

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

**MINUTES OF THE BOARD OF DIRECTORS MEETING**

*(February 16, 2012)*

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 Charlene Haught Johnson called the meeting to order at 1:11 p.m. Directors present were Vice Chair Anthony Intintoli, Director Gerald Bellows and Director John O'Rourke. WETA representative Stanley Taylor III of Nossaman LLP led the pledge of allegiance.

**2. REPORT OF BOARD CHAIR**

Chair Johnson reported that the U.S. Army Corps of Engineers (USACE) is undertaking a project in the Oyster Point Marina that will likely delay the grand opening of the South San Francisco Ferry Terminal which WETA was targeting for at the end of April. She wanted to report that she had toured the new ferry terminal with several interested people including members of the Oyster Point Yacht Club who were thrilled with the project.

**3. REPORT OF DIRECTORS**

None.

**4. REPORTS OF STAFF**

Executive Director Nina Rannells referred to her written report and stated that the USACE recently awarded a construction contract for work to be done in the Oyster Point Marina that will likely result in a delay of the new South San Francisco ferry service launch. The contract would entail the reconstruction of the recreational piers within the harbor related to the breakwater that was built several years ago. The breakwater did not completely protect the harbor so this work is a fix to address issues.

Manager of Operations Keith Stahnke and Manager of Planning and Development John Sindzinski recently had an opportunity to meet with the USACE, the San Mateo County Harbor District and the construction firm for the subcontractor to talk about this work. Mr. Sindzinski stated that we were aware that the project was developed a few years ago but did not realize that it hadn't yet been completed. We were made aware that the project was moving forward in recent weeks by the San Mateo County Harbor District. Apparently the project was bid and awarded by USACE approximately two years ago but did not proceed due to lack of funds. Funds were recently secured and the contractor has been given a notice to proceed.

Construction was expected to begin at the end of May or June and last approximately two months. The contractors will require the use of a 60 foot barge to build wave attenuators at the end of the recreation docks and will require an additional 30 feet of work space so the 90 plus feet blocks over half the channel that WETA vessels have to travel to and from the ferry terminal. This could cause operational conflicts with the WETA vessels unless the contractor is instructed to work around WETA vessel schedules.

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Chair Johnson voiced concern that in the event that we delay the service start to allow the construction to be completed and the USACE project is delayed, this could push the service start date out indefinitely. She asked if it would be helpful to have a few Board members meet with the USACE to stress our concerns.

Director O'Rourke wanted to know if WETA had a sense of where the USACE stood in regards to working with the WETA. Mr. Sindzinski stated that he believed that the USACE would be willing to work with the WETA but added that the USACE is a very large organization and decisions are deferred back to Washington, DC.

Mr. Stahnke noted that options were discussed on how to accommodate ferry service and noted that the Harbor District indicated it could extend the working hours to accommodate more working time from 5 p.m. to 7 p.m. for a longer operating period.

Ms. Rannells indicated that staff would press for another meeting with Harbor District and USACE staff to discuss the project construction details and schedule in order to determine if WETA can proceed to launch the services this spring or if we should wait until the USACE project is completed in August or September.

On a separate subject, Director Bellows asked if there was a meeting with the U.S. Chinese Transportation Forum. Ms. Rannells stated that the meeting was arranged through the Mineta Transportation Institute and WETA was asked to talk to the delegation from China about who WETA is and does and what WETA's emergency responsibilities are.

Mr. Stahnke added that he gave a presentation related to WETA's emergency response activities and agency responsibilities. Manager of Transportation Services Ernest Sanchez arranged for the delegation to board a WETA vessel over to Alameda to continue on with the multi-modal tour. Mr. Sanchez said that the group was here to see how agencies deal with emergency responsibilities and Department of Transportation representatives who were traveling with the delegation explained how WETA was organized and funded. At the conclusion of the presentation, one of the members of the delegation came up to Mr. Sanchez and proclaimed Mr. Stahnke must be the head person in charge.

Chair Johnson asked if there were any new developments with the Richmond service site. Ms. Rannells stated that WETA had met with the City of Richmond on January 9 and talked about next steps and all the things that need to happen to develop a partnership to utilize shared use of the existing pier and facility.

Mr. Sindzinski elaborated that WETA is updating plans to use the existing docking area and had conversations with FTA about the environmental clearance required. He further stated that WETA will be meeting with BCDC to determine if WETA can use the existing area permits to support the project. Mr. Sindzinski noted that the City recently won the bid for the Lawrence Berkeley Lab campus which should provide some additional demand for the service. Chair Johnson thought that this seems like a great project that we should focus on implementing. Ms. Rannells agreed that it has the potential to move forward quickly and more economically than most other terminal sites due to the existing infrastructure.

## **5. CONSENT CALENDAR**

Director O'Rourke made a motion to approve the consent calendar which included minutes from the January 5, 2012 Board of Directors meeting, acceptance of the independent auditor's annual financial reports for the fiscal year 2010/11 and authorization for the Executive Director to execute a

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Master Programs Funding Agreement with the Alameda County Transportation Commission. Director Bellows seconded the motion and the item carried unanimously.

Ms. Rannells noted that the Master Programs Funding Agreement with the Alameda County Transportation Commission is the latest agreement for the next ten years. The Commission has been working on a sales tax extension and increase which is currently at a half cent and they are looking to extend the term and add another half cent on top of it. The current sales tax gives WETA about \$775,000 per year to support the Alameda ferry services and approximately an additional \$500,000 if that increase passes.

Vice Chair Intintoli asked if the Solano Transportation Authority was working to initiate a sales tax. Ms. Rannells indicated that she was not aware of any effort at this time.

**6. APPROVE A SOLE SOURCE CONTRACT WITH VALLEY POWER SYSTEMS NORTH INC., FOR IN FRAME OVERHAUL OF THE ENCINAL'S MAIN ENGINES**

Mr. Stahnke presented this item requesting Board approval of a sole source contract with Valley Power Systems North Inc., for the in-frame overhaul of the Encinal's main engines in an amount not to exceed \$800,000.

The exact costs will be determined as the parts are removed and examined. Funding for this project was secured over two years ago through a federal grant planning for the worst case scenario with funds available if all parts required replacement.

Ms. Rannells stated that staff was asking the Board to authorize an amount not to exceed \$800,000 with the hope that much less will be spent.

Director Bellows concurred that Valley Power Systems North is the correct choice and requested an amendment to the resolution to reflect responsive and responsible in place of response and responsible which Mr. Taylor indicated was standard language used in public procurement contracts. Responsive means that the proposal that was made by the contractor was responsive to the RFP and responsible goes to the reputation of the bidder and problems with previous contracts.

Director Bellows made a motion to approve the item with the correction on the resolution. Director O'Rourke seconded the motion and the item carried unanimously.

**7. APPROVE ON-CALL MARKETING AND PUBLIC INFORMATION SERVICES LIST AND AUTHORIZE THE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE CONTRACTS**

Mr. Sanchez presented this item requesting Board approval of an on-call marketing and public information services list and authorizing the Executive Director to negotiate and execute the contracts. The skills and abilities WETA is seeking are not marketing and planning skills but implementation of an advertising and promotional campaign.

Director Bellows asked if any of the companies were a disadvantaged business enterprise. Ms. Rannells noted that these services would not be funded with federal funds, so the federal policy was not applicable.

Director Bellows noticed that only one of the firms was providing printing services and asked if there were other firms that could provide these services. Mr. Sanchez confirmed that only one of the responsive bidders offered to provide printing services through the RFP. We could chose to use them for this service or issue a stand-alone RFP for ticket printing services in the future.

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Ms. Rannells noted that this list does not preclude the WETA from going out to bid for these services, but the intent was to provide access to services.

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

**8. APPROVE CHANGES TO DIVERSITY PROGRAM FOR CONTRACTS AND SUBMITTAL OF THE REVISED PROGRAM TO THE U.S. DEPARTMENT OF TRANSPORTATION**

Administrative/Policy Analyst Lauren Duran Gularte presented this item requesting that the Board approve the changes to the diversity program for contacts and authorize the submittal of the revised program to the U.S. Department of Transportation (DOT) by February 28, 2012.

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

**9. APPROVE VESSEL BRANDING PLAN**

Mr. Sanchez presented this item requesting Board approval of the Vessel Branding Plan for staged implementation beginning in FY2011/12.

Vice Chair Intintoli was wondering what was going to happen with his brand and expressed his concern for the \$30,000 cost per boat. Mr. Sanchez stated that staff was going to proceed in the most cost effective way possible.

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

**10. AUTHORIZE RELEASE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR CONSTRUCTION MANAGEMENT SERVICES FOR DREDGING PROJECTS**

Mr. Stahnke presented this item requesting Board authorization for the release of a Request for Qualifications (FQ) for construction management (CM) services for dredging projects.

Director Bellows asked if WETA was planning on having one company handle projects or several companies. Mr. Stahnke is seeking one company for the Harbor Bay project to work with under a three year contract with two-one year options to manage these various projects over the years stating that Vallejo has regularly scheduled maintenance dredging and this would simplify procurement as long lead times exist for permits, sampling and surveys.

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

Ms. Rannells commented that WETA is a small staff and now that WETA is in operations, procurement is becoming a huge issue with a big investment in time. Staff is attempting to bundle things in a way to work as efficiently as possible and wants to thank Board for their support.

**11. PROVIDE DIRECTION TO STAFF REGARDING POTENTIAL LEGISLATION TO STAGGER BOARD TERMS**

Ms. Rannells presented this item stating that this item had been the topic of discussion at a couple of meetings and Barry Broad of Broad & Gusman, LLP presented an informational item last month. She reminded the Board that this item was on the agenda for formal discussion as requested.

Vice Chair Intintoli agreed clean up language was needed on staggered terms but expressed his concern that WETA was not dealing with the issue of representation for currently serviced

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communities and those that may have service in the future. The fact that the communities are impacted by the service and that the service is important to the communities means that WETA should try to deal with representation over the next four to six years presuming that there would be no more than three or four main services.

He felt that this was important for communities like Vallejo and Alameda which will be two of WETA's most viable services may end up with no representation as things exist today unless language was added when reappointments are made.

Ms. Rannells introduced Shane Gusman of Broad & Gusman, LLP. Mr. Gusman indicated that the draft language provided was only focused on staggering the board terms and was designed to create the least controversy to the legislature.

Mr. Gusman stated that there were alternatives to extending the terms; however, extending the terms of previous appointments would likely create a negative reaction in the legislature as one of the responsibilities of our representatives is to make appointments, so we would be modifying their authority.

The issue with respect to identifying a member from a location has merit, but, again, would potentially change this from a non-controversial technical fix to a controversial bill. The concern would be how to choose which community has representation.

Vice Chair Intintoli expressed his comments as an individual stating that he was not concerned about the size of the Board as there are only two services currently in operation with the possibility of three more in the next five years. He suggested besides cleaning up the term issue that language be added stating that communities that have a service ought to have representation as it is vital to the community and doesn't think that it is tolerable for Alameda or Vallejo which have the biggest services that WETA is serving to end up in a few years with no representation.

Mr. Gusman suggested that if we proceed in this manner, consideration for appointment be given to impacted communities in a way that doesn't specify a particular appointment come from a specific community. He believes that general guiding language to the appointing authority would be viewed more palatably. Vice Chair Intintoli prefers to be more specific. Ms. Rannells asked where the line would be drawn. She noted that as a regional authority, the Board currently has no members that specifically represent any of the current cities or counties where terminals are or are planned. Once the discussion starts regarding potential representation, what would stop all other communities with terminals, such as Oakland, San Francisco and South San Francisco at the moment, from also wanting seats?

Mr. Gusman offered the option of waiting until next year to come up with plan using research in terms of political viability and language that addresses issues raised and seeking a legal opinion about once current Board terms expired whether the Board can continue to take action on things until a new or reappointment has been made.

Mr. Taylor responded that actions taken beyond the expiration of terms was not prohibited until vacancy is filled and explained that the sitting member continues to serve. He indicated that WETA could introduce a bill as a place holder with the intent to draft amendments at a later point. .

Mr. Gusman stated that the deadline for the introduction of the bill is Friday, February 24 and that the WETA could introduce a spot bill such as the draft included in the staff report and could amend it later down the road. He added that the problem with a spot bill is that WETA needed to come to an agreement before it comes up in committee. Vice Chair Intintoli asked if control could be

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exercised as to when the bill came up in committee which Mr. Gusman indicated would be no later than the end of April.

Ms. Rannells stated that she was focused on staggering and was hearing that Vice Chair Intintoli thought that staggering may communicate the wrong message out to the cities and posed the question about whether WETA works through these issues now and does something this term or if we should wait until next year.

Mr. O'Rourke felt that the term limit piece is critical and suggested moving forward with this and consider adding acceptable language that embraces the concept to include members of the Board from all possible locations so that no appointing entity will be bound to appointing a member from a particular area at a later date.

Vice Chair Intintoli stated that February 24 is the deadline for submitting something and wanted to address the issues of staggered terms and representation but asked for Mr. Gusman to come back with more research and information on the issues raised.

Mr. Taylor stated that this was an informational item but WETA could exercise the urgency exception as action was required now. Mr. Gusman stated that WETA can amend something later on some other bill if an opportunity arose without introducing a bill at all but that this method is always a lot harder and leaves to chance that WETA may not find vehicle to do it. The other option was to stick this language into the Transportation Omnibus bill by consensus.

Vice Chair Intintoli suggested that a spot bill be introduced and that this item be rescheduled for discussion at the next meeting.

Director Bellows suggested having one term expire every year to avoid potential problems and create the idea of fairness between appointing entities. He also wanted to clarify the definition of representation and whether it be a person who takes public transportation from that location or a resident who may not use the system at all. Ms. Rannells added that most transit agencies are either elected or appointed by cities or counties.

Director O'Rourke asked if introducing a bill would preclude another entity from adding on to or tweaking WETA's bill. He liked the idea of not losing more than one member at a time for intellectual history.

Mr. Gusman said that WETA would have control over the bill and that a spot bill could not be amended for 30 days and that specific language will need to be introduced when the bill first goes to committee. He also noted that the bill could be killed if it was not moving in the direction desired.

#### Public Comment

Veronica Sanchez representing herself provided some historical perspective. She recalled both Contra Costa and San Mateo counties both asked to have seats when they approved funds for ferry services in their sales tax measures. She further stated that these types of bills are put on the MTC roster for legislative committee review which could raise additional awareness and interest in others having seats. Initially, WTA addressed those concerns through the CAC and TAC; however, she felt that these committees would not appease the counties now.

Mr. Taylor suggested preserving options through the introduction of a spot bill to address staggering of terms with the intent to revisit geographical representation and offered a formal two-step process.

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Mr. Gusman stated that he was going to have legislative counsel change the draft to a true spot bill with true technical or intent language.

Vice Chair Intintoli made a motion to convert this agenda item to an action item. Director O'Rourke seconded the motion and the conversion carried unanimously.

Vice Chair Intintoli made a motion to direct Broad and Gusman to introduce a spot bill. Director O'Rourke seconded the motion and the Board's direction carried unanimously.

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

Chair Johnson called the meeting into closed session at 2:53 p.m. Upon reopening of the meeting at 3:25 p.m., she reported no action had been taken.

**13. ADJOURNMENT**

All business having concluded, the meeting was adjourned at 3:25 p.m.

Respectfully Submitted,  
Board Secretary