

## **BOARD MEETING OF FEBRUARY 7, 2011**

At the call of the Chair, a Meeting of the Board of Directors of the Massachusetts Bay Transportation Authority was held at Ten Park Plaza, Offices of the Board, Third Floor, Boston, Massachusetts, on Monday, February 7, 2011 at 1:00 p.m.

There were present: Messrs. Jenkins, Alvaro and Whittle and the Misses Loux and Levin, being all members of the Board of Directors of the Authority.

Also in attendance were: the Secretary, Mr. Mullan, the General Manager, Mr. Davey, and Messrs. Mitchell, Davis, Wallace, DePaola, Turcotte, Kelley, Ray, and Cosgrove and the Misses Quinones, Berry and Charles.

The Chairman, Mr. Jenkins, presided.

The Recording Secretary kept the records of the Meeting and presented the Order of Business.

Chairman Jenkins called the 1044th Open Meeting to Order.

The Chairman announced the start of the public comment period and introduced the first speaker, Mayor Curtatone who spoke about Agenda Item No. 3, Green Line Extension – Project Management and Preliminary Design, Construction Management and Preliminary Design and Agenda Item No. 9, Memorandum of Agreement for funding for the proposed Assembly Square Station. He said that both agenda items represent historical moments for the City of Somerville. Mayor Curtatone talked about smart growth projects and asked that the Board support both projects.

The next speaker, Mr. Tommy Vitolo from Brookline, Massachusetts addressed the Board regarding the Green Line boarding procedures. He asked that someone educate him and the conductors, while traveling with a stroller, on the proper process of boarding the Green Line above ground.

The next speaker, Mr. Rob Park addressed the Board regarding the improvements of the fare gates on the automated fare collection system. Mr. Park thanked the administration for the creation of the Office of System-wide Accessibility and on resolving the issues associated with the fare gates.

The next speaker, Ms. Marilyn MacNab, a resident of Boston, addressed the Board regarding Agenda Item No. 6, the contract closeout of the Automated Fare Collection and asked that the Board support the item. Ms. MacNab asked that the Board support Agenda Item No. 9 regarding the proposed Assembly Square Station on the Orange Line.

The next speaker, Mr. Wig Zamore from Somerville, addressed the Board regarding the Green Line Extension Project and the Assembly Square Station. He asked that the Board support the items. He asked that the MBTA look for outside sources to fund and support the Community Path.

The next speaker, Ms. Rebecca Schrumm spoke on behalf of the Friends of the Community Path. She thanked MassDOT and the MBTA for their hard work on the Green Line Project. Ms. Schrumm said that they look forward to viewing the contract and seeing the preliminary engineering underway so that the Green Line and the Community Path designs can move forward.

The last speaker, Mr. Alan Moore spoke on behalf of the Friends of the Community Path. He addressed the Board regarding the need and the benefits of the Community Path and asked that the Board support Agenda Item No. 3.

At this time, the Chairman closed the public comment period.

(A list of speakers is provided as an attachment to these minutes.)

The Minutes of the Meeting of January 5, 2011 were approved as presented.

The General Manager, Mr. Davey, gave the General Manager's Report. A copy of the report is attached to these Minutes.

The General Manager's Report was accepted as given.

Mr. Frank DePaola, Assistant General Manager for Design and Construction, presented the immediately following item concerning the Green Line Extension – Project Management, Construction Management and Preliminary Design.

After a lengthy discussion regarding the funding and the state's legal obligations of the Green Line Extension Contract, the Board voted to amend the immediately following item, only voting on the preliminary design aspect.

Secretary Mullan called the Board's attention to the project being a state sponsored project carried out by the MBTA on the state's behalf. The Secretary said that a detailed conversation will need to be conducted with Administration and Finance as to how this project fits into the capital budget.

Mr. DePaola explained the application process for the New Starts application with FTA.

In response to Director Whittle's inquiry, Mr. DePaola said that he would like to advertise for design/build at the end of the calendar year, and come before the Board in May 2012 for recommendation of award. The following action was taken as amended.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the General Manager and Rail & Transit Administrator, be and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, MBTA Contract No. E22PS02, Green Line Extension – Program Management, Construction Management and Preliminary Design, with Gilbane Building Company/HDR Engineering Inc., a Joint Venture, for a sum not to exceed \$21,988,238.00 with a completion date of sixty (60) months from the date of the Notice to Proceed.

Mr. Michael Turcotte, Assistant General Manager for Engineering and Maintenance, presented the immediately following item concerning a maintenance contract for the Authority's emergency smoke and ventilation fans.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the General Manager be, and hereby is, authorized to execute in the name and on behalf of the Authority, and in a form approved by the General Counsel, a contract with O'Connor Constructors, Incorporated, of Canton, Massachusetts to provide maintenance to the MBTA's tunnel and station exhaust fans over a three-year period, with two one-year options, at a total cost of \$12,244,790; said company being the only lowest responsive and responsible bidder in response to an Invitation for Sealed Bids.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the General Manager be, and hereby is, authorized to execute in the name and on behalf of the Authority, and in a form approved by the General Counsel, extension of contracts with ABM Industries, of Somerville, Massachusetts, to clean Red Line (North), Green Line, and Orange Line (South) Stations over a four-month period, at a total cost not to exceed \$1,740,321.00; J&K Cleaning, Inc., of Roslindale, Massachusetts, to clean Red Line (South) Stations over a four-month period, at a total cost not to exceed \$764,623.00; Empire Cleaning, Inc., of Wakefield, Massachusetts, to clean Orange Line (North) Stations over a four-month period, and Employee Facilities, at a total cost not to exceed \$988,504.00; S.J. Services, Inc., of Danvers, Massachusetts, to clean Blue Line Stations over a four-month period, at a total cost not to exceed \$541,868.00.

Mr. Joseph Kelley, Deputy General Manager of the Automated Fare Collection, presented the immediately following item concerning the contract closeout.

Director Loux suggested that the General Manager give a verbal report at a later date that internal audits are in place.

Chairman Jenkins complimented Mr. Kelley on the project coming in under budget.

Secretary Mullan asked that an informational item is presented to the Board as to how AFC has benefited the agency and where we are going with AFC. The following action was taken.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the General Manager be, and hereby is, authorized to execute in the name and on behalf of the Authority, and in a form approved by the General Counsel, Change Order No. 16 to MBTA Contract No. 640 with Scheidt & Bachmann – USA, Inc., in the amount of \$3,383,970.00 for Contract Closeout of the Automated Fare Collection Phase 1 Project.

Mr. John Ray, Senior Director of Operations Contracted Services presented the immediately following item concerning an Extra Work Project Initiation Agreement.

Director Alvaro questioned how the project is funded. Mr. Davey said that this is an unfunded project in the CIP. He noted that other railroads are faced with the same issues of unfunded projects, but the Authority has to comply with the law.

Director Levin questioned why the project was not bid. Mr. Ray noted that MBCR has maintenance staff already in the locations and the cost would increase with outside vendors with a duplication of staff. Mr. Ray explained the project funding.

Director Levin expressed concern as to not having a prior discussion of the MBCR audit and now voting on sole sourced work without addressing the issues in the audit. Director Levin abstained from voting on the immediately following item concerning the Extra Work Project Initiation Agreement with MBCR for the preliminary engineering effort for the implementation of the system-wide Positive Train Control system.

Board Members share Director Levin's concerns and noted that the MBCR Audit discussion will be put on the agenda for discussion at the next scheduled meeting. The following action was taken.

On motion, duly made and seconded, it was

**VOTED:** That the General Manager be, and he hereby is, authorized to execute in the name of and on behalf of the Authority, and in a form approved by the General Counsel, Extra Work Project Initiation Agreement with the Massachusetts Bay Commuter Railroad Company, LLC (MBCR) for an amount not to exceed \$1,570,837.75 to support the Massachusetts Bay Transportation Authority's (MBTA's) with its preliminary engineering effort for the implementation of the system-wide Positive Train Control (PTC) system required by the Rail Safety Improvement act required by the United States Congress.

Mr. Joseph Cosgrove, Director of Development, presented the

immediately following item concerning an agreement between the MBTA and the South Shore Tri-Town Development Corporation for intermodal access improvements at the South Weymouth Commuter Rail Station. The following action was taken.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the General Manager be, and he hereby is, authorized to apply for and take action to secure up to \$8,011,800 million in High Priority Project funding on behalf of the South Shore Tri-Town Development Corporation (SSTTDC), through the U.S. Department of Transportation; and be it

**FURTHER VOTED:** contingent on the successful application of said grant funding and the provision by SSTTDC of the federally required 20% project cost local match in the sum of \$2,002,950, that the General Manager be, and hereby is, authorized to execute on behalf of the Authority, and in a form approved by the General Counsel, a Memorandum of Agreement with the SSTTDC to enable access by project partners of the federal grant award in the amount of \$8,011,800 for intermodal surface transportation access improvements in the area of South Weymouth Commuter Rail Station.

In response to Director Levin's inquiry regarding the immediately following item concerning the Assembly Square Station, Mr. Cosgrove said that Federal Realty will pay \$15 million before the award of a construction contract and the escrow agreement will be in place. The following action was taken.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the General Manager be, and he hereby is, authorized to execute, in the name of and on behalf of the Authority, and in a form approved by the General Counsel, a Memorandum of Agreement with FR Sturtevant Street LLC providing for the private funding contribution and terms for construction of a new Assembly Square Station on the MBTA Orange Line; and be it

**FURTHER VOTED:** That the General Manager be, and he hereby is, authorized in the name of and on behalf of the Authority, and in a form

approved by the General Counsel, to take all necessary action in (1) acceptance of a permanent easement consisting of approximately 3,106 square feet of land and needed for the purpose of locating and operating the North Head House; (2) acceptance of a temporary construction and access easement consisting of approximately 69,205 square feet of land and needed for the purpose of constructing the North Head House and its utility connections, the station platform, requisite track alignment and the South Head House and its utility connections; (3) acceptance of a permanent easement consisting of approximately 3,428 square feet of land and needed for the South Head House; (4) acceptance of temporary construction easements consisting of approximately 11,038 square feet and 3,119 square feet from IKEA and needed for the construction of the South Head House, the station platform, requisite track realignment and the appurtenances thereto; (5) acceptance of the fee interest consisting of approximately 1,525 square feet of land and needed for right of way expansion to facilitate track realignment north of the station platform; and (6) acceptance of a permanent foundation easement consisting of approximately 5,454 square feet of land and needed for the foundation of a new MBTA retaining wall to accommodate the track realignment north of the station platform. Said acceptances and any other necessary instruments and documents shall contain such other terms and conditions as determined to be necessary and/or advisable by the General Counsel.

Ms. Lee Ann Ross Berry, Risk Manager, presented the immediately following item concerning the purchase of a one year Property Insurance Policy with FM Global.

Director Loux expressed concern regarding the brokers' fee and suggested that the Authority look into how MassDOT handles their insurance program. Ms. Berry explained that she has been meeting with MassDOT on their insurance programs and together, they are looking into cost savings efforts. The following action was taken.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the General Manager or his designee, the Treasurer-Controller, be and he hereby is, authorized to execute, in the name of and on behalf of the Authority, and in a form approved by the General Counsel, the purchase of a one-year Property Insurance Policy with FM Global (insurer) and Marsh, USA (broker), for the period of March 1, 2011 to March 1, 2012, for an annual premium of \$1,135,000. This policy provides coverage for real/personal property, rolling stock, boiler & machinery and terrorism coverage with a total combined replacement value of \$6.5 Billion, a policy limit of \$1 Billion and a self-insured retention of \$2.5 Million; to continue the Authority's commitment to achieve and maintain Highly Protected Risk (HPR) status in its facilities to protect the Authority's physical and financial assets and to assist in the significant reduction of insurance premiums.

Mr. Wesley Wallace, Treasurer-Controller, presented the immediately following item concerning the Assessments and the Statement of Facts.

On motion, duly made and seconded, it was unanimously

**VOTED:** WHEREAS, this Board, in accordance with the provisions of Section 9 of Chapter 161A of the General Laws, has by vote dated February 2, 2011, certified the amount of the Estimated Assessments for Fiscal Year 2012 and authorized said certified amount to be forwarded to the State Treasurer.

WHEREAS, said Section 9 requires that this Board certify and forward a Statement of Facts to accompany said certified amount.

NOW, THEREFORE, this Board hereby certifies that the attached Statement of Facts is correct and further authorizes said Statement to be forwarded to the State Treasurer in accordance with the provisions of Section 9 of Chapter 161A of the General Laws.

On motion, duly made and seconded, it was unanimously

**VOTED:** That, whereas, in accordance with the requirements of Section 7A of Chapter 161A of the General Laws, as amended, the Massachusetts Bay Transportation Authority has determined the total vote on the MBTA Advisory Board of each city and town included in the Authority, the Chairman be, and he hereby is, authorized and directed to deliver notice in writing of such determination, in the following for, to the MBTA Advisory Board, this Board having determined that the Statement of Facts contained therein is correct.

Mr. William Mitchell, General Counsel, presented the immediately following

item concerning the appointment of Elizabeth Levin to the Police Association Retirement Plan Board (PARP). He said that there are three vacancies. He recommended that the Board appoint Director Levin as a member and Bill Perez, Deputy General Manager for Human Resources and Labor Relations, and Patricia St. Denis, Senior Manager of Payroll, as alternates to the PARP Board. The following action was taken.

**VOTED:** That the Board of Directors hereby appoint Director Elizabeth Levin, to the Police Association Retirement Plan Board of Directors of the Massachusetts Bay Transportation Authority, and be it further voted, that Virgil (Bill) Perez and Patricia St. Denis are hereby appointed to the PARP Board as Alternates for Director Levin and Wesley Wallace, Chairman.

Mr. Mitchell presented the Delegation of Authority for the MBTA. It was the staff's recommendation that the General Manager be authorized up to a limit of \$5 million and the General Counsel, Assistant General Manager for Design and Construction and Director of Materials, be authorized to execute agreements up to a maximum of \$500,000. There was discussion between Directors and it was decided that the Board consensus was \$2.5 million authorization level would be more appropriate. The Board then voted to increase the MBTA General Manager's authorization level from \$500,000 to \$2.5 million and the General Counsel, Assistant General Manager for Design and Construction and Director of Materials to \$250,000 effective immediately.

Secretary Mullan urged the Board to strike the right balance while considering the authorization levels. He said that policy discussions are ongoing and that the

Board should review on an annual basis the authority levels to ensure that the right balance has been reached. The Board will review the authorization levels in six months.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the Board of Directors hereby increase the General Manager's authorization level from \$500,000 to \$2.5 million, and General Counsel, Assistant General Manager for Design and Construction, and Director of Materials to \$250,000, effective immediately.

On motion, duly made and seconded, it was unanimously

**VOTED:** To adjourn the 1044th Open Meeting.

The meeting adjourned at 3:45 p.m.

A true record.

Attest:

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Yolanda L. Reed  
Recording Secretary  
Board of Directors of the  
Massachusetts Bay Transportation  
Authority

**FEBRUARY 7, 2011**

**SPEAKERS DURING PUBLIC COMMENT PERIOD**

1. Mayor Curtatone, Mayor of Somerville
2. Mr. Tommy Vitolo, resident of Brookline, MA
3. Mr. Rob Park
4. Ms. Marilyn MacNab, resident of Boston, MA
5. Mr. Wig Zamore, Friends of the Community Path
6. Ms. Rebecca Schrumm, Friends of the Community Path
7. Mr. Alan Moore, Friends of the Community Path