

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

*(October 4, 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, Director Jeffrey DelBono, and Director Nick Josefowitz were in attendance.

**3. REPORT OF BOARD CHAIR**

Chair Breckenridge said that she had no report to share this month.

**4. REPORTS OF DIRECTORS**

Vice Chair Wunderman reported that he and Executive Director Nina Rannells would be traveling to the United Kingdom the following week as a part of a Bay Area Council study group to learn more about hovercraft technology in regular service use there.

Director Intintoli reported he had made a presentation about WETA ferry service to an enthusiastically supportive group of Solano County realtors.

Director DelBono reported that he had met with the Principal of srmErnst, Joe Ernst, and Dana Aftab, Executive Vice President of Business Operations at Exelixis. He said that the public has expressed a growing and keen interest in learning specifics about how the money from Regional Measure 3 (RM3) is going to be spent to enhance current ferry service and add new service areas, and in seeing WETA's timelines and details for the improvements. Director DelBono said that he is excited to learn these details also, and to be able to share them the public. He added that it was his hope that the RM3 lawsuit threat will soon subside so these plans can be executed into reality with the help of the measure's funding.

Director Josefowitz asked how WETA participates in Fleet Week activities. Ms. Rannells said that historically, service has been increased significantly to support Fleet Week crowds and that WETA generally also participates in related emergency response exercises during the week. She said that staff had taken part in one such exercise related to fueling on Monday. Chair Breckenridge explained that the Fleet Week tradition was the culmination of a ten month national planning effort involving a number of agencies from the first responder community.

**5. REPORTS OF STAFF**

Ms. Rannells shared her written report with Directors. She said that in addition to increasing service for Fleet Week crowds, additional runs between the Mare Island and Vallejo terminals would be provided to support the upcoming Vallejo Waterfront Weekend, a two day festival celebrating the City of Vallejo,

local government, Mare Island Naval Shipyard, Solano County. She reported that ridership was up, and noted that despite the recent rise in fuel costs, operating costs remained within budget.

Ms. Rannells introduced Lieutenant Amy Gayman of the United States Coast Guard (USCG) who will be spending the next month familiarizing herself with WETA operations at Pier 9 and the North and Central Bay Operating and Maintenance Facilities as part of a USCG training program.

### **PUBLIC COMMENT**

Ms. Gayman thanked the Board and staff and said she was enjoying her time at WETA thus far, was looking forward to seeing the North and Central Bay facilities, and to learning more.

Ms. Rannells shared some details about the 2018 Urban Shield Red Command exercise that took place on September 8 that she herself had participated in. She said that WETA hosted the exercise meet-up at its Emergency Operations Center located in the new Central Bay Operations and Maintenance Facility, and that Golden Gate Ferry provided a vessel for the exercise while WETA's MV *Hydrus* served as the survivors rescue platform. She further explained that the exercise qualified as WETA's annual Vessel Mutual Assistance Plan (VMAP) exercise and noted that WETA had played an integral role in the exercise along with more than 38 other government and private entities, including more than a dozen fire and numerous law enforcement agencies, private ferry operators, the United States Navy, and the Coast Guard. Ms. Rannells said she served as one of the "survivors" in the exercise which was done to test the Oakland Airport's Water Rescue Plan in the event of a plane landing in San Francisco Bay. She said drones had also been utilized in the invaluable and successful exercise and she commended Blue & Gold Fleet, WETA's contract operator, for their work throughout the exercise and for their preparation efforts.

Ms. Rannells noted that it was her hope that Dr. Joseph Pratt, CEO and CTO of Golden Gate Zero Emission Marine, will be able to speak at the November meeting about his work on an 84 passenger hydrogen fuel cell ferry and the potentials for electric ferry technology use in WETA vessels. She reminded Directors of the pledge she sent them for the Diesel Free by 2033 initiative suggested by Director Josefowitz during the September meeting. Ms. Rannells said that staff would bring something more formal to Directors in November to further state WETA's commitment to the objective if the Board desires.

Ms. Rannells reported that WETA Program Manager/Analyst Lauren Gularte gave birth on September 25 to daughter Winona Duran Gularte, and that both were doing well.

Director Josefowitz said that the Treasure Island ferry service start date had been moved up to 2021. It was noted that this left a very tight window for WETA service planning and implementation. Chair Breckenridge said that it was quite late in the process to be addressing funding for the new service, and she emphasized the urgency of Directors being thoroughly informed about the project's status and funding. She said that an agreement for the new Treasure Island ferry service had been in place with WETA for some time, and it was possible that fine tuning of that agreement was being done without WETA's advance knowledge or agreement. It was agreed that staff would work to clarify and confirm the new service details with the San Francisco County Transportation Agency (SFCTA) and the Treasure Island Development Authority (TIDA) so WETA can endeavor to support the new date. Chair Breckenridge said she would like to see an update on the Treasure Island program on an upcoming meeting agenda.

### **6. CONSENT CALENDAR**

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

- a. Board Meeting Minutes – September 6, 2018

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

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

Before Item 7 was presented, Chair Breckenridge provided some background and context about a procedural issue to Directors to assist them in determining whether or not a protest of the item's vessel construction award should be accepted or denied. She referred them to two paper documents that had been provided to the public and Directors; a Formal Protest Notice emailed to the Executive Director at 3:13 p.m. on October 2 from All American Marine, and a letter dated October 2 to WETA Operations and Maintenance Manager Keith Stahnke from Mavrik Marine in response to the emailed protest.

Chair Breckenridge said that at 3:13 p.m. on October 2, after the intended award to Mavrik Marine notice had been posted, staff received the emailed protest of the planned award from All American Marine. She said that after counsel reviewed the protest, it was determined that the protest was invalid because it was not timely. Chair Breckenridge said that this was because the protest had not been received within the first 48 hours following the award intention notice as required by the instructions in the project's Request for Proposal (RFP). She explained that the representative at the meeting from All American Marine was entitled to be heard by the Board, as was the Mavrik Marine representative, also present at the meeting. She said Directors' objective was to listen to the Executive Director's recommendation on the matter, review the documents provided, listen to the speakers who wanted to comment on the matter, and then make the determination of whether to allow or reject the All American Marine protest.

Ms. Rannells explained that because the protest had been received more than 48 hours after the award notice it was not timely because the RFP protest instructions require that any protests to the intended award be received by WETA within 48 hours of award intention notice. She said that the notice to award was received on September 28 and the protest from All American Marine was received via email on October 2. Protests that do not meet these timing requirements are to be rejected per the RFP, and Ms. Rannells said that counsel advised her that the protest could be rejected based solely on this untimeliness.

However, Ms. Rannells further explained that she and legal counsel further reviewed each point of the protest and found that it was without merit. She said her recommendation to the Board was that the protest be rejected because it was untimely and because the evaluation committee did, in fact, work to arrive at their collective decision in accordance of the RFP, and All American Marine did not provide facts or evidence to the contrary to support its untimely protest claims.

Steven Miller from Hanson Bridgett LLP advised Directors that their decision on whether to allow or reject the protest should be based on the information detailed in the protest and in the original RFP, along with their consideration of the Executive Director's recommendation which was informed by counsel's thorough review of the matter. He emphasized that the decision criteria was limited to whether the written protest, under the standards of the RFP itself, provides facts and evidence that the RFP's procedures were not followed, that evaluation criteria was not properly applied by WETA staff, or that staff did not perform a proper evaluation according to the RFP requirements.

### **PUBLIC COMMENT**

Matt Mullett, President and Chief Executive Officer of All American Marine, thanked Directors for the opportunity to provide more details about his protest. He reviewed the concerns he had shared in his October 2 award protest email and said he felt that the scoring system that had been used by the evaluation committee had been overly subjective and had significantly underplayed the qualifications, experience and overall capabilities of All American Marine. Mr. Mullett said All American Marine's prices

for the twin and quad engine vessel types were the lowest of the proposals, and he said he believed they were not scored properly in the second part of the scoring process. He said that All American Marine has proven they can build vessels for government projects. Mr. Mullett said he has not received all of the information he has requested about the proposal review details, and he asked Directors to accept the All American Marine protest and award the contract to All American Marine to build the vessel at the lowest price offered for the project. He added that All American Marine has financial stability and if they made an error in their protest, they would be happy to correct it. Finally, Mr. Mullett said that All American Marine has never made a protest to an award before this one. He said he respectfully requested an independent review of the scoring and the proposals and that his protest be accepted as valid.

### **PUBLIC COMMENT**

President of Mavrik Marine, Inc. Zachery Battle said he has formed a relationship with another shipyard with a focus to find the perfect fit for WETA's vessel objectives. He said that in terms of qualifications, while Mavrik Marine has not built a K boat, they have built many other vessels and are confident they will be able to deliver a vessel to WETA that will meet its needs and that the agency and the public will be very happy to receive.

Director DelBono asked how long the evaluation process used for this contract had been in place and how many protests WETA has received to date for vessel construction projects. Mr. Stahnke said that the process had been in place since about 2006 and that to the best of his recollection, the All American Marine protest had been the first protest received by WETA for vessel construction.

Director DelBono asked if anyone had thoroughly reviewed the details in the protest against the RFP and evaluation process. Mr. Miller said that this process had been done by Ms. Rannells with counsel as soon as she received the protest. He further explained that if the Board upholds the protest that Directors are essentially stating that the process was flawed, either in conception or as applied. He explained that if Directors accept the protest and request an independent inquiry into the process, it was possible that the decision made then would also be questioned by one or more of the proposers, and he cautioned that this could repeat into the future which could make getting to a final decision challenging.

Director Intintoli said that in listening to the information about the protest, he heard the word subjective a number of times. He said he hoped that no matter what decision was made on the protest that All American Marine would continue to bid on WETA projects in the future.

Vice Chair Wunderman asked if the Board generally approves the scoring system before or during the RFP process and Ms. Rannells said no. Vice Chair Wunderman said that price was the least subjective scoring component in the process with the balance of the scoring – about two thirds - being a subjective component based on the other factors. Mr. Miller emphasized that this issue was a matter of discussion related to the award of the contract and not the protest in question being considered now. Vice Chair Wunderman asked if it made sense to exclude untimeliness of the protest as a reason for rejection since the 48 hours in question were over a weekend, which could have made it more difficult for All American Marine to get all of the details and information they wanted to include in a timely protest. Chair Breckenridge said that the Executive Director's recommendation includes that the protest was not technically timely but despite this fact, it had still been considered and reviewed for merit and the recommendation to reject included insufficient facts or evidence to support its claims.

Director Josefowitz asked how All American Marine would be able to make a timely, evidence based protest if they did not have the information they needed from WETA to do so. Mr. Miller explained that All American Marine had been provided information when they requested it, and he reiterated that counsel had thoroughly reviewed the protest and, based on its insufficient evidence or facts to support its claims, along with its untimeliness, recommended to the Executive Director that she recommend that

the Board reject it. He added that staff had, in fact, done a wonderful job on this project. Director Josefowitz asked if All American Marine had received the same report that Directors had in their Board packets on the project scoring process and final scores, and Ms. Rannells said yes. Mr. Miller added that an additional, more detailed scoring sheet had also been shared with All American Marine at their request.

Ms. Rannells noted that she wanted it to be clear to the Board of Directors that the evaluation committee, through review and scoring of all proposals consistent with the criteria in the RFP, determined the proposal submitted by Mavrik Marine to be the Best Value proposal. She further stated that the vessel design proposed by Mavrik Marine, which is a proven design, was determined by the evaluation committee to be technically superior to all other vessels proposed.

#### **PUBLIC COMMENT**

Jay Gardner, Wind+Wing Technologies owner and co-founder of Adventure Cat Sailing, said the Board is asking someone who has not built a Subchapter K vessel to be paid for the privilege to build this kind of vessel. He said a Subchapter T vessel is like a car and a Subchapter K vessel is like a bus. Mr. Gardner said that Directors are asking for a bus to be built by someone who has only built cars.

#### **PUBLIC COMMENT**

Mr. Mullet said that he wasn't making any threats but he did want to caution Directors about the claim that he did not respond with his protest in a timely manner. He said he received the notice to award on a Friday afternoon and to respond within 48 hours would have meant he would have had to get his protest to WETA by Sunday afternoon. Mr. Mullett added that he had sought counsel about this and had been advised the 48 hours should be business hours and not calendar hours.

Director Intintoli made a motion to accept the Executive Director recommendation to reject the protest based on its untimeliness and on its lack of substantive evidence and facts to support its claims under the project's RFP's protest requirements.

Chair Breckenridge seconded the motion and the protest was denied.

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

### **7. APPROVE CONTRACT AWARD TO MAVRIK MARINE, INC. FOR CONSTRUCTION OF NEW COMMUTER CLASS FERRY**

Mr. Stahnke presented the item to approve a contract award to Mavrik Marine, Inc. for construction of one new high-speed ferry in an amount not to exceed \$13,541,600 and authorize the Executive Director to negotiate and enter into an agreement and take any other related actions as may be necessary to support this work.

Mr. Stahnke explained that he had made onsite visits to All American Marine's and Mavrik Marine's shipyards. He said he was confident in Mavrik Marine's shipbuilding capabilities and that they were well aware of the differences and requirements of a Subchapter K vessel. Mr. Stahnke added that he was familiar with the vessels built by Mavrik Marine to date and said he had been able to inspect many of them. He said he and the evaluation committee for this project were confident that the vessel proposed by Mavrik Marine far exceeded what had been offered by the other proposers. Mr. Stahnke emphasized that much of what had been considered during the evaluation process had been objective and based on knowledge and facts about the proposals and the proposed shipyards.

#### **PUBLIC COMMENTS**

Mr. Gardner spoke in favor of a no vote on this item and asked that instead, the Board prioritize time to evaluate the status and future implications of operating an all diesel ferry fleet on the San Francisco

Bay. He said an all diesel WETA fleet will not survive and he asked how the public would perceive an all-diesel, polluting transportation option.

The importance of emissions reductions for WETA vessels was discussed, and Ms. Rannells said she expected that WETA will be able to start using renewable diesel in some of its vessels as early as January 2019. It was noted that the vessel being proposed for award will be the first to have an MTU Tier 4 engine type, so staff anticipates that we will be asked by the Environmental Protection Agency to conduct a Tier 4 emissions test on this engine utilizing traditional diesel for an initial period of time to certify the engine's reduced emissions. Ms. Rannells reminded Directors that she is working to include presentations on the November meeting agenda on the hydrogen fuel cell demonstration vessel being built locally and an update on the development of electric battery powered ferries. It was noted that an all-electric ferry was ultimately desired as the WETA fleet green solution because hybrid-electric still used quite a bit of diesel in a combustion engine.

Directors agreed that partnering with agencies such as the Bay Area Air Quality District, the California Air Resources Board, and the Department of Energy to assist in furthering WETA's fleet greening objectives would be prudent. It was noted that these groups may be able to provide their expertise, and possibly some funding, - to support WETA's efforts to advance new alternative vessel propulsion technology.

Director Intintoli made a motion to approve the item.

Vice Chair Wunderman seconded the motion and the item passed unanimously.

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

#### **8. REGIONAL MEASURE 3 PROGRAM AND PLAN UPDATE**

Mr. Connolly presented this RM3 program and plan update as an informational item. He shared a slideshow presentation of potential service enhancements and capital investments planned for FY 2019 through FY 2024. Mr. Connolly noted that many Bay Area employee work schedules were changing, as evidenced by later morning departures from the East Bay to San Francisco maxing out fairly frequently. He said the service enhancements on some routes would address this by adding trips to support riders where needed such as on the Harbor Bay route.

Mr. Connolly reviewed the new terminals planned for the WETA system in the next five years, which included Seaplane Lagoon in Alameda, Mission Bay in San Francisco, and Treasure Island. He noted that the design and permitting work for new terminals in Berkeley and Redwood City was also included in this plan.

Vice Chair Wunderman asked what was preventing WETA from accelerating construction of a new terminal in Redwood City. Mr. Connolly explained that the San Mateo Transportation Authority (SMTA) requires a feasibility study for Redwood City – anticipated to take about one year – for the city to qualify for the project funding per their SMTA agreement. He said that the SMTA has already issued a RFP for the study, and that once completed, there would be a two year permitting process to move the project forward. Vice Chair Wunderman asked staff to provide more detailed information clarifying the steps and timeline necessary to deliver Redwood City ferry service..

Mr. Connolly said that the expectation is that \$25M of the anticipated RM3 funding will be set aside for Mission Bay small vessel construction. He said that the Seaplane Lagoon terminal was already in construction and expected to be in service in early 2020. He explained that it was highly likely that this would be a concrete service start date and noted that this project was a fundamental component in WETA's overall service enhancement and new service plans.

Mr. Connolly said the Mission Bay terminal was on track for a 2021 completion, perhaps even 2020, but he cautioned that the project required \$25 million of capital funding from RM3 and if the lawsuit threatening the measure goes forward, those crucial funds may not materialize, and the project may not move forward. It was noted that all of the environmental permitting for Mission Bay had already been completed but that additional permitting was required and that those final permitting efforts continued as possible despite the RM3 funding uncertainty.

Director DelBono asked if the RM3 funding is cleared and becomes available how long it will take WETA to deliver small vessels from RFP release to delivery and start of revenue service. Mr. Connolly said that this plan's assumption would be about a year, with a maximum expectation of three vessels in one year due to general shipyard production constraints. He added that if the funding does become available and the WETA Board approves a small vessel service plan, the current assumption is that three new smaller vessels could be added to the fleet and put into service in 2020, with three more in 2023. Mr. Connolly acknowledged that the Small Vessel Study Committee was still working on their research and had not yet issued any findings or recommendations officially yet. He said staff assumptions on this five year RM3 funding plan were that some type of smaller vessel service would eventually be desired and that the small vessels in this plan were just placeholders at this time.

Vice Chair Wunderman said that the University of California at Merced campus was built with the assistance of private financing in a public private partnership (P3). He explained that the cost may end up being a little bit more than it otherwise would have been if the facility had been built using municipal bonds, but he said it was worth it because the project was able to get off the ground and get done. Vice Chair Wunderman said the deal had been made using availability payments to reduce risk. He explained that the facility was owned by the private investors and they were responsible for its maintenance until the end of its life cycle at which time the university will take ownership. He suggested that perhaps WETA could partner with private investors in the same way for the \$25 million needed for the Mission Bay terminal construction instead of waiting for the RM3 lawsuit threat to subside. Vice Chair Wunderman emphasized that a private investment partnership could be a solution for the Mission Bay project if the measure's funds earmarked for WETA never materialize.

Mr. Connolly explained that the City of San Francisco is lead on the Treasure Island development and related transportation services. He said as far as he was aware, they have not considered anything exotic on the funding front and have historically relied on the concept of very high access tolls that they will use to support the cost of new transportation services. Mr. Connolly noted that the new target date for ferry service to begin is 2021, and he said that this new date is feasible if funding is made available and smaller vessels are used for the service.

Mr. Connolly said that the City of Berkeley is working on a master plan for their marina and they expect to replace a fishing pier in the process and hopefully, include new WETA ferry service in the plans. Director Josefowitz said it was fundamentally important from a planning perspective that new ferry terminals are not built in the middle of nowhere in terms of housing, employment, and education. He asked if there was other development in the works for the area being considered for a new terminal in Berkeley and Mr. Connolly said he had not yet seen the master plan but that it was possible. Director Josefowitz said he would like WETA to avoid doing a bunch of work and spending money on studies for future projects that are not collaboratively and intelligently planned to maximize the opportunities that a new ferry service provides. He said WETA ferry service is a catalyst to spur the economy in areas where it does not presently exist in the Bay Area. He said he would like to see Berkeley's master plan for the marina before WETA expends additional resources for a potential new terminal there. Ms. Rannells said that ferry service in Berkeley has been included in WTA/WETA's plans from the start and that the agency had already spent considerable resources in developing the concept in the past. She added that it was important to clarify with the Board whether the current work to support Berkeley's

future ferry service desire should continue. It was agreed that establishing Memoranda of Understanding with entities interested in exploring new ferry service was a fundamental piece of the process, and now the WETA standard. It was also agreed that a more detailed discussion regarding the Berkeley project would be necessary prior to moving forward with significant work or a project MOU.

### **PUBLIC COMMENT**

*Bay Crossings* Founder Bobby Winston asked why the new Richmond service that is scheduled to open in January 2019 did not appear in the five year RM3 funding plan timeline. Mr. Connolly said that was because Richmond was already funded and would not need RM3 funding to get off the ground. He added that the expectation was that the new Richmond service would very likely need to be enhanced, but not until eight years after service begins, or around 2026, so that change did not appear in this five year plan through 2024.

Mr. Connolly said that in 20-25 years, WETA will need a new source of funding. Vice Chair Wunderman noted that WETA services were not included in the state budget. Mr. Connolly said that an important benefit of the RM3 funding was that the agreement with the Metropolitan Transportation Commission (MTC) for the measure will allow WETA to build some security for unanticipated needs by keeping funds it does not need immediately to be used in the future. Director Intintoli asked how the Washington state ferry systems were funded and Chair Breckenridge said that the state decided early on to fund ferries instead of bridges. She said that decision and those investments really paid off especially for residents in the Seattle region because they have a robust and highly utilized ferry system. She said there is a regular stream of funding from the state and cities to support those services.

Ms. Rannells said WETA that WETA does not receive State Transportation Development Act Funds, which represent a sizable statewide transit operating assistance program. However, she noted that WETA does receive a limited amount of state funding from the State Transit Assistance program based on a formula that considers how much non-state funding an operator invests in their services. Director Josefowitz asked that Directors be provided clarity on the fiscal stability details of this five year plan and raised concerns about assuring regular maintenance costs are understood. Ms. Rannells said that because of the nature of WETA's service, it consistently maintains rigorous maintenance standards for its facilities and vessels and that USCG safety and security requirements assure this. She added that staff would bring back the details and expectations related to costs for the five year plan for Board review, and she reminded Directors that this presentation reflected a five year plan to provide MTC a general idea of WETA's plans for the first five years of the RM3 program, should funds become available.

Director Josefowitz said he would like staff to look into making other operational changes to the WETA system to allow for such things as front loading, improved passenger queuing, shelter for passengers at terminals and general greening of the fleet. Mr. Connolly said the plan he just presented was created at MTC's request to provide them with visibility of WETA's RM3 five year large project objectives. He added that there are many other objectives and projects in WETA's 20 year Strategic Plan and said that staff could revisit the Strategic Plan details with the Board in future discussions when Directors want to more closely focus on projects beyond the immediate term.

Directors agreed that the next and final item on the meeting's agenda, an informational overview of WETA system performance measures, would be agendaized for a November meeting discussion given the late hour.

## **9. OPEN TIME FOR PUBLIC COMMENTS FOR NON-AGENDA ITEMS**

### **PUBLIC COMMENT**

Amiee Alden, Director of Local and State Government Relations at the University of California at San Francisco (UCSF), said that the UCSF community is very excited about the new Mission Bay ferry



terminal and service and is counting on it to get their employees and customers to their facilities, especially during the anticipated crowded times in the area when there are events and games at the new stadium. She said that 25 percent of the UCSF workforce resides in the East Bay, and those employees who work on campuses in areas of the city beyond the immediate Mission Bay ferry will be taking an electric shuttle from the ferry terminal to their work sites. She said that getting this new service going, and getting people to the Mission Bay ferry terminal, could literally be a matter of life and death and she thanked the Board for its efforts to support the project.

All business having been concluded, the meeting was adjourned at 4:42 p.m.

- Board Secretary

\*\*\*END\*\*\*