said she would like details regarding the emergency response components of the facility.

Public Comment

Mr. Bellows noted that the MARAD ships as well as their continuity facility were in the same area as the WETA site and that he thought it was a good location.

Public Comment

Richard Bangert of Alameda spoke regarding the harbor seal issue, stating that it was encouraging news that the issue of constructing a haul-out was under discussion with the City of Alameda, but he said that for purposes of the lease at hand it should be considered as hearsay. He advised the Board to postpone approval of the lease agreement until there was written confirmation of a plan to relocate the harbor seal haul-out, as otherwise there would be no recourse to see that one is built. He said that it did not appear that the National Marine Fisheries Service would provide any help as they had not contributed during the open comment period for the project. He said that the issue should be brought to BCDC before the City signed off on the project and added that the citizens who walk the trail near the site know that the seals are there and that it was not the City's fault that they were missed by WETA's environmental consultant. He urged the Board to postpone approval of the lease until the issue had been resolved.

Public Comment

Irene Dieter of Alameda said that she was a part of an organized group working on protecting the harbor seals' environment and was asking WETA to build another haul-out site now before moving forward on the site, not after. Regarding the existing site, she said that it was in a beautiful area with a campground and the Bay Trail adjacent and that the seals had taken up the location due to its serenity. She said an ideal site would be on the other side of Seaplane Lagoon where the City was expected to create a park with wetlands. She said that she was also concerned about fuel storage at the WETA site, noting that the only route to deliver fuel would be through the Alameda tube. Ms. Dieter said that she also wanted to hear about what improvements WETA planned for the park. She said that if WETA didn't want a big pushback on the project, they would be smart to work on a new haul-out site before doing anything else.

Director Donovan asked about the issues surrounding building a haul-out prior to the project versus after. Mr. Gougherty replied that staff agreed that the other side of Seaplane Lagoon was the ideal location for the haul-out as placing it near the maintenance facility was not practical as the water was either too shallow or too deep. He said that the harbor seal issue had first been brought to staff's attention at a January 2014 BCDC design review board meeting and that WETA immediately began consulting with NOAA on the issue but that they had not recommended building a new haul-out. Mr. Gougherty said that WETA also addressed the issue with BCDC but that they deferred to NOAA on the issue.

Mr. Gougherty added that notwithstanding NOAA's position, in order to address community concerns WETA had met with the City to discuss funding a haul-out. He said that WETA was committed outside of any regulatory requirement to address this issue with the City on behalf of the project. Mr. Gougherty added that as a timeline and funding details had not yet been worked out that it was not appropriate to include the haul-out relocation in the lease.

Mr. Connolly added that BCDC was amenable to requiring WETA to fund a haul-out at Seaplane, but that in order to achieve a BCDC permit, WETA had to first execute the lease.

Director Donovan said that he understood the need to execute the lease first, but asked if the commitment could be entered into an MOU in order to reassure the public. Mr. Connolly said that was possible and Mr. Donovan said he would like to see something like that.

Chair Breckenridge directed staff to update the Board regularly on the issue.

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

Yeas: Breckenridge, Donovan, Intintoli. Nays: None.

10. APPROVE SPECIAL EVENT FARE POLICY MODIFICATION AND AUTHORIZE PUBLIC OUTREACH FOR THE PROPOSED 2015 GIANTS SEASON AT&T PARK FERRY FARES

Mr. Gougherty presented this item requesting that the Board approve an updated fare policy for WETA special event services and authorize staff to conduct public outreach on proposed 2015 Giants season AT&T Park ferry fares. Mr. Connolly added that the item was intended to avoid operating these services at a deficit.

Director Intintoli stated that he would be interested in seeing what could be done to close the 10% operating deficit but that he would not support operating the service for a profit. He said that it was a bad PR move, that it made no sense, and that no customers would want to spend any more on the service than they already did. He said that because the Giants did not offer youth discounts on tickets did not mean that WETA should adopt the same policy, rather that perhaps the team should look to WETA as an example instead.

Ms. Rannells pointed out that the intent of the item was to create a discussion to look at how the fares should be set and to make the fares and fare categories consistent across service. Mr. Gougherty added that some kind of adjustment would need to be made to make the service economically sustainable.

Chair Breckenridge noted that BART did not change its fares for special events but instead increased their service. She also noted that Alameda was a USCG city, which is likely why that service included a military fare and asked staff to look at that.

Mr. Gougherty said that there were several alternative scenarios that could be considered but that if WETA wanted to break even on the service in 2015 a change would need to be made.

Chair Breckenridge said that WETA needed to look at the service provided and to take a reasonable approach to making the service self-sustaining. Director Intintoli said that what bothered him was the phrase "at a minimum". Director Donovan asked what percentage of riders was categorized as youth.

Ms. Rannells reiterated that this item was intended to start a discussion about ways to avoid running the service at a loss.

Chair Breckenridge asked what costs were included in the model. Mr. Gougherty replied that they included marginal labor rates, vessel costs for maintenance and wear and tear, fuel, ticket agents and Port of San Francisco landing fees.

Chair Breckenridge asked in what ways the ballpark service impacted WETA's regular services. Mr. Donnelly replied that it stressed the other services considerably. He said that evening runs were impacted at the Ferry Building, especially on Vallejo boats, and that last evening crews were required to do an additional run at the end of their shifts. Mr. Connolly noted that for the East Bay services an additional boat was required for ballpark runs which significantly constricted WETA's flexibility.

Mr. Gougherty said that he clearly understood the Board's reservations and asked if staff should remove the recommended options and then seek recommendations from the public in general.

Director Intintoli said that he did not support the item being brought to the public at this time.

Chair Breckenridge noted that the youth category had expanded to age 18. Mr. Connolly replied that it was in response to a region-wide effort to standardize the category.

Director Donovan asked if there was time to discuss the item further before fares were set for 2015. Mr. Gougherty replied that outreach would need to begin this month in order to impact fares before the start of the 2015 season. Ms. Rannells added that staff estimated a \$60,000 deficit for the Vallejo ballpark service if WETA failed to make an adjustment.

Chair Breckenridge asked staff for anything it could do to simplify the fare structure proposals, reiterating that WETA needed to focus on its regular services and that the ballpark service needed to pay for itself. Director Intintoli said that he was concerned that the options presented would do more than cover the current 10% deficit.

Chair Breckenridge tabled the item for further discussion at the March Board meeting.

11. OVERVIEW OF UPCOMING SUMMER SCHEDULE CHANGES

Mr. Connolly presented an informational overview of schedule adjustments developed to respond to increasing demand for ferry service while maximizing system efficiencies and utilization of vessels and crews.

Ms. Rannells pointed out that this plan would squeeze some additional service out of existing resources, but added her concern that WETA may not be able to implement these service increases without the refurbishment of the *Peralta* moving forward this month.

Chair Breckenridge asked what the latest date would be for work to begin on the *Peralta* in order for it to be available for the summer schedule.

Public Comment

Jason Covell of Blue & Gold Fleet and construction manager for the *Peralta* project said that work had been scheduled to begin on Wednesday in order to assure the vessel's availability for the summer schedule.

Chair Breckenridge asked Director Donovan if he would share his concerns regarding the *Peralta* contract with the Board. Director Donovan said his primary concerns were if the RFP process was sufficiently competitive, if DBE participation was acceptable, and if there was any subcontracting work available for DBE firms.

Ms. Rannells asked Ms. Gularte, WETA's DBE Administrator, to comment. Ms. Gularte said that there was very little subcontract work available on this project, due to the nature of the work. She also noted that WETA does not set contract goals for DBE participation, rather the agency sets an overall triennial goal that must be achieved each year of the three year period. She added that because there is no contract goal, DBE participation is not part of the evaluation criteria. Ms. Gularte noted that in general, there is very little DBE participation in shipyard work and that both proposers had no DBE participation. Ms. Gularte added that as part of the proposal process all firms were required to fill out DBE forms in order to be considered responsive and that each bidder was required to list each sub proposal but was not required to make a DBE commitment.

Mr. Taylor reiterated that WETA's DBE program was goal oriented and not a requirement and that WETA was to make an effort to meet this goal but not required to meet it. He added that it was very difficult to find boatyards that could meet WETA's work schedules and that yards located outside the Bay Area were unlikely to be able to complete the work at a profit.

Director Donovan said that he would like ample time for the Board to table or consider items in the future and not be backed into decisions. Chair Breckenridge added that if the Board had questions that it should have time to consider them.

Director Intintoli asked if the item could be reconsidered at this time. Director Donovan said that he would not object and asked that staff be aware of providing the Board with ample time for future items to allow Board consideration.

6. RECONSIDERATION/APPROVE CONTRACT AWARD TO BAY SHIP & YACHT FOR REFURBISHMENT OF FERRY VESSEL PERALTA

Director Intintoli made a motion to reconsider the motion to approve contract award to Bay Ship & Yacht for the refurbishment of the MV *Peralta* in an amount not to exceed \$3,387,385 and to authorize the Executive Director to negotiate and execute an agreement and all other documents necessary to support this work. Chair Breckenridge seconded the motion and the reconsideration motion carried unanimously. A further discussion of the urgent need to award the contract on an expedited basis followed.

Following the discussion Director Intintoli moved to approve the main motion, that is, upon reconsideration to approve award of the contract. Chair Breckenridge seconded the motion.

Yeas: Breckenridge, Donovan, Intintoli. Nays: None.

Accordingly the motion passed.

12. PUBLIC COMMENT

Mr. Bangert asked staff for an update to the status of the Alameda Access Study, noting the difficulty in parking at the Harbor Bay ferry terminal.

Mr. Connolly said that the City of Alameda was hosting a public meeting at Harbor Bay on the subject on February 24 and that staff anticipated bringing the study to the Board in June.

13. ADJOURNMENT

All business having concluded, the meeting was adjourned at 3:32 p.m.

Respectfully Submitted,

Board Secretary
