

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

(September 6, 2018)

The Board of Directors of the San Francisco Bay Area Water Emergency Transportation Authority met in regular session at Pier 1, Port of San Francisco.

1. CALL TO ORDER – BOARD CHAIR

Chair Jody Breckenridge called the meeting to order at 1:30 p.m.

2. ROLL CALL

Chair Breckenridge, Vice Chair James Wunderman, Director Anthony Intintoli and Director Jeffrey DelBono were in attendance.

Director Nick Josefowitz joined the meeting at 1:32 p.m.

3. PUBLIC HEARING TO CONSIDER COMMENTS ON THE PROPOSED RICHMOND FERRY SERVICE FARE SCHEDULE

There were no interested parties in attendance who wanted to comment on the proposed Richmond ferry service fare schedule, and Chair Breckenridge closed the public hearing at 1:33 p.m.

4. REPORT OF BOARD CHAIR

Chair Breckenridge reported that she was involved in very early discussions with the U.S. Coast Guard (USCG), the California Public Utilities Commission (CPUC), CalTrans and a non-profit group regarding two potential Bay Area demonstration projects for green powered vessels and the infrastructure that would be required to support such projects. She said that, at this time, there was no clear state level funding stakeholder for these projects.

5. REPORTS OF DIRECTORS

Vice Chair Wunderman said that WETA is the agency to drive future development of water transportation in the Bay Area and he emphasized the importance of reducing the time between conception and inception of new ferry service. He extended an invitation to join him on a Bay Area Council trip to England next month, where participants will view the latest developments in hovercraft technology. He said hovercrafts may be able to provide new service in the Bay Area without the need to dredge.

Director DelBono thanked staff for their work and participation in the upcoming Urban Shield emergency response exercise. He said he agreed with the Vice Chair's comments on the importance of moving forward with new service and that he was being approached more and more often by the public with requests for more service, new routes, more vessels, and smaller vessel service. Director DelBono said the public, having so graciously passed Regional Measure 3 (RM3) in June, now expects that WETA will work quickly to provide new and expanded service with the resulting new funding. He said it was important to get the information out into the public about how the new RM3 funding is going to be used so people understand what to expect.

Director Josefowitz also echoed Vice Chair Wunderman's interest in speeding up the processes between conception and inception of new ferry service in the Bay Area. He also recommended that WETA sign a Statement of Purpose to affirm a collective commitment, along with the Bay Area District and other entities, to reduce diesel pollution in the Bay Area by 2033.

6. REPORTS OF STAFF

Ms. Rannells shared her written report with Directors. She explained that WETA's Public Information Manager, Ernest Sanchez, had retired in July and had since been replaced by WETA's newest employee, Thomas Hall. She noted that Mr. Hall has extensive public information and marketing experience, brings a collaborative approach to his work with staff, and has hit the ground running in his new position. She noted that one of Mr. Hall's early tasks will be to take the existing marketing plan for the new Richmond service and develop that to get the word out.

Ms. Rannells acknowledged staff of WETA and Blue & Gold Fleet for their ongoing efforts to prepare and move into the new Central Bay Operations and Maintenance Facility in Alameda. She said that construction of the new gates, F and G, for the Downtown San Francisco Ferry Terminal Expansion project were expected to be completed and operational by the end of the year, and she added that discussions to utilize the new gates for existing routes, and for the new Richmond service, continued. Ms. Rannells said a ribbon cutting event for the new Central Bay facility would likely be scheduled for November.

Ms. Rannells noted that the construction schedule for the new Richmond Terminal had slipped, causing a delay to the opening of the service. She said the City of Richmond and WETA staff have worked together to identify a new service start date of January 10, 2019, the same day WETA would normally have its Board meeting. Ms. Rannells suggested that Directors could meet on that day before or after an event to mark the new service launch in Richmond. Directors agreed it was important to have regular, monthly meetings and it was agreed that the January Board meeting could take place in Richmond on January 10 if the new service launches then.

Ms. Rannells explained that staff had researched the possibility of doing a partial service soft launch prior to January 10 but because of the additional costs that would be required to do that - along with the requirement to push the final, full service date out to later in January or even out to February if staggered service start dates are used - the City expressed a preference for a concrete, full service launch date of January 10.

Ms. Rannells said staff was working with the Metropolitan Transportation Commission (MTC) to identify how they will proceed on RM3 funding collection and disbursement given the threat of the lawsuit challenging the voter passed measure. She said she hoped to have more information to share with Directors by the October meeting.

Planning & Development Manager Kevin Connolly shared a brief update on the Mission Bay and Treasure Island development and ferry service timeline planning efforts. He said WETA staff is meeting regularly with San Francisco City staff and the San Francisco Transportation Authority (SFTA), and the stakeholders are working to refine a draft Memorandum of Understanding (MOU) for the ferry service component of a new Treasure Island terminal and service. He added that staff expects to have a MOU for Board discussion by the end of the year. Mr. Connolly said that Directors should expect to have the final findings of the Small Vessel Study by then, also.

It was agreed that planning efforts incorporating the anticipated funding from RM3 should begin now - and that those efforts should be informed by the Small Vessel Study findings and by WETA's Strategic Plan - despite the pending litigation threat to the measure's legality. Directors also agreed that making promises for new service or expanded service before this new funding has been secured was not in the

best interest of WETA or the communities it serves, but that being prepared to receive and utilize the funding if and when it does become available was an important objective.

Chair Breckenridge asked that two items be agendaized for the October Board meeting for Directors to hear a status report for the RM3 service planning and a presentation on green vessels from the zero emission non-profit organization she mentioned in her opening remarks. She added that funding will always be part of these discussions.

PUBLIC COMMENT

Representing Bike Walk Alameda, Pat Potter asked Directors to take a look at some materials she passed out that showed bicycle friendly vessels currently operating in Amsterdam. She explained that the vessel type in the example - that allows bicyclists to just ride onto and off of the vessel – is what she and her group would like to see WETA operating in the Oakland/Alameda Estuary.

7. CONSENT CALENDAR

Director DelBono made a motion to approve the consent calendar which included:

- a. Board Meeting Minutes – August 2, 2018
- b. Authorize Release of a Request for Proposals for MV *Solano* Rebuild Project

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

Yeas: Breckenridge, DelBono, Intintoli, Josefowitz, Wunderman. Nays: None.

8. ADOPT PROPOSED FARE STRUCTURE FOR NEW RICHMOND FERRY SERVICE

Mr. Connolly presented this item to adopt a proposed fare structure for new Richmond ferry service. He said 11 comments had been received from the public during the open comments period, and these were provided in detail in an item attachment for Directors to review. Mr. Connolly explained that WETA has a lease agreement for the parking lot in Richmond which prohibits charging for parking during the first year to give the service some time to ramp up. He added that the City is open to charging for parking after the first year, and he explained that if the Board implements a parking charge program at Harbor Bay next spring, that program could inform a plan to charge for parking at Richmond the following year.

It was agreed that WETA should work with MTC's needs-based fare study group to explore the possibility of improving accessibility for lower income riders, and Mr. Connolly said that he had confirmed it was possible for WETA to participate in the group. It was also agreed that rewarding riders with a reduced fare incentive if they arrive at the terminal by means other than driving a vehicle would be desirable but logistically daunting and that this idea would be explored by staff for future consideration.

Mr. Connolly said that Directors should expect to see a recommendation on parking charges for the Harbor Bay Terminal before the end of the year, and he reiterated that the earliest that any parking charge program could be implemented at Richmond would be in the second year of service. Mr. Connolly introduced City of Richmond Community and Economic Development Director Shasa Curl.

PUBLIC COMMENT

Ms. Curl explained that the City supports all fares as proposed, and she said that the Richmond community was very much looking forward to welcoming the new ferry service. She added that the City was also quite excited to hear that WETA would be working with the MTC means based fare group to possibly increase rider accessibility, and she offered the City as a partner to WETA and MTC in those efforts. Ms. Curl explained that multiple entities had been involved in the very complex parking arrangement negotiations to support sharing the lot with local businesses throughout the first year of service, including the San Francisco Bay Conservation and Development Commission, Honda, Orton

Development, Toyota, and others. She said that in order to get the agreement in place in a timely manner and secure signatures from these entities to allow ferry rider parking in the shared lot, the no fee parking plan was agreed to for the first year. Ms. Curl said this agreement can be modified after the first year and parking charges can be considered at that time. She added that there is a concern that if riders are initially deterred from parking in the lot for any reason, that they may park on the street near the terminal and there is no City plan in place to respond. She emphasized that if parking charges were to be imposed immediately, the likelihood of riders parking on the street will increase, and the City is not prepared at this time to deal with that. Ms. Curl explained that the City of Richmond will be undertaking a last mile study for the terminal, and she noted that currently, the City has only two people on staff dedicated to working on Richmond transportation concerns.

It was agreed that Directors would like to figure out a way to either charge parking at the Richmond parking lot or to be able to discount fares if riders access the terminal in ways other than driving their cars in the future. They also want to assure that the public is notified well in advance of any changes, such as new parking fees, so that they are not caught off guard. Vice Chair Wunderman said he was scheduled to take a tour the next day with Orton Development during which he planned to further discuss Richmond parking with the stakeholder.

PUBLIC COMMENT

Richmond Mayor Tom Butt Chief of Staff Alex Knox read a statement from the Mayor expressing concern about the service launch date revision, publicity and marketing efforts to promote the new service, and the recent, general communication flow between WETA, the City of Richmond, and the Mayor's Office. Mayor Butt asked that a weekly memo be shared with him and his staff at the Mayor's Office – as well as the City of Richmond - to provide regular construction progress updates for the new terminal. The Mayor also suggested that WETA should provide free ferry service for riders during a period after service launch as a good faith effort to promote the new service to Richmond residents. Mr. Knox added that the City would be happy to host the January WETA Board meeting if Directors so desired.

Chair Breckenridge apologized to Mayor Butt and Mr. Knox for feeling disconnected from the information flow and she emphasized the importance of keeping all of WETA's partners in the loop with regular updates on collaborative projects. She asked Ms. Rannells to reach out to the Mayor's Office to set up a meeting to discuss the Mayor's concerns and offered that she or another Board member would be happy to participate in that discussion. Senior Planner/Project Manager Chad Mason confirmed that he has been in regular communication with the City of Richmond Manager and City staff at least a few times weekly for the last several years, and it was agreed that staff would seek to meet with Richmond City staff as soon as possible to assure that regular communication and progress updates are reaching everyone who wants to receive them.

Vice Chair Wunderman asked if there was any precedent for offering free ferry service on a new route, as Mayor Butt suggested, and Ms. Rannells offered that some free rides were offered on the South San Francisco service when it was launched, but that she did not know immediately how successful that campaign had been. She said that staff would work with Richmond and the other service partners to identify promotional opportunities, such as free rides, for the service launch.

Vice Chair Wunderman made a motion to approve the item.

Director Intintoli seconded the motion and the item passed.

Yeas: Breckenridge, DelBono, Intintoli, Wunderman. Nays: Josefowitz.

9. AWARD A CONTRACT TO R.E. STAITE ENGINEERING FOR VALLEJO TERMINAL DREDGING

Operations & Maintenance Manager Keith Stahnke presented this item to award a contract to R. E. Staite Engineering for Vallejo terminal dredging. Directors discussed the costs associated with disposing of dredging waste and it was noted that being paid for dredged material from WETA projects that can be reused would be desirable and would reduce costs of dredging projects. Vice Chair Wunderman said he planned to learn more about this possibility.

PUBLIC COMMENT

Haley Aldrich Client Leader Scott Bodenstein said the Measure AA funding stream for dredging projects was just beginning to flow, and he was aware of discussions for some of the projects about providing contractors with some capital cost offsets for the special equipment required to offload dredging sediment material at reuse sites. He said if this happens, dredgers would be able to more easily choose reuse instead of disposal, and they could expect to see some cost reductions on future projects as a result.

Director Intintoli made a motion to approve the item.

Director DelBono seconded the motion and the item carried unanimously.

Yeas: Breckenridge, DelBono, Intintoli, Josefowitz, Wunderman. Nays: None.

10. APPROVE CITY OF ALAMEDA'S REQUEST FOR \$2 MILLION TO SUPPORT THE SEAPLANE LAGOON FERRY TERMINAL CONSTRUCTION AND AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO RELATED AGREEMENTS

Mr. Connolly presented this item to approve the City of Alameda's request for \$2 million to support the Seaplane Lagoon ferry terminal construction and authorize the Executive Director to enter into related agreements. He explained that City of Alameda Base Reuse Director Jennifer Ott would be leaving her position with Alameda effective the next day, and he thanked her for her work with WETA to move projects forward, including this final project on her watch to assure the new ferry terminal at Seaplane Lagoon will be fully funded and can move forward.

PUBLIC COMMENT

Ms. Ott said the City has raised 90% of the funds needed for the project and she spoke in support of the Board approving the final \$2 million to build the terminal.

Director DelBono thanked Ms. Ott for her long partnership with WETA and he asked about a letter Directors had received from the Alameda Point developer that noted an agreement to share use of a planned hotel parking lot for ferry riders at Harbor Bay. Director DelBono said he was concerned that the letter detailing the agreement was noted as being non-binding. He said he saw a sign that the developer had posted at the site advertising the ferry service and a shared parking lot for the ferry service.

PUBLIC COMMENT

Ms. Ott explained that because the hotel has not been approved and the approval process continued for the project, it had not been possible to secure an agreement for a parking lot because it doesn't yet exist. Ms. Ott added that with the short period of time available to secure a basic agreement before she departed Alameda for her new position, the letter had been a best effort to get at least something solidified. She added that before the approval for the hotel is granted, and plans are in hand that provide lot details, it is not possible to expect a binding agreement from the hotel developer.

PUBLIC COMMENT

Joe Ernst - srmErnst Founder and Principal, Harbor Bay Business Park President, and Alameda Point Partners Project Lead - said Alameda Point Partners is in negotiations with the hotel developer and the project has a lot of traction. He said the fact that the developer is advertising the lot for ferry riders was a good sign which he sees as a commitment to the development and to the ferry service. Mr. Ernst said the hotel represents the best opportunity for sharing parking given the use patterns. He said the developer well understands the benefit of sharing the lot and emphasized that if the project does not end up going through as hoped, that Alameda Point Partners will sit down with WETA to consider alternatives for ferry rider parking.

PUBLIC COMMENT

Representing MARAD, Jerry Bellows said that while there could be a risk to funding the final \$2 million, doing so would reduce the time to get service up and running by half, per the information shared at the last meeting about moving forward with the terminal plans to assure delivery deadlines could be met to support work windows for the terminal construction.

The Board thanked Jennifer Ott for her unending commitment, efforts and partnership working with WETA in her role at the City of Alameda. It was agreed by all that she will be missed.

Director DelBono made a motion to approve the item.

Director Intintoli seconded the motion and the item carried unanimously.

Yeas: Breckenridge, DelBono, Intintoli, Josefowitz, Wunderman. Nays: None.

11. ADOPT POLICY FOR PRIVATE CHARTER FERRY LANDINGS AT WETA FERRY TERMINAL FACILITIES

Ms. Rannells presented this item to adopt a policy for private charter ferry landings at WETA ferry terminal facilities. She reminded Directors of their initial discussion about the item at the June 7 meeting and the subsequent discussion of the framework staff shared in the August 2 meeting. Ms. Rannells explained that the policy brought to Directors today was created by incorporating the large amount of feedback shared by Directors in these two prior meetings.

Vice Chair Wunderman raised questions about three of the items in the proposed agreement and asked if there shouldn't be specific reasons noted for why an operator's permit could be revoked instead of just noting that it can be revoked any time at WETA's sole discretion. He also asked about the customer service standard requirement and whether there was some metric of accountability that would or could be used to assure operators provide high levels of customer care. Vice Chair Wunderman's third inquiry was whether it made sense to have different accessibility standards for small vessel operators than for larger operators.

Ms. Rannells reiterated the importance of assuring WETA can make determinations about rescinding a permit for any reason the Board deems subject to such action. She added that an operator's historical customer service record would provide the assurance of high customer service conscientiousness, and that the accessibility question had been discussed by Directors at length resulting in the agreement that exceptions could be made to any agreement as long as the Board wanted to make an exception. She noted that Directors had wanted to set a high expectation on the accessibility issue, but also allow for exceptions when warranted.

Director DelBono asked about minimum insurance requirements and it was agreed that this important detail was included in the proposed policy and clarified under Items 8 and 10.

PUBLIC COMMENT

J. B. Davis, Inlandboatmen's Union member and senior deckhand with Blue & Gold Fleet, working primarily on WETA's North Bay service route, said he commended Exelixis for bringing their request to the WETA Board. Mr. Davis said WETA should continue with its service enhancements and expansion, and build vessels to accommodate all Bay Area residents' ferry service requirements utilizing WETA's current contract operator, Blue & Gold Fleet, for operations of those vessels. He noted that WETA's system was already a proven and professional system with a sound and long history of success. Mr. Davis said there are empty vessels that return to South San Francisco from the Harbor Bay terminal in the evening – and empty vessels that return to Alameda from South San Francisco in the morning - that could be utilized to provide the service Exelixis is requesting between Oyster Point and its office at Harbor Bay in Alameda. Mr. Davis said that if the Board moves forward to approve an agreement for a private service to land at a publicly funded WETA facility, the private service crews should be required to have TWIC cards, just as all Blue & Gold Fleet employees are required to do. He added that a thorough and robust ADA compliance and general safety study for private service vessels should be done before signing any agreements.

Mr. Davis further noted that the February 2018 edition of *Business Insider* included an analysis establishing the middle class income range in the San Francisco Bay Area as \$64,451 to \$193,354. Mr. Davis explained that by this standard, those working on WETA vessels were earning the Bay Area *prevailing wage*, falling at the very bottom of this current, local middle class income range. He added that the *living wage* calculator puts the hourly wage at \$10 less than this *prevailing wage*, and he asked that the language in the final policy be changed from living wage to prevailing wage to support employees working on any private vessels that are granted permission to land at WETA's publicly funded facilities. He said this will help assure the safety of those employees and of all passengers.

Finally, Mr. Davis asked that a new requirement be added to the proposed policy to require initial testing for drug and alcohol abuse for any private operator's captains and crews, and then require future, regular and random drug and alcohol testing of those employees. He said this was a requirement of Blue & Gold Fleet captains and crews, and was also an excellent measure to help assure safety of crews and passengers.

Director DelBono asked if the prevailing wage language could replace the living wage language in the proposed policy and Board Counsel Madeline Chun of Hanson Bridgett said that the phrase "prevailing wage" was a term used for construction project workers. She said that cities and counties do have established wages and that could be researched and considered and if WETA wanted to set a specific standard called prevailing wage for its operations, that could be explored, but nothing like that was in place currently.

Chair Breckenridge explained that TWIC cards were a federal requirement created to ensure security at ports.

PUBLIC COMMENT

Patrick Murphy, President of Blue & Gold Fleet, explained that Blue & Gold Fleet was the owner of the Safety Plan for WETA operations which is why its employees carry the TWIC cards. He said all of WETA's vessels were included in Blue & Gold Fleet's Safety Plan. He explained that not every single member of vessel crews have to have the TWIC cards but 75% of employees included as part of the Safety Plan are required to carry the card. He added that the USCG can ask a vessel crew for their TWIC cards anytime and they will do that with the expectation that at least 75% of the employees working on a vessel will have one.

Vice Chair Wunderman said he did not want to see people who are working on vessels taking on multiple jobs to make ends meet because their primary pay is not enough to live on in the Bay Area. He agreed that paying a decent wage was a fundamental requirement for the policy. Vice Chair Wunderman said that the Teamsters had recently been in the news claiming that there could be a violation of their labor harmony agreement for some shuttle bus drivers in San Francisco. He asked if including a labor harmony clause in the WETA policy would make sense.

Ms. Chun said the San Francisco Municipal Transportation Agency (SFMTA) Labor Harmony ordinance was brand new, and it directed SFMTA to develop a plan to assure that any disruptions, including labor disputes, would be mitigated. She added that the wage issue for WETA's policy could be tied to specific standards or numbers but not to undefined terms.

Director DelBono said he doesn't want WETA's contract operator to have stricter standards than any other operators that are granted landing rights at WETA facilities. He also said he does not like the word "private" and would prefer that "private operators" be changed to simply "operators" in the policy language.

Director Josefowitz asked how a person can get a TWIC card and Mr. Stahnke said the cards cost \$100 and require a background check. Chair Breckenridge added that a reason for needing the TWIC card must also be demonstrated to attain one.

Directors Intintoli and DelBono expressed concern about advancing the policy vote without investigating their concerns and adequately planning for any landmines that could be lurking in the policy details. Director DelBono suggested postponing the vote on the policy to a future date to allow further and more thoughtful discussion, and Director Intintoli agreed. Concerns about postponing Item 12 in the agenda, related to Item 11, were expressed. Chair Breckenridge said she would like to have staff meet with the USCG to further clarify those policy requirements related to their permitting and approval processes and general safety standards before final decisions about those processes were made.

Ms. Rannells clarified that Item 12 was on the agenda to be voted on as a conditional agreement. She said there was still a good deal of work to be done to support the Tideline request, including confirmation that the proposed vessel will match up with WETA's Harbor Bay terminal and securing the USCG certificate which had been mentioned in an email but not yet received, among other things. She said if Directors would like to see more work on the proposed policy based on the discussions in today's meeting, that could happen in tandem with finishing up the work that is needed on the Tideline request and both items could come back to them for consideration in October.

Vice Chair Wunderman said that staff had already done so much work on the proposed policy and on the Tideline request and Tideline and Exelixis had been waiting already for a long time for an answer. He said he has his own sets of concerns about the policy and the agreement but emphasized that the policy has some very strong intentions and it's pretty clear that any operators granted rights to land at WETA terminals are going to have to agree to these basic things. Vice Chair Wunderman said he did not want to postpone the votes.

Director DelBono said he respectfully disagreed with the Vice Chair and again expressed his concerns about rushing through the items without further and more thoughtful considerations and discussions. He said this was really important and he didn't want to vote on something for which the agency has no official policy. He said he also felt it was not fair that some standards would apply to some operators and not to other operators and said this could create confusion and problems for WETA.

PUBLIC COMMENT

Mr. Bellows said that specific details of the Maritime Transportation Security Act did not need to be included in WETA policy or operator agreements because the general USCG requirements are applied and all encompassing.

Chair Breckenridge reiterated the importance of discussing the proposed policy and agreement requirements with the USCG, and said that she felt the broad language related to maritime security in the proposed policy was sufficient per Mr. Bellows's comment. She said the real challenge will be how to manage the accessibility questions.

Director DelBono made a motion to delay the vote until staff meets with the USCG to discuss their standards in more detail and the language in the policy can be refined.

Director Intintoli asked if language in the proposed policy regarding state and federal requirements was sufficiently clear that it required operators to meet the same standards as those required for Blue & Gold Fleet.

Mr. Stahnke cautioned that the matter of the TWIC card requirement was a bit murky because captains and crews on vessels that carry fewer than 149 passengers were not required to have the TWIC cards. He said, though, that at least one employee on any vessel is required to have a TWIC card for facility access.

Director Josefowitz asked if it was possible to move forward with the vote with the agreement that staff will also meet with the USCG and work to further refine the policy for another Board discussion.

Ms. Chun said the Blue & Gold Fleet requirements have been noted as the desired objective and the question as Director DelBono noted, was whether the standard will be expressed as just the legal standard - which is clear in the proposed language - or will be clarified for operators as the Blue & Gold Fleet standard, which may need further clarification and may exceed the minimum legal standard in some cases. She added that Directors have delegated authority to the Executive Director to grant only one time landings which means that any other requests, such as the one in Item 12, require Directors to weigh in and make the decision.

Directors discussed the desire for further information to be gathered, and noted that clarification and refinement of the policy could be made for changes in a policy amendment recommendation at a later date if it was adopted today. It was agreed that any permissions granted before such an amendment consideration would be subject to all changes resulting from an adopted amendment, and that each individual agreement could clarify individual requirements, as necessary. A per agreement solution versus an ideal, one size fits all policy was also discussed.

Director Intintoli made a motion to approve the item as proposed with the agreement that as individual issues arise, they will be addressed, and that the details in the policy will be clarified for Directors at a future meeting.

Vice Chair Wunderman seconded the motion and the item passed.

Yeas: Breckenridge, Intintoli, Josefowitz, Wunderman. Nays: DelBono.

12. APPROVE TIDELINE MARINE GROUP'S REQUEST TO CONDUCT PRIVATE CHARTER LANDINGS AT THE HARBOR BAY FERRY TERMINAL

Ms. Rannells presented this item to conditionally approve Tideline Marine Group's request to conduct private charter landings at the Harbor Bay ferry terminal for its client Exelixis, a private employer, on a six month demonstration basis. Ms. Rannells explained that Board approval would be conditioned upon completion of final requirements and negotiations with Tideline and subject to any additional requirements of the City of Alameda and Harbor Bay Isle Associates. She said Tideline's initial request was in March and since then staff has been working with Tideline on the request, including physical match up attempts at the terminal with their vessel *Osprey*. She said outstanding issues remain, including receipt of the USCG certificate which was mentioned in an email to WETA but has not yet been received. She said the USCG certificate may bear pertinent information that could affect the final approval of the request.

Ms. Rannells said that due to the agreements WETA has with the City of Alameda and Harbor Bay Isle Associates, Tideline will need to work with these other entities for their approvals if WETA Directors approve the request. She said that process may also require changes to the WETA agreement with Tideline once those approvals are granted and their requirements are clarified. She added that even with the planned modifications to the *Osprey*, Tideline will not be able to meet the WETA accessibility standards because passengers will need to use a set of stairs to get on or off the vessel deck. However, Ms. Rannells noted that WETA had received a letter from Exelixis declaring that they comply with all federal ADA requirements concerning their employees, that no current employees who may use the proposed ferry service would require special accommodations at this time and that they provide a variety of alternative modes of transportation for their employees which could be utilized as an option to the ferry. It is this basis upon which staff has recommended approval of Tideline's request with an exception to the accessibility requirement included in WETA's policy.

Director Intintoli said he had seen photos of the initially proposed modification to the vessel to match it up to the WETA Harbor Bay terminal and it looked dangerous. Ms. Rannells said WETA staff had questioned its safety and insisted that Tideline provide proof of all Coast Guard reviews and approvals for the modifications. She said that Tideline has since abandoned the initial platform modifications that Directors had seen in the photos, and that they had been working on a new design and set of modifications in consultation with the Coast Guard. She added that the email that had been received today from the USCG stated that they had approved the use of the new platform design, and this was expected to be reflected in the anticipated Certificate of Inspection.

Director DelBono said he was uncomfortable with the Board adopting the new policy in Item 11 and then immediately making exceptions to it for a vote in this item. He asked what the point of discussion was if Directors were not going to follow the policy they just adopted. Director DelBono said this should not be up for adoption if no USCG Certificate of Inspection is in hand.

Director Intintoli said it was fine that Exelixis currently had no employees with mobility challenges who would take the Tideline ferry, and he asked what will happen when Exelixis interviews people and some have mobility challenges and some don't. He said the tendency will be to hire the person who will not have problems getting on the boat because if they hire someone who does, that would create a problem for them and possibly for WETA.

Director Josefowitz asked if smaller vessels were just not built to be accessible or if this specific vessel was not. He also asked if the WETA standards were too high. Ms. Rannells said that the vessel was incompatible with WETA's larger facility because it was built to land at smaller facilities like marinas.

PUBLIC COMMENT

President of Tideline Nathan Nayman said that Tideline has contracted with the same ramp fabricators that WETA uses to assure their ramp will align with the WETA terminal. He said that the USCG has inspected the new ramp design, but that the Certificate of Inspection will not be sent to WETA unless permitted by Tideline's Captain Taylor Lewis. He said all adjustments and modifications have been made to the 40 passenger vessel *Osprey* to allow it to land at the Harbor Bay facility. He emphasized that it's meant to be a small vessel ferry, not a large vessel service, and said Tideline will meet all of the requirements that WETA specifies if they grant the landing permission request. Mr. Nayman added that he was surprised that the discussion was continuing for so long and reiterated that the request is for a private, on-demand service for a specific single employer and is not open to the public.

Director DelBono reiterated his concerns about accessibility and the fact that, given the policy Directors just adopted in the prior item, multiple exceptions would be made to that policy if this permission was granted. He said he was especially concerned about WETA's liability if someone were to be hurt at the terminal because the facility is a publicly funded facility.

Vice Chair Wunderman said he was no expert on the American with Disabilities Act but the proposed service was going to be provided by a private company for a private client that has stated that its employees' rights will not be violated, and that also offers other transit options to its employees. He asked why the Exelixis assurance that the rights of any disabled employees will not be violated wasn't enough to provide for an exception to the WETA policy related to accessibility. Vice Chair Wunderman said the USCG should have the final word on whether or not the vessel landing is safe and if they say it is, we have to accept that it is. He said that unless the Board's legal counsel feels it would be unwise for WETA to grant this permission, it should be granted.

Ms. Chun said there is some exposure to WETA if they allow this to happen at public facilities and even though it is unlikely that any liability would arise in this six month agreement, it is not impossible and there is some exposure for WETA and Blue & Gold Fleet. Ms. Chun further explained that this liability can be mitigated in an agreement by having the operator indemnify WETA and its contract operator. She said this can be done for all laws, including ADA and safety standards.

Director DelBono said there were other areas in Alameda where this vessel could safely land right now that are more compatible with its size. He reiterated that he is not comfortable making exceptions to the policy that was just adopted by the Board to grant this request.

Director Josefowitz asked about whether small vessels existed that could safely land at the terminal and Mr. Stahnke said they would need to be custom built because WETA facilities were not built for small vessel landings. Mr. Stahnke said a lift on the vessel could solve the issue of accessibility but it would need to be built into the vessel. Director Josefowitz said Directors had adopted a policy for vessels that will not be able to meet the policy's requirements.

Chair Breckenridge emphasized the importance of vessel stability to assure passenger safety.

PUBLIC COMMENT

Mr. Ernst thanked Directors for considering the Tideline and Exelixis request. He said he didn't know anything about vessel safety but he believed granting the permission would be a positive thing for Harbor Bay Business Park and the City of Alameda.

PUBLIC COMMENT

Mr. Nayman thanked the Board and WETA staff for their work and consideration. He read a message from the USCG that noted their approval of the new platform design and that a certificate was pending. Mr. Nayman said Tideline values safety as much as WETA does and is working to meet all

communicated WETA standards. Mr. Nayman said Tideline will adhere to all WETA requirements to ensure complete compliance if this request is granted. He added that there was a lot to learn and that Tideline looks forward to sharing information during the six month service agreement.

PUBLIC COMMENT

Eric Fonstein, City of Alameda Development Manager said he applauded Exelixis for bringing this request to the Board and added that the City will follow whatever WETA decides and move as quickly as possible to get the matter added to the Alameda City Council agenda for consideration if the WETA Board grants the request. He said the City thinks the request could help reduce traffic congestion and lower polluting emissions.

PUBLIC COMMENT

Exelixis Executive Vice President of Business Operations Dana Aftab said the company's agreement with Oyster Point Marina in South San Francisco was that they would operate an employee shuttle to the terminal which they have been running for several months now. He said employees currently park in a South San Francisco offsite lot, and then ride the shuttle to Alameda, and when employees come over on the Tideline vessel, they will take the Harbor Bay Business Park shuttle to Exelixis. He said if that shuttle reaches capacity that they will hire the same company to provide an additional shuttle and that they are committed to making this plan work without creating parking disruptions. Mr. Aftab added that Exelixis janitors and other service workers moved from South San Francisco to the new Alameda office also, and received a 20% raise in the process because of the difference in minimum wage requirements between San Mateo County and Alameda. He said those employees were so pleased to get a raise, were much happier, and were doing a better job. Mr. Aftab added that Exelixis fully supported these raises.

Director Josefowitz said it was important that accessibility compliance was paramount for service and not limited to protection of people in wheelchairs. Directors agreed that it was important and that exceptions to specifics required for accessibility based on general WETA standards would be weighed for this and future requests. Director Josefowitz said he would likely approve this request now but that in six months, the WETA accessibility standard would need to be enforced.

Director DelBono made a motion to deny the request.

Director Intintoli seconded the motion and the motion failed.

Yeas: DelBono, Intintoli. Nays: Breckenridge, Josefowitz, Wunderman.

Vice Chair Wunderman made a motion to approve the item.

Chair Breckenridge seconded the motion and the item passed.

Yeas: Breckenridge, Josefowitz, Wunderman. Nays: DelBono, Intintoli.

Director Intintoli departed the meeting at 5:06 p.m.

13. ADOPT A PASSENGER CODE OF CONDUCT FOR SAN FRANCISCO BAY FERRY SERVICES

Program Manager/Analyst Lauren Gularte presented this item to adopt a passenger code of conduct for San Francisco Bay Ferry services.

Director Josefowitz asked if there were any legal ramifications for people if they were to violate the code of conduct. Ms. Gularte said that was unlikely but that if laws were broken by a WETA passenger, law

enforcement could be contacted and in that case, the issue would be turned over to those officials. Director Josefowitz said that at BART, panhandling is considered free speech unless it is aggressive.

PUBLIC COMMENT

Mr. Murphy said that if security is needed, the crews are trained to access security at Pier 41 or to contact law enforcement to handle the situation.

Vice Chair Wunderman said he was recently in New York and had tried to ride the subway to get around until he finally just felt unsafe with his family. He said he understands the need to protect free speech, but said there was no place in the WETA system for passenger disruption and discomfort caused by other passengers. Vice Chair Wunderman said he was pleased that Directors were considering this item because he wants to assure WETA passengers have safe and comfortable rides.

It was agreed that the panhandling issue would be further investigated and discussed at a later date if there is a legal issue with the policy.

Vice Chair Wunderman made a motion to approve the item.

Chair Breckenridge seconded the motion and the item passed.

Yeas: Breckenridge, DelBono, Josefowitz, Wunderman. Nays: None. Absent: Intintoli.

14. OVERVIEW OF WETA SYSTEM PERFORMANCE MEASURES

Mr. Connolly briefly presented this informational overview of WETA system performance measures and it was agreed that the item would be agendaized for a future meeting discussion.

Director Josefowitz said he appreciated the work that had gone into the measures and he looked forward to more data driven performance measures to help WETA measure its success. He said he was especially interested in seeing the average for vessel miles between breakdowns and that it would be a really useful industry standard for WETA to adopt. Director Josefowitz asked about late arrivals and Mr. Stahnke said physical logs were currently used, along with NextBus which has some reliability issues, and that this has contributed to difficulties accessing accurate data for late arrivals. Mr. Connolly said there was room for improvement to manage getting the late arrival information and that work was being done.

Chair Breckenridge asked that emergency response be included somehow in the performance measures. She said that she would also like to see something in the data that provides visibility to higher engine hours and resulting increased maintenance costs for any vessels that are being used more than expected. Chair Breckenridge said she would like to see whether missed trips are related to weather or are mechanical breakdown.

Vice Chair Wunderman said he would like to see information for all terminal access methods, including ride sharing and scooter use.

15. OPEN TIME FOR PUBLIC COMMENTS FOR NON-AGENDA ITEMS

All business having been concluded, the meeting was adjourned at 5:24 p.m.

- Board Secretary

END