**MASSACHUSETTS
BAY
TRANSPORTATION
AUTHORITY**

*Board of Directors*
Transportation Building
Ten Park Plaza
Boston, Massachusetts 02116

## BOARD MEETING OF JULY 14, 2010

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 Wednesday, July 14, 2010 at 1:05 p.m.

There were present: Messrs. Jenkins, Alvaro and Miss Levin, being a quorum of the Board of Directors of the Authority.

Also in attendance were: the General Manager, Mr. Davey, and Messrs. Mitchell, Davis, Wallace, DePaola, Boyle and Johnson and the Misses Quinones and Lynds.

The Chairman, Mr. Jenkins, presided.

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

Chairman Jenkins called the 1037th Open Meeting to Order.

The Chairman announced the start of the public comment period and introduced the first speaker, Mr. Rob Park from the Boston Center for Independent Living, and who is also an individual plaintiff in the lawsuit against the MBTA. Mr. Parks spoke in support of Agenda Item No. 6, Park Street Station Vertical Transportation Improvements. He thanked the Office of System-wide Accessibility for their work in coordinating the efforts of redundant elevators and dealing with customer complaints. He said that, together we are changing transportation in Massachusetts and hopefully we can be a model nationwide. Mr. Parks said that the MBTA and its personnel should be extremely proud.

The next speaker, Mr. Tom Gilbert from Access Advisory Committee on Transportation (AACT), addressed the Board, and who is also a named plaintiff in the accessibility lawsuit against the MBTA. He also thanked the Office of System-wide Accessibility for their efforts regarding the work that they have done for redundant elevators. Mr. Gilbert recommended that the Board support Agenda Item No. 6 regarding the Park Street Station Vertical Transportation Improvements.

The next speaker, Mr. Christopher Beland from the Rider Oversight Committee (ROC) addressed the Board regarding the Somerville Community Path. He asked that the Board consider building the community path during construction of the Green Line Extension Project.

The next speaker, Mr. Wig Zamore, a local advocate and a member of the ROC addressed the Board regarding the Green Line Extension Project. He said that he is a resident of Somerville and expressed his support for the Green Line Extension Project. He said that the community is disappointed about the announced delay and expressed concern about the complications that the delay will have on the regional transportation planning amendment. He said that, the maintenance facility may be able to be located on public property near the Boston Engine Terminal in hopes of saving property takings money. He said that the community path is important to the project.

The next speaker, Ms. Joanne Daniels-Finegold, a member of the Greater Boston Legal Services, and a named plaintiff in the accessibility lawsuit addressed the Board. She spoke in support of Agenda Item No. 6, Park Street Station Vertical Transportation Improvements. She said that, in negotiations of the lawsuit, the improvements would benefit, not just people who were disabled or mobility impaired but benefit the community at large. The elevators are used by everyone. Ms. Daniels-Finegold said that she would like to see the MBTA be a model in this country in terms of transportation.

The next speaker, Ms. Marilyn MacNab addressed the Board and thanked the speakers before her regarding the accessibility issues. She spoke in support of Agenda Item No. 6. She also addressed Agenda Item No. 11, Light Rail Accessibility Program, Arlington/Copley Stations, Green Line, concerning the public announcement boards. She asked that the announcement boards and the public

address systems are coordinated together.

Ms. MacNab said that, Ms. Jeannette Orsino, from the Massachusetts Association of Regional Transit Authorities (MARTA), is responsive and MARTA is great to deal with. She reminded the Board of the celebration of the 20th Anniversary of the signing of the Americans with Disabilities Act on July 26 on the Boston Common.

The next speaker, Mr. Allen Moore, from the Friends of Community Path of Somerville addressed the Board. He reiterated that of the speakers before him as to the importance of the community path to Somerville. He said that the project is good and has great support. He asked that MassDOT make a commitment that the community path is built along with the Green Line Extension.

The last speaker, Ms. Ellen Riesner, President of the Somerville Transportation Equity Partnership, reiterated the other comments. She said that she has been part of the project from the beginning. She expressed concern regarding the lack of MBTA participation at the meetings. She said that the meetings will begin in September again and asked that the MBTA participate.

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 June 2, 2010 were approved as presented.

The General Manager, Mr. Davey, gave the General Manager's Report. He updated the Board on accomplishments for the month of June surrounding safety. He reminded the Board of the Safety Hotline. He implemented an all closed door policy on the Commuter Rail. Mr. Davey also stated that we announced the requirement for drivers' licenses for all heavy rail operators. He said that, the Authority is undertaking the recruitment for Chief Safety Officer, and would like to have that person in place mid-August. We will be re-launching the Safety Recognition Awards program for safe drivers in September. He said that he attended a safety breakfast for 50 employees in Charlestown to talk about safety on the job. He thanked the Cambridge Fire Department, Somerville Fire Department and the Office of System-wide Accessibility, Mr. Gary Talbot, and the many people on the Operation Team, for participating in the Emergency Evacuation Drill. Mr. Davey also mentioned that during the drill, the Authority tested out the rail mounted evacuation chairs, as well.

Mr. Davey said that his team completed eight station visits with the "Join the GM" program. He said that the information is being evaluated and the launching of a new program will be implemented in the coming weeks. Reliability has been a focus and the air conditioning has been working great on commuter rail. We rolled out 60' buses on the Route 28 bus and have been getting great feedback.

In terms of employees, Mr. Davey said that the MBTA will now have a Performance Manager Program in place. He said that, Human Resources, with Ms. Chris Bond's leadership has designed, developed and is in the process of implementing the program. The team now has goals for fiscal year 2011 around safety, service, employees, fiscal responsibility and innovation. Mr. Davey continued by stating that the MBTA has launched "Letters for a Better T", asking employees to write in to him and the senior team for ideas as to how to improve the MBTA. Mr. Davey said that, he picks 8-10 employees to have lunch with him monthly, to talk about how we are doing and what they need from the General Manager to get their job done.

The internal review of Human Resources and the Office of Diversity and Civil Rights has been completed by MassDOT and the recommendations are being discussed with the Secretary on how to make improvements to those departments. The General Manager will update the Board at a later date. Mr. Davey said that he has also been meeting with the Latino Alliance regarding concerns noting that they are having constructive dialogue.

On fiscal responsibility, Mr. Davey said that we have completed fiscal year 2010 and that he expects that the Authority will have a balanced budget and that he will expect to fully brief the Board as we close out year end. Mr. Davey said that, as discussed at the May Finance and Audit meeting, Mr. Frank DePaola, Assistant General Manager for Design and Construction had reviewed several projects and determined that some projects had proceeded with change orders without Board

approval. At the request of Secretary Mullan and the General Manager, an audit is now being conducted, and the General Manager expects to brief the Board in August of the results.

Mr. Davey said that, the department heads and he were given goals for fiscal 2011 and are beating the Authority's budget by 2%.

The General Manager updated the Board on "Where is the Bus Program." The Authority has allowed raw data on 17 bus routes and expects to launch more by the end of the month and all routes at the end of August. Mr. Davey said that the Authority announced the "Pay by Phone" for commuter rail stations. Passengers with phones will now be able to use this application. He said that the Authority is preparing to launch Charlie on commuter ferry by the end of the summer.

The Chairman questioned what is done with the data that is received from the "Join the GM" visits. Mr. Davey said that over 1,000 comments were received and he will share the information with the Board once the information is formatted.

The General Manager's Report was accepted as given.

Mr. Frank DePaola, Assistant General Manager for Design and Construction presented the immediately following items concerning Task Order Contracts.

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, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, MBTA Contract No. Z92PS44, General Engineering Services, Task Order Contract 3, Group F, with Jacobs Engineering Group, Inc., for a sum not to exceed $2,000,000.00, with a completion date of 36 months from the date of the Notice to Proceed.

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, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, MBTA Contract No. Z92PS45, General Engineering Consulting Services, Task Order Contract 3, Group G, Kleinfelder/SEA Consultants, Inc., for a sum not to exceed $2,000,000.00, with a completion date of 36 months from the date of the Notice to Proceed.

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, subject to the approval of the Massachusetts Department of Transportation (MassDOT), and in a form approved by the General Counsel, MBTA Contract No. Z92PS46, General Engineering Consulting Services, Task Order Contract 3, Group H, with Shaw Environmental & Infrastructure, Inc., for a sum not to exceed $2,000,000.00, with a completion date of 36 months from the date of the Notice to Proceed.

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, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, MBTA Contract No. A40CN03, Park Street Vertical Transportation Improvements, with Barletta Heavy Division, for a sum not to exceed $8,667,800.00, based upon a schedule of unit, lump sum and allowance bid prices, said contractor being the lowest responsible and eligible bidder in response to requests for sealed proposals.

Mr. DePaola participated in a discussion regarding the immediately following item concerning Project Initiation Agreement 1003 that will provide flagging, signal and track services for the construction of the Talbot Avenue Commuter Rail Station and Talbot and Woodrow Avenue Bridge Replacements Project. Director Alvaro questioned how MBCR would meet the DBE goal. Mr. DePaola said that in the past they have subbed out some of the work with Keville, and to date DBE participation is over 12%.

Director Levin asked for clarification as to when a job is bid and not bid. She also asked for clarification as to what is included and not included in MBCR's contract. Mr. DePaola explained the Fairmount Corridor Improvements Project and the on-time performance of the contracts as it relates to commuter rail service. He said that, the consultants work up an independent estimate, MBCR works on a proposal and then the scope of work is reviewed. At that time a final cost is negotiated between the parties.

Director Levin questioned how the contracts were initially bid for operating the system, is an item included stating that there could be additional work that could amount to a different cost, and if there is a rate schedule. Mr. DePaola explained the provisions in the contract that stipulates that MBCR can be asked to perform force account work and items that would be paid for and the fee for performing the work. Each MBCR task is funded by the funding source for the individual project that it is supporting. Director Levin suggested that when contracts are rebid that in the initial contract there should be something that gives indication that the work

ranges from a certain amount, the rates are included, and how much the work has cost in the past.

The Chairman questioned whether there was a clear delineation as to the work that MBCR does as part of the contract and the work performed outside of the contract. Mr. DePaola said that within the Operating Contract there is no specific definition as to the work that they will perform. If it affects the operation of the commuter rail service we will work with MBCR which is done under the force account agreements with the contract. There is no specific budget in the contract for capital projects noting the regular maintenance of way functions that MBCR has a responsibility to perform as part of the fixed price of the contract.

On motion, duly made and seconded, it was unanimously

**VOTED:** That the General Manager be, and he hereby is, authorized in the name of 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, Project Initiation Agreement No. MBCR 1003 with the Massachusetts Bay Commuter Railroad for an estimated sum not to exceed $1,245,869.00 for flagging, signal and track services in support of the Talbot Avenue Commuter Rail Station and Talbot Avenue and Woodrow Avenue Bridge Replacement Project, based upon the cost proposal in the MBTA – MBCR Extra Work Form.

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, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, Project Initiation Agreement No. MBCR 1004 with the Massachusetts Bay Commuter Railroad for an estimated sum not to exceed $529,744.00 for flagging, signal and track services in support of the Newmarket Commuter Rail Station Project, based upon the cost proposal in the MBTA – MBCR Extra Work Form.

In response to Director Levin's inquiry regarding the immediately following item, Mr. DePaola said that when Amtrak had the commuter rail contract, they performed the work. Mr. DePaola said that a project manager oversees the contract and that the prime contract has not been bid.

On motion, duly made and seconded, it was unanimously

**VOTED**: That the Board of Directors consistent with its vote of July 2, 2009 authorizing the General Manager to take any and all actions deemed necessary to accelerate economic stimulus projects funded under the American Recovery ad Reinvestment Act of 2009 (ARRA) hereby ratifies the General Manager's prior authorization to enter into, MBCR PI Agreement No. 0924 to provide all labor, materials and equipment to provide site preparation, environmental protection and track construction for the first phase of the construction of the ARRA Stimulus Double Track work on the Fitchburg Commuter Rail Line, for an estimated sum not to exceed $9,334,660.00.

The Chairman asked that Mr. DePaola explain the change orders on the immediately following item concerning the Light Rail Accessibility Program, Arlington/Copley Stations, Green Line contract. Mr. DePaola said that there are two stations under the contract and at both stations there were significant different site conditions found. Post award of the contracts, the BCIL Agreement was settled and was incorporated into the contract for enhancements for accessibility. The AFC equipment was also incorporated into the contract. 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, subject to the approval of the Massachusetts Department of Transportation, and in a form approved by the General Counsel, Change Order No. 32 to MBTA Contract No. A21CN03, Light Rail Accessibility Program, Arlington/Copley Stations, Green Line, Boston, Massachusetts, with J.F. White Contracting Company, for a lump sum of $171,126.01.

The Chairman questioned the anticipated completion date of the project. Mr. DePaola stated that the project will be completed by the end of the calendar year. There will be a Construction Quantity Variance at the end of the job for final completion to balance out along with another change order next month. Mr. DePaola said that we are developing a set of lessons learned to find the causes of the change orders and to see what can be done with internal procedures.

Director Alvaro questioned whether the Construction Manager at Risk (CMR) process would be a way to reduce the number of change orders. Mr. DePaola said that it would help shift the risk so that the contractor could assume some of the risk. The contractor would be more involved in the design development. He said that he plans on coming before the Board to use a design/build approach as well.

Director Levin recommended that outside contractors could look at the procedures, because of the number of change orders, the non-bidding of work, best practices and stated that MassDOT and MBTA procedures should be uniformly the same.

The General Manager said that scoping the projects should be addressed.

The Chairman said that all of the comments should be incorporated into the evaluation of the new process. 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, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, Construction Quantity Variance 801 to MBTA Contract No. S10CN02, Orient Heights Car Yard & Maintenance Facility Reconstruction/Re-advertisement Project – Phase II, East Boston, Massachusetts, with S&R Construction d/b/a S&R Construction Enterprises, to adjust various cost overruns and allowances at Orient Heights Car Yard & Maintenance Facility for a sum not to exceed $413,206.76.

Mr. Robert Johnson, Director of Materials, presented the immediately following item concerning the supply of aviation turbine fuel for a one-year period. Director Alvaro questioned whether we had unofficially checked the market for price changes since the original contract was bid. Director Jenkins expressed concern as to why Global was only able to reach a 1% DBE rate. Mr. Johnson said that Global was the only supplier of the product in the area and was only able to provide a 1% participation rate. The Board felt that the item should be deferred until the following month until market prices were substantiated and the DBE participation was met. The following action was taken.

On motion, duly made and seconded, it was unanimously

**VOTED**: That the a one-year option with the Global Montello Group Corporation, of Waltham, Massachusetts, for the supply of aviation turbine fuel for a one-year period, be **DEFERRED**.

Director Alvaro noted that Mr. Johnson had discussed the contract at the June Finance and Audit Meeting. He said that he was provided with additional financial analysis as to the value proposition and the information was persuasive to him as to this proposal being the best value to the MBTA. Director Alvaro

questioned whether Director Whittle had raised any objections to the technical information. Mr. Johnson said that he had not gotten any negative responses. Director Alvaro acknowledged that he is happy with the proposal as presented.

The Chairman asked for the highlights in the contract. Director Alvaro said that the difference between the proposals is that the technical approach was changed, incorporating general electric technology into the locomotives and they are much more fuel efficient. Over the life of the locomotives a substantial sum of money will be saved, reduced emissions, etc. 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 a formal contract, in the name of 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, and the completion of FTA Buy America audit requirements, with MotivePower, Inc., Boise, Idaho, for the purchase and delivery of twenty (20) New Diesel Electric Locomotives (SR41) plus replacement parts, at a total not to exceed delivered cost of $114,633,417.00.

Mr. Mark Boyle, Assistant General Manager for Real Estate and Planning, presented the immediately following item concerning an easement agreement with Nstar Electric Company.

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, an easement agreement and any other instruments deemed necessary for the conveyance to NSTAR ELECTRIC COMPANY, its successors and assigns, for consideration of $160,000, a subsurface electrical utility easement for the installation of two thirty-six inch (36") underground duct banks for the transmission of electric current and appurtenances thereto within an approximately 2,240 square foot portion of the MBTA's Needham Branch Right of Way in Newton, Massachusetts. Said easement agreement 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.

Director Alvaro questioned whether we know if there are any other bidders in order to receive more revenue. Mr. Boyle said that there is a possibility that other firms may be interested but when this was put out to bid in 2007, it was the peak of the advertising marketing, and that it would be unlikely that the Authority would get a similar type of bid for the other four sites and the revenue would be significantly less.

On motion, duly made and seconded, it was unanimously

**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 enter into a one year license extensions for Sponsorship Advertising with Van Wagner Communications, LLC, Inc., provided that they exercise their options to renew all of the current Sponsorship Advertising sites for the next license year. Said license agreements 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.

At this time, Mr. Steve Woelfel from the Planning Department provided the Board with an update on the Green Line Extension Project. He said that the Project is a legal commitment and is currently included in the State Implementation Plan for the Clean Air Act. The projected completion date is October 2015. He said that the

projected total project cost is approximately $954 million and they are currently working with the Federal Transit Administration to advance the project in the New Starts Funding. Mr. Woelfel noted that the Project is a Design/Build.

Mr. Woelfel said that there will be two branches, Medford and Union Square, seven stations, 11 bridge structures and a maintenance and storage facility, next to the Boston Engine Terminal building. He said that the location would require that a few businesses are taken by eminent domain

Mr. Woelfel went over the environmental issues relating to the project and the various certificates required. He addressed the issues raised during the Public Comment Period regarding the Community Path. He said that MassDOT is committed to doing the 100% design and are looking to work with the Somerville community on grants.

Director Levin expressed her support for the Community Path noting that the path is in line with livability initiatives. Director Alvaro noted that it would be more cost effective to build the path along with the project.

Director Alvaro questioned what businesses will be affected by the land takings and if the businesses could be relocated. He said that there are currently two businesses and the city has asked them to look at other options. He is not sure as to how many jobs will be affected and they have started discussions regarding the relocation of the businesses.

On motion, duly made and seconded, it was unanimously

**VOTED:** To adjourn the 1037th Open Meeting.

The meeting adjourned at 2:50 p.m.

A true record.

Attest:

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

## JULY 14, 2010

## SPEAKERS DURING PUBLIC COMMENT PERIOD

1. Mr. Rob Parks, Boston Center for Independent Living
2. Mr. Tom Gilbert, AACT
3. Mr. Christopher Beland, ROC
4. Mr. Wig Zamore, ROC
5. Ms. Joanne Daniels-Finegold, Greater Boston Legal Services
6. Ms. Marilyn MacNab, resident of Boston
7. Mr. Allen Moore, Friends of Community Path
8. Ms. Ellen Reisner, Somerville Transportation Equity Partnership