

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

(June 27, 2013)

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 1:05 p.m. Directors present were Vice Chair Anthony Intintoli, Director Jeffrey DelBono and Director Timothy Donovan. Chair Johnson led the pledge of allegiance. Chair Johnson and Vice Chair Intintoli co-chaired the meeting.

2. REPORT OF BOARD CHAIR

Chair Johnson introduced Director Jeff DelBono, Senate Rules Committee Appointee, to the Board. She noted that he and his family resided in Pleasant Hill, CA. He is employed by the Alameda City Fire Department as Captain/Paramedic and has over 20 years of experience in the emergency medical field. She noted that he has been a member of the Alameda Fire Department Water Rescue Boat Team for the past 13 years, is a current delegate for the 13th district, executive board member of the Alameda City Firefighters Association and the chief negotiator for the Association's bargaining team.

3. REPORT OF DIRECTORS

No report.

4. REPORTS OF STAFF

Executive Director Nina Rannells referred the Board to her written monthly report. She also updated the Board on the status of AB 935, noting that it had now been made a two-year bill, suggesting that this would allow for further discussion and potentially hearings regarding WETA and what its future Board should look like. She added that this extension would mean that the appointment or reappointment process in January would not be impacted.

Ms. Rannells then introduced Operations Manager Keith Stahnke, who advised the Board on WETA's contingency plans to be implemented in the event of a BART strike. Mr. Stahnke noted that a strike could begin as soon as July 1 and that WETA's plan would provide an increase from 20,000 to a maximum of 50,000 seat-trips across the Bay per day. He reviewed past bridge and BART closure events and said that WETA was preparing for significant increase in ridership should a strike occur.

Director Donovan asked if WETA should go ahead and distribute the strike contingency schedules. Mr. Stahnke noted that Public Information & Marketing Manager Ernest Sanchez was preparing a "shadow site" that would temporarily replace the regular sanfranciscobayferry.com site with dedicated strike information should it occur and that guest representatives would be put in place at all terminal locations to assist passengers with schedules and directions as needed. Director Donovan then asked what would happen if an emergency scenario occurred during the strike. Mr. Stahnke replied that contingencies were always in place for emergency response activities.

Vice Chair Intintoli asked if Bay Crossings would help distribute information and also noted that schedule information should also include the Vallejo bus. Mr. Stahnke replied that WETA was working on details regarding Bay Crossings assistance and that bus information would be included where appropriate.

Public Comment

Veronica Sanchez of Masters, Mates & Pilots asked what the trigger would be for implementing the BART strike contingency plan.

Mr. Stahnke replied that the unions had agreed to issue 72 hours' notice before striking and that as much work as possible was being done in advance to prepare for a strike as early as July 1.

5. CONSENT CALENDAR

Chair Johnson noted a full consent calendar and asked for comments or objections. WETA legal counsel Stanley Taylor III of Nossaman LLP further clarified that if any directors wanted to pull an item off consent for specific discussion that now was the time to do so, otherwise the calendar would be adopted as a single item.

Vice Chair Intintoli made a motion to approve the consent calendar which included the following items:

- a. Minutes May 23, 2013
- b. Approve Amendment to Agreement with the Association of Bay Area Governments for the Provision of Accounting Support Services
- c. Approve Amendment to Agreement with Solano County Transit for the Provision of Bus and Ticketing Services
- d. Approve Amendment to Clipper Memorandum of Understanding with MTC and Other Transit Operators
- e. Approve Amendment to Agreement with Lindsay Hart, LLP for the Provision of Federal Legislative Representation
- f. Approve Amendment to Agreement with Nematode Media, LLC (DBA Bay Crossings) for Advertising in Bay Crossings and Other Services
- g. Approve Amendment to Agreement with Nossaman LLP for the Provision of Legal Services
- h. Approve Purchase of FY 2013/14 Commercial Insurance Policies

Chair Johnson seconded the motion and the item carried unanimously.

6. APPROVAL OF ADMINISTRATIVE CODE AMENDMENTS

Ms. Rannells presented this item requesting that the Board approve WETA's Administrative Code, which was originally approved in its current form by the Board of Directors at their first meeting in March 2008. She noted that staff review had resulted in proposed revisions to make a number of clarifying and correctional edits throughout the Code to ensure consistency with the Authority's enabling statute; to amend the policy for meal reimbursement while on official travel to be consistent with the U.S. General Services Administration guidelines and to amend contract policies and procedures to be consistent with Federal Transit Administration guidelines and procurement limits.

Vice Chair Intintoli noted that he appreciated the inclusion of the redline copy for review. He also noted 509.1(B), which addressed amendments which could change the amount of contracts approved by the Board.

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

7. APPROVAL OF PROJECT LABOR AGREEMENT FOR THE NORTH BAY OPERATIONS AND MAINTENANCE FACILITY PROJECT CONSTRUCTION

Ms. Rannells introduced this item requesting the Board consider approval of a Project Labor Agreement (PLA) with the Napa-Solano Building & Construction Trades Council for use in the construction of the North Bay Operations and Maintenance Facility Project.

Ms. Rannells reviewed the history of the project, noting that a PLA had been under negotiation with the City of Vallejo when this project was still owned by the City, and that the Board had requested at their prior meeting in May that staff work with the Council to see if a PLA agreement could be developed in the short time available before the June Board meeting and release of Phase 1 bid documents.. Ms. Rannells noted that staff had worked diligently with the Council over the last month to develop the PLA before the Board for adoption. She reminded the Board that, if a PLA is to be used for this project, that it must be completed and approved this week as the project will faces a significant funding loss if a contract for the project was not issued by August 31.

Ms. Rannells offered to answer any questions, noting that the two key objectives with the PLA were labor harmony and project efficiency, primarily through requiring a pre-construction conference to establish processes for resolving disputes and prohibiting stoppages and walk-outs on the project. She noted that the agreement at hand acknowledges the Council's unions as the primary source of craft labor on the project but that it also allowed for a limited number of core workers to be utilized in the event that a contractor has its own core workforce.

Vice Chair Intintoli noted two letters for entry into the record, one from Associated Builders & Contractors of California and one from the Coalition for Fair Employment in Construction.

Public Comment

Dan Broadwater, IBEW Local 180, requested the Board approve the PLA at hand, noting over \$1 billion in successful projects in the Napa-Solano region with similar PLAs and his hope to continue the local employment of his membership.

Public Comment

Frank Crim, Carpenters Local 180, expressed concerns that not all trades would be able to sign on to this PLA and that two sections in particular concerned him, one that addressed offsite fabrication and another that changed core language that had existed in the PLA with the City of Vallejo. He requested that the Board not approved the PLA in its current state but allow time for staff to continue to work on it.

Public Comment

Ben Espinoza, Napa-Solano Building & Construction Trades Council noted that he was in favor of the project and said that great strides had been made with the PLA but that he agreed with Mr. Crim regarding changes from the previous version of the PLA negotiated with the City of Vallejo.

Public Comment

Nicole Goehring, Associated Builders & Contractors, Inc. of Northern California (ABC), noted that ABC was fundamentally opposed to government mandated PLAs and said that PLAs decrease competition and increase costs. She also challenged the assertion that union and non-union workers could not coexist at a work site and noted that this statement conflicts with the contents of the agreement. Ms. Goehring urged the Board to hold a study session rather than pass a PLA on a \$20 million project without being more informed.

Public Comment

Richard Markuson of WECA, PHCC and ACTA noted that he represented three Northern California apprenticeship programs and urged the board not to adopt the current PLA. He asserted that the PLA is in violation of public contract code section 2500, which establishes that a PLA is permissible only if it prohibits discrimination based on membership in a labor organization. He said that the current PLA discriminates against two apprenticeship programs approved by the State of California. He said that only acknowledging apprenticeship programs originating from a JATC discriminated solely based on union membership. He stated that his client reserved the right to seek to enjoin WETA if the Board moves forward with the PLA without a change.

Vice Chair Intintoli asked Mr. Taylor for comment. Mr. Taylor said that he saw no issue in amending the language in the PLA to include the other two apprenticeship programs.

Ms. Rannells commented that language had been previously exchanged with Mr. Espinoza during the course of the discussion regarding what was and was not permissible regarding the other items but that as the project contained federal funding there was required language that was not negotiable.

Mr. Espinoza stated that he had sent information that morning that addressed his concerns.

Ms. Rannells said that she had not received any legally viable language from Mr. Espinoza that morning. She said that should Mr. Espinoza be able to provide specific legal language that met the Federal requirements that it could be considered as an addendum. Mr. Taylor agreed and further reiterated this point.

Mr. Intintoli reiterated that certain language was required as a matter of law and that if Mr. Espinoza offered specific alternative language that met these federal requirements this week it could be looked at, but as he had not yet done so, further delay would likely create the loss of \$3.4 million in STIP funds.

Vice Chair Intintoli said that due to time constraints in project funding, it was his hope to move forward with the PLA as proposed by staff. He noted his familiarity with PLAs and suggested the issue be moved forward today and that minor adjustments could be addressed in addendums if required. He expressed a disinterest in unnecessary delays that would risk project funding.

Vice Chair Intintoli asked that the item at hand be revised to approve the PLA as proposed by staff, granting the Executive Director authority to receive additional information regarding the requested changes within a timeframe set by the Executive Director, to consider the information provided, and to approve the final document for release.

Chair Johnson asked for comments regarding the revised resolution.

Public Comment

Ms. Goehring said that it was good that apprenticeships would be considered but that journeymen would still be prohibited and suggested additional language allowing core workforce to be used for any number up to ten.

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

8. APPROVAL OF FY 2012-13 PROPOSITION 1B PROGRAM OF PROJECTS AND AUTHORIZATION OF AGENCY OFFICIALS TO EXECUTE PROGRAM REQUIREMENTS

Finance and Grants Manager Lynne Yu presented this item requesting Board to approve a list of FY 2012/13 Proposition 1B Waterborne projects for transmittal to the California Emergency Management Agency and to authorize 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.

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

9. APPROVAL OF AMENDMENT TO AGREEMENT WITH KPFF, INC. FOR DESIGN AND ENGINEERING SERVICES FOR THE CENTRAL BAY OPERATIONS AND MAINTENANCE FACILITY

Senior Planner Michael Gougherty presented this item requesting Board approval of Amendment No. 4 to Agreement #09-007 with KPFF, Inc. in the amount of \$4,000,000 to provide Phase II Preliminary and

Final Design services for the Central Bay Operations and Maintenance Facility and authorize the Executive Director to execute the amendment.

Mr. Gougherty presented a review and discussion of the item. Ms. Rannells noted Vice Chair Intintoli's concerns regarding amendments and noted that this amendment was intended as part of the process, allowing staff to assess work on the project during the first phase before awarding the entire amount.

Director Donovan asked how payments to the contractor were made. Ms. Rannells clarified that this approval was for up to \$4 million, and that payment on the contract was managed on a Task Order basis over the duration of the project.

Public Comment

Ms. Sanchez reminded the Board about a recent lobbying trip to Washington, DC where MMP representatives met the Deputy Director of the FTA and congressional staffers in support of federal grant funding for this project. She also noted a briefing to Representative John Garamendi this week.

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

10. RECESS INTO CLOSED SESSION AND REPORT ON CLOSED SESSION

Chair Johnson called the meeting into closed session at 2:10 p.m.

Upon reopening of the meeting at 3:00 p.m., she reported that the Board approved and authorized the Executive Director to negotiate the terms of the settlement reimbursement to Harbor Bay Maritime (HBM) costs not to exceed \$201,936 incurred by HBM in connection with the termination of the HBM operator agreement with WETA. The Board's approval of action to reimburse these costs related to WETA's obligations in connection with the transition of the Alameda and Harbor Bay ferry services and not as a result of any pension funding obligation to the Inlandboatmen's Union.

11. ADJOURNMENT

All business having concluded, the meeting was adjourned at 3:03 p.m.

Respectfully Submitted,

Board Secretary
