

PROCEEDINGS

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FOR THE HEARING ENTITLED:

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MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

BOARD OF DIRECTORS

.....

REGULAR BOARD MEETING

.....

Hearing led by: John Jenkins, Chairman

Date: Wednesday, April 7, 2010

Held at: Framingham Town Hall

150 Concord Street

Framingham, Massachusetts

Commencing at: 3:00 p.m.

Court Reporter: Megan M. Castro

NEAL A. SALLOWAY - COURT REPORTERS

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MR. JENKINS: I would like to call the 1034th open meeting of the Massachusetts Bay Transportation Authority board. The public comment period will now begin. Please limit your comments to the items before the board today, and take two to three minutes, to be respectful.

First of all, Henry Allen from the community planning committee for the Arborway Yard.

MR. ALLEN: Thank you, Mr. Chairman. As noted, I am Henry Allen for the community planning committee for the Arborway Yard. I am here to speak on item 12 of your agenda, which is the authorization to approve the MBTA's fiscal year 2001-fiscal year 2015 Capital Investment Program and to read into the record a letter that we sent to Secretary Mullan earlier from Thomas Menino, State Senator Chang Diaz, Representative Jeffrey Sanchez, Representative Elizabeth Malia, and City Council John Tobin, who

APPEARANCES

- 1 COMMITTEE MEMBERS PRESENT:
- 2 Chairman John R. Jenkins
- 3 Secretary Jeffrey B. Mullan
- 4 Ferdinand Alvaro, Jr.
- 5 Richard Davey
- 6 Elizabeth Levin
- 7 Janice Loux
- 8 William A. Mitchell
- 9 Wesley G. Wallace, Jr.
- 10 Andrew Whittle
- 11
- 12
- 13 SPEAKERS PRESENTING TO THE COMMITTEE:
- 14 Henry Allen
- 15 Marilyn McNabb
- 16 Francis DePaola
- 17 Erik Scheier
- 18 Janis Kearney
- 19 Michael Turcotte
- 20 Jody Ray
- 21 Joe Kelley
- 22 Victor Rivas
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represents the Jamaica Plain district, in which the Arborway Yard facility sits.

I would like to just say a brief word about the community planning committee for the Arborway Yard. We have been before the prior MBTA board a number of times, advocating for the development of this transit facility. It might be new to some of you; but to others, it is a 12-year old conversation.

And 12 years ago, the MBTA presented its original plan for the development of the Arborway Yard transit facility. That was 12 years and five grandchildren later, and I am still involved and working on this project. As a volunteer, there have been literally scores of Jamaica Plain residents, businesspeople, and elected officials who are very focused on this. And from the beginning, our objective was what we called the win-win-win situation for the MBTA, the city, and the community to work collaboratively with MBTA to develop a transit facility that met the MBTA's needs,

00 02 31 1 the City's needs, and the community's needs.

00 02 33 2 It is a long, sometimes complicated,  
00 02 38 3 arduous path we have traveled. Sometimes,  
00 02 39 4 that relationship has been adversarial;  
00 02 42 5 sometimes collaborative. But I think where  
00 02 45 6 we ended after a number of years is really  
00 02 46 7 on the same page, in terms of a really state  
00 02 50 8 of the art transit facility that we hope the  
00 02 53 9 design for, which will be completed this  
00 02 55 10 year -- the MBTA board in its final meeting  
00 02 59 11 last October approved the moneys that were  
00 03 01 12 necessary to create the design, and the MBTA  
00 03 05 13 staff, we hope, will be working with the  
00 03 07 14 community and the City to finish the design  
00 03 09 15 by the end of this year.

00 03 10 16 That is the context for the concern  
00 03 13 17 that I bring on behalf of the community and  
00 03 17 18 the Mayor and the other elected officials.  
00 03 18 19 And so if I may, I will quickly read this  
00 03 21 20 letter, which was also given for the record,  
00 03 23 21 as well. It is a letter to  
00 03 24 22 Secretary Mullan, and he is aware of it. I  
00 03 24 23 got an opportunity to talk briefly with him  
00 03 24 24 before this meeting, and also with General

00 03 32 1 Manager Davey. And both have assured me  
00 03 33 2 that they will continue to work very hard  
00 03 35 3 with the community, with Mayor Menino, and  
00 03 37 4 the elected state officials to move this  
00 03 39 5 project forward.

00 03 41 6 Nevertheless, here is the content of  
00 03 43 7 the letter, which was sent in early March  
00 03 46 8 after the draft CIP, the Capital Investment  
00 03 51 9 Program, was presented to the MBTA board.

10 (Mr. Allen then read document as  
11 follows:

12 "We are writing to express our deep  
13 concern that the MBTA's Draft Capital  
14 Investment Plan down not include full  
15 funding for the construction of the Arborway  
16 Yard Transportation Facility. As you know,  
17 the elected delegation, the community, and  
18 City agencies have worked cooperatively with  
19 the MBTA for over a decade to design a  
20 permanent bus storage and maintenance  
21 facility to adequately serve the operational  
22 needs of the MBTA while leveraging  
23 transportation oriented development and  
24 create jobs at a critical time for our

1 Commonwealth. Therefore, we request that  
2 you direct the MBTA to restore \$197 million  
3 in funding in the CIP to this important  
4 project, or an appropriate amount that will  
5 allow construction to begin in FY11, when it  
6 is presented to the MassDOT Board for  
7 approval.

8 "Approximately \$30 million has  
9 already been invested to date by the MBTA  
10 for planning and design of the permanent  
11 facility, as well as constructing a  
12 temporary outdoor bus facility at the  
13 Arborway Yard site. The temporary facility,  
14 constructed in 2005 with an approximate  
15 five-year design life, we believe is already  
16 in danger of becoming inadequate to service  
17 existing MBTA needs, let alone the future  
18 demands of an aging bus fleet. Design of  
19 the permanent facility is scheduled to be  
20 complete and shovel ready for construction  
21 by the end of this year. Inclusion of the  
22 facility in the CIP would allow construction  
23 to begin in early 2011, some thirteen years  
24 after the MBTA's initial planning for the

1 facility. Any more delays would likely add  
2 additional costs and possibly jeopardize the  
3 considerable investments already made for  
4 the facility by the MBTA and the state.

5 "The collaborative planning process  
6 that engaged wide ranging stakeholders has  
7 led to the vision of a vastly superior  
8 transit facility that will allow the MBTA to  
9 appropriately maintain the enormous  
10 investments it has made in its bus fleet  
11 while improving operations and service  
12 levels from Arborway Yard. Furthermore,  
13 this shared vision with the community  
14 addresses environmental liabilities on this  
15 site, appropriately balances operations with  
16 neighborhood interests, and advances the  
17 Commonwealth and the City's goals of smart  
18 growth and transit oriented development.

19 "For these reasons, we respectfully  
20 request that funding be identified in the  
21 CIP that will allow the project to commence  
22 with construction in FY11. We look forward  
23 to continuing to work together to realize  
24 this collective vision, and appreciate your

1 continued support in advancing the full  
 00 06 46 2 project.")  
 00 06 46 3 MR. ALLEN: It is signed by Mayor  
 00 06 49 4 Thomas Menino, Senator Chang Diaz,  
 00 06 53 5 Representative Jeffrey Sanchez,  
 00 06 53 6 Representative Malia, and City Councilor  
 00 06 53 7 John Tobin.  
 00 07 00 8 Our concern, quite frankly, is that  
 00 07 00 9 after 12 years, and going on 13 years, we  
 00 07 04 10 are very aware, as many of you or all of you  
 00 07 07 11 may be, with the fiasco with the Bartlett  
 00 07 10 12 Street Yard, which stood as an environmental  
 00 07 11 13 disaster for the Roxbury community for  
 00 07 15 14 decades, before it was abandoned. The  
 00 07 17 15 Jamaica Plain community, working with the  
 00 07 19 16 MBTA and the Mayor and elected officials,  
 00 07 22 17 agreed to relocate temporarily a site at the  
 00 07 25 18 Arborway Yard with the condition and  
 00 07 27 19 commitment and the promise from the MBTA  
 00 07 29 20 that there would be a new, permanent  
 00 07 31 21 facility, along with extremely important  
 00 07 34 22 community benefits that were negotiated over  
 00 07 36 23 many years between the Mayor, and the  
 00 07 38 24 elected officials, the community, and the

00 07 41 1 MBTA. That includes eight acres of this  
 00 07 44 2 18-acre site being transferred to the City  
 00 07 47 3 for affordable housing, open space, small  
 00 07 51 4 business development, that will greatly  
 00 07 53 5 enhance the quality of life for the Jamaica  
 00 07 55 6 Plain community. And I live right at Forest  
 00 07 58 7 Hills, so I know our residents and neighbors  
 00 08 01 8 would find this extremely important.  
 00 08 04 9 So we don't know whether it is too  
 00 08 06 10 late for the board to take any action to  
 00 08 08 11 ensure that this is included in the CIP for  
 00 08 14 12 2011-2015, but we certainly hope so. I  
 00 08 15 13 know, on behalf of the Mayor and elected  
 00 08 18 14 officials and the community, we really look  
 00 08 19 15 to you for your leadership and your  
 00 08 21 16 commitment to collaboratively working with  
 00 08 23 17 the community to make this happen as soon as  
 00 08 26 18 possible. Thank you.  
 00 08 27 19 MR. JENKINS: Thank you, Mr. Allen.  
 00 08 29 20 MS. LOUX: Could I just ask one  
 00 08 30 21 question? Henry, are you suggesting that it  
 00 08 33 22 is not including as the funding?  
 00 08 37 23 MR. ALLEN: The current item that  
 00 08 39 24 you are going to vote on in item 12, it is

00 08 42 1 not included. We had thought through  
 00 08 45 2 conversations earlier with the MBTA staff  
 00 08 46 3 that indeed, the approximately \$200 million  
 00 08 51 4 for the construction of the Arborway Yard  
 00 08 54 5 transit facility would be included in the  
 00 08 56 6 draft CIP. It is not included, and it is  
 00 08 59 7 not included unless something has changed  
 00 09 02 8 last night or this morning. It is not  
 00 09 04 9 included in the plan that you are going to  
 00 09 07 10 vote on today.  
 00 09 08 11 So that is extremely disappointing  
 00 09 12 12 to the community, to the Mayor, and to the  
 00 09 12 13 elected State officials, extremely  
 00 09 14 14 disappointing. I am authorized to say that,  
 00 09 16 15 on behalf of the Mayor and the other elected  
 00 09 19 16 state officials. If anything can be done to  
 00 09 23 17 reinsert that approximately \$200 million, it  
 00 09 24 18 would be a follow-through to a 12-year  
 00 09 26 19 commitment and promise that the MBTA has  
 00 09 28 20 made to the City and the community.  
 00 09 32 21 MR. JENKINS: Thank you, Mr. Allen.  
 00 09 34 22 MR. ALLEN: Thank you very, very  
 00 09 35 23 much.  
 00 09 36 24 MR. JENKINS: Our next speaker is

00 09 38 1 Ms. Marilyn McNabb. I don't have your  
 00 09 42 2 affiliation.  
 00 09 44 3 MS. McNABB: Resident of the city of  
 00 09 44 4 Boston.  
 00 09 45 5 I am Marilyn McNabb. I am a  
 00 09 46 6 resident of the City of Boston. And to  
 00 09 50 7 Mr. Chairman, Mr. Secretary, board of  
 00 09 52 8 directors, and Mr. General Manager, I want  
 00 09 55 9 to take the time to thank you for relocating  
 00 09 57 10 this meeting, and also to Framingham for  
 00 10 00 11 hosting it. It was scheduled in  
 00 10 02 12 Springfield. That would have prevented  
 00 10 06 13 individuals coming by public transportation  
 00 10 09 14 to participate in this meeting. So I wanted  
 00 10 12 15 to make sure that I thanked you for doing  
 00 10 16 16 that, because everyone had told me it would  
 00 10 18 17 never happen.  
 00 10 19 18 The other part I want to just --  
 00 10 22 19 there is absolutely nothing on the agenda  
 00 10 23 20 today that has to do with accessibility that  
 00 10 25 21 concerns me, so there is nothing I am going  
 00 10 27 22 to ask you to approve. But what I would  
 00 10 29 23 like to have your support in focusing on is  
 00 10 33 24 something that I worked on years ago with

00:10:36 1 the Menino administration, and that is to  
 00:10:40 2 designated para transit locations in  
 00:10:45 3 difficult spots within the City of Boston  
 00:10:47 4 limits.  
 00:10:48 5 So today, on my experience coming  
 00:10:48 6 in, I got onto the para transit to go to  
 00:10:52 7 South Station. And over between South  
 00:10:55 8 Station and the Stone Webster building at  
 00:10:58 9 245 Summer Street, we could not access the  
 00:11:02 10 two very generous spots the City of Boston  
 00:11:05 11 has designated to us. There are signs up  
 00:11:08 12 similar to the bus signs, tow zone, no  
 00:11:11 13 standing, no parking, MBTA para transit  
 00:11:15 14 vehicles, The Ride. Because when we put  
 00:11:18 15 signs up that just said, "The Ride," that  
 00:11:19 16 was the ride for my mother, my cousin, and  
 00:11:21 17 everyone was using it.  
 00:11:23 18 What disappointed me the most, and I  
 00:11:24 19 will say the general manager is going to  
 00:11:27 20 actively work on this, is that it is the  
 00:11:28 21 Amtrak police that are parking in the middle  
 00:11:31 22 of the bus stop of the para transit system,  
 00:11:35 23 preventing us to get in.  
 00:11:38 24 And the other issue that is coming

00:11:39 1 up is that 245s are now using the black  
 00:11:44 2 livery plate vehicles that act like  
 00:11:48 3 taxicabs, and they were very vocal in  
 00:11:50 4 telling us to drive around and park in the  
 00:11:52 5 bus stop. It is a requirement of this  
 00:11:55 6 program that your drivers escort us to the  
 00:11:58 7 door. We are not a curb-to-curb service.  
 00:12:00 8 It is requirement of the program for them to  
 00:12:03 9 then shut down their vehicle, remove the  
 00:12:08 10 keys, and walk with us. So you are  
 00:12:08 11 technically parking. And if you park  
 00:12:10 12 anywhere around South Station, that would be  
 00:12:15 13 in the middle of the street and be dangerous  
 00:12:15 14 to everyone. So it is a safety concern.  
 00:12:18 15 What I am concerned about is, if we  
 00:12:20 16 don't use it and don't enforce this strongly  
 00:12:22 17 enough, that the second list that is pending  
 00:12:28 18 with the City of Boston, which was  
 00:12:31 19 identified other difficult spots by the para  
 00:12:36 20 transit drivers as well as by the consumers,  
 00:12:40 21 that we will not be granted the curb space,  
 00:12:43 22 which is of premium of value in the City of  
 00:12:48 23 Boston.  
 00:12:48 24 The other spots that we have is over

00:12:48 1 at North Station. Again, we would be on one  
 00:12:52 2 side, and the para transit would be on the  
 00:12:53 3 other. We would go this way, they would go  
 00:12:54 4 that way, they would leave without us, it  
 00:12:57 5 would take another hour for them to come  
 00:12:58 6 back. That has totally settled down with,  
 00:13:01 7 again, the input from operations as well as  
 00:13:06 8 the City of Boston, and as well as the  
 00:13:08 9 drivers and as well as your passengers.  
 00:13:10 10 So hopefully, everybody can be  
 00:13:13 11 supportive, including the City of Boston, of  
 00:13:17 12 making sure this spot works and that any  
 00:13:18 13 changes need to be done opposing it to  
 00:13:21 14 Mr. Timlin, who is the commissioner of BTD.  
 00:13:24 15 I do want to thank -- a lot of work  
 00:13:27 16 was put into this by Mr. Folk of operations  
 00:13:31 17 and by Ginny Moynihan, who is now retired.  
 00:13:35 18 But the problems still exist on a regular  
 00:13:38 19 basis, and we need to have every inch of  
 00:13:43 20 support we can have to show that we are  
 00:13:45 21 concerned of the safety of your para transit  
 00:13:48 22 faithfuls.  
 00:13:50 23 And again, thank you for relocating  
 00:13:52 24 the meeting. I did come out by commuter

00:13:55 1 rail, and I totally enjoyed using the  
 00:13:58 2 elevators at the commuter rail station to go  
 00:14:00 3 over the tracks, which is an unmanned  
 00:14:03 4 elevator, because I am asking for one for  
 00:14:07 5 one of the new stations to get me up to the  
 00:14:08 6 tracks. And as where we have one,  
 00:14:12 7 hopefully, we will all be able to visit it  
 00:14:15 8 and see that an unmanned elevator at a  
 00:14:18 9 commuter rail station does work. And yes, I  
 00:14:22 10 know they are expensive.  
 00:14:23 11 Thank you very much.  
 00:14:24 12 MR. JENKINS: Thank you Ms. McNabb.  
 00:14:28 13 Is anyone else signed up, by the  
 00:14:34 14 way? Is there anyone else for the public  
 00:14:37 15 speaking?  
 00:14:37 16 (Pause.)  
 00:14:37 17 MR. JENKINS: Number one on the  
 00:14:37 18 agenda is the approval of the minutes of the  
 00:14:37 19 meeting of March 3, 2010.  
 01:39:01 20 (Motion moved and seconded.)  
 00:14:51 21 MS. LOUX: Abstain.  
 00:14:51 22 (The motion was approved with one  
 00:14:53 23 abstention.)  
 00:14:53 24 MR. JENKINS: Number two on the

00 14 59 **1** agenda is the general manager's report.  
 00 15 01 **2** Mr. Davey, please.  
 00 15 01 **3** MR. DAVEY: Thank you, Mr. Chairman.  
 00 15 01 **4** Just a few comments I want to make around  
 00 15 05 **5** the five principles I laid out several weeks  
 00 15 06 **6** ago to the board.  
 00 15 08 **7** With two weeks on the job, the  
 00 15 09 **8** senior team and I really hit the ground  
 00 15 12 **9** running. Safety, service, employees, fiscal  
 00 15 14 **10** responsibility, and innovation are the five  
 00 15 17 **11** items I laid out and the five I want to  
 00 15 18 **12** briefly talk about today.  
 00 15 20 **13** On the safety side, you will have a  
 00 15 21 **14** briefing a little later in the meeting on  
 00 15 25 **15** the Green Line and what we are doing about  
 00 15 26 **16** the Green Line. What I want to talk briefly  
 00 15 28 **17** about this afternoon is the 90-day safety  
 00 15 30 **18** action plan that the staff and I will be  
 00 15 32 **19** implementing. I told you two weeks ago that  
 00 15 35 **20** safety would be my top priority and the top  
 00 15 38 **21** priority of the MBTA. I am pleased to  
 00 15 41 **22** report that the response of the staff has  
 00 15 42 **23** been positive. That, too, is a goal, that  
 00 15 45 **24** not only the staff but the employees that I

00 15 47 **1** have talked to the last two weeks have.  
 00 15 50 **2** So what are we going to do? In the  
 00 15 51 **3** next 90 days, we are anticipating beginning  
 00 15 53 **4** authority meetings with a safety briefing;  
 00 15 56 **5** we will be launching an MBTA employee safety  
 00 15 58 **6** hotline; we will be expanding a safety flash  
 00 16 00 **7** program which alerts employees if there are  
 00 16 03 **8** incidents or accidents anywhere else in the  
 00 16 05 **9** United States around transit issues; we will  
 00 16 07 **10** be looking at adopting an expanded drug  
 00 16 09 **11** panel for authorized tests; I will be  
 00 16 09 **12** publishing and disseminating the general  
 00 16 09 **13** manager's safety statement, a commitment  
 00 16 09 **14** much like the vision and diversity  
 00 16 18 **15** statements that we have all over the  
 00 16 19 **16** Authority; we will be reviewing whether or  
 00 16 21 **17** not to implement a close-call policy, which  
 00 16 23 **18** allows employees, in a discipline-free  
 00 16 26 **19** environment, to report not accidents or  
 00 16 30 **20** incidents, but almost what may have  
 00 16 31 **21** occurred, to encourage them to report that;  
 00 16 37 **22** we will be completing a pre-audit. The  
 00 16 37 **23** American Public Transportation Association  
 00 16 40 **24** is expected to come in later this year to do

00 16 41 **1** an audit of the MBTA. We will be prepared  
 00 16 43 **2** for that audit.  
 00 16 44 **3** A couple weeks ago, there was a  
 00 16 44 **4** program to reduce bus incidents and  
 00 16 46 **5** accidents, which I see as something that was  
 00 16 49 **6** trending upward. We are looking at fall  
 00 16 51 **7** protection to procure, design, and train our  
 00 16 54 **8** employees in the maintenance stops, which is  
 00 16 55 **9** a place right now where we lack, in my  
 00 17 00 **10** opinion. We will continue the closed-door  
 00 17 02 **11** initiative on the commuter route rail side.  
 00 17 05 **12** We will be resurrecting the safety program  
 00 17 05 **13** and awards program, which seems to have died  
 00 17 06 **14** several years ago. We want to encourage and  
 00 17 09 **15** thank and recognize safe drivers and folks  
 00 17 12 **16** in the shops. We will be inventorying PPE  
 00 17 15 **17** and looking at other technologies around  
 00 17 17 **18** cell phones.  
 00 17 18 **19** And we will establishing  
 00 17 18 **20** authority-wide goals in the following  
 00 17 23 **21** categories in fiscal year 2011: Workplace  
 00 17 25 **22** accident injury, revenue and non-revenue  
 00 17 25 **23** derailments, revenue and non-revenue people  
 00 17 30 **24** accidents, rules violations, and passenger

00 17 32 **1** injuries. We do not have goals today; we  
 00 17 33 **2** will for fiscal year 2011.  
 00 17 36 **3** Service, I already talked about the  
 00 17 38 **4** storm. I will only just say that on Monday,  
 00 17 41 **5** myself and the operations and safety staff  
 00 17 43 **6** has now initiated a daily operations call  
 00 17 46 **7** with the general manager of operations and  
 00 17 48 **8** safety officials to talk about how our  
 00 17 50 **9** morning rush hour was and how we expect our  
 00 17 53 **10** evening rush hour to be.  
 00 17 55 **11** We have also implemented a "Join the  
 00 17 57 **12** GM" campaign, which begins tomorrow morning.  
 00 18 00 **13** For the next eight Thursdays, myself and the  
 00 18 02 **14** rest of the senior team will be out at  
 00 18 04 **15** stations, talking and listening to  
 00 18 04 **16** passengers. We will be at North Quincy  
 00 18 09 **17** Station morning tomorrow at 7 a.m., and you  
 00 18 11 **18** are all welcome to join us.  
 00 18 13 **19** On employees, we did an announcement  
 00 18 13 **20** memos to the employees. I had the  
 00 18 15 **21** opportunity to visit the Charlestown bus  
 00 18 18 **22** garage with Director Levin last Friday. I  
 00 18 21 **23** visited the transit police headquarters on  
 00 18 23 **24** Monday to talk to officers and get a staff

00:18:25 1 briefing. And I will be at Cabot garage  
 00:18:28 2 Friday late morning, again, to talk to  
 00:18:30 3 employees and to elicit their concerns.  
 00:18:33 4 And a couple other issues: We are  
 00:18:33 5 launching an employee recognition program.  
 00:18:36 6 I have heard this from the many of you here,  
 00:18:41 7 that we don't talk about good enough that  
 00:18:42 8 happens at the T. It happens every day.  
 00:18:45 9 And you will be hearing from me often about  
 00:18:47 10 the good work that the 6,000 men and women  
 00:18:49 11 of the T have performed.

00:18:51 12 The Secretary and MassDOT have  
 00:18:54 13 launched an internal review of HR and ODCR  
 00:18:57 14 practices at the MBTA, which I fully  
 00:18:59 15 support. They will be looking at policies,  
 00:19:01 16 procedures, and practices around human  
 00:19:03 17 resources: How do we hire, how we  
 00:19:04 18 interview. And I will be convening a  
 00:19:07 19 meeting upcoming with members of the Latino  
 00:19:11 20 Alliance who have come to the board in the  
 00:19:12 21 past with some issues. I will be reaching  
 00:19:14 22 out to them.

00:19:15 23 On fiscal responsibility, John Davis  
 00:19:18 24 and I have had a briefing on the budget for

00:19:19 1 the rest of the year. I can tell you that  
 00:19:22 2 we are projecting that we will have a  
 00:19:24 3 balanced budget for fiscal year 10.  
 00:19:27 4 Revenues are down, but we are also managing  
 00:19:27 5 costs.

00:19:29 6 And as folks know, certainly an  
 00:19:33 7 internal review of The Ride is underway,  
 00:19:34 8 which is by far the largest cost driver in  
 00:19:38 9 fiscal year 2010.

00:19:36 10 The general manager will be  
 00:19:38 11 receiving weekly overtime reports, which is  
 00:19:40 12 a concern for some. And we will also be  
 00:19:44 13 doing public hearings about implementing  
 00:19:47 14 single-line operators on the Orange Line.  
 00:19:47 15 Those public hearings will begin soon, to  
 00:19:51 16 talk to the public about how we intend to  
 00:19:53 17 implement that program.

00:19:55 18 And last, innovation. We have  
 00:19:57 19 talked about this already, the good work  
 00:19:59 20 that MassDOT, under the Secretary's  
 00:20:00 21 leadership and the Governor's leadership, to  
 00:20:04 22 allow the public to have information. The  
 00:20:04 23 Where is the Bus program has been a  
 00:20:06 24 tremendous program. We expect to roll that

00:20:08 1 out for all buses by the end of the summer,  
 00:20:10 2 and commuter rail sometime later in the  
 00:20:13 3 year.

00:20:14 4 That is all I have.

00:20:19 5 MR. JENKINS: A question. Join The  
 00:20:24 6 GM, can you send us a schedule on that? You  
 00:20:27 7 are inviting us to join you, but could you  
 00:20:31 8 send the schedule to the board?

00:20:34 9 MR. DAVEY: Yes.

00:20:35 10 MR. JENKINS: Number 3 through 6 on  
 00:20:38 11 the agenda is Mr. Frank DePaola's  
 00:20:40 12 presentation. Frank?

00:20:43 13 MR. DePAOLA: Good morning,  
 00:20:44 14 Mr. Chairman, members of the board,  
 00:20:46 15 Mr. Secretary, and Mr. General manager.

00:20:46 16 (Mr. DePaola then read document as  
 00:20:46 17 follows:

00:20:49 18 "This item requests the Board to  
 19 ratify and authorize the General Manager to  
 20 execute Amendment Number 3 for an estimated  
 21 sum not to exceed \$58,644 to a contract  
 22 entitled 'Consulting Support Services for  
 23 Operations and Service Development' with IBI  
 24 Group.

1 "Amendment Number 3 will provide for  
 2 additional authorization on a task order  
 3 basis for engineering and construction phase  
 4 services necessary to implement the Federal  
 5 Economic Stimulus Program entitled 'Silver  
 6 Line Enhancement Project,' for Silver Line  
 7 buses to continue along Essex Street to a  
 8 Bus Rapid Transit Station shelter at the  
 9 corner of Essex Street and Atlantic Avenue.  
 10 The scope of work includes design of the new  
 11 accessible ramps at the southeast corner of  
 12 Washington and Essex Streets and extension  
 13 of the areaway along Essex Street between  
 14 Oxford and Ping-On Streets, reconstruct the  
 15 east sidewalk for a Silver Line new bus stop  
 16 platform at the Chinatown Orange Line  
 17 Station south of Essex Street, and cost  
 18 estimates for the areaway design and  
 19 sidewalks with accessible ramps, inclusive  
 20 of the areaways between Washington and  
 21 Kingston Streets.

22 "One hundred percent of the funds  
 23 for this action will be available from a  
 24 Federal Stimulus Grant and utilized on a

1 Task Order basis as Consulting Services are  
2 required. This contract has a 16% DBE goal.  
3 The total DBE participation to date is 17.7%  
4 (\$175,950). The SOMWBA certified DBE firm  
5 participating on this task is C&C  
6 Consulting.

7 "I recommend approval of this  
00 22 14 8 item.")

00 22 14 9 MR. JENKINS: Questions or  
00 22 18 10 discussions?

00 22 24 11 MS. LEVIN: I just want to ask you  
00 22 29 12 on this, is if one goes to look at it, and  
00 22 43 13 it is not a particularly big project, and I  
00 22 48 14 just ask again this question about how you  
00 22 51 15 are estimating. Because the job  
00 22 54 16 evidentially came in originally at 450, and  
00 22 56 17 then we do 350, and then we do 159, and then  
00 23 00 18 we do 58. And just for a little job  
00 23 03 19 relatively, it doesn't feel really well  
00 23 06 20 controlled.

00 23 07 21 MR. DePAOLA: Just to explain a  
00 23 08 22 couple of points you raised, the 450 was  
00 23 11 23 money budgeted for operations support, which  
00 23 14 24 was the intention of this contract. Because

00 23 16 1 it was an ARRA-funded contract, and there  
00 23 19 2 was a desire to get this particular job  
00 23 21 3 implemented quickly, the design and  
00 23 23 4 construction department took advantage of  
00 23 27 5 having a consultant under contract with the  
00 23 29 6 MBTA, but not to use up funding that was  
00 23 32 7 originally intended to support operations.  
00 23 33 8 All the work associated for the support of  
00 23 36 9 the Silver Line Enhancement Project is  
00 23 39 10 encompassed in amendments 1, 2 and 3, so the  
00 23 43 11 450 is still there to be used by operations,  
00 23 45 12 if they need it. We didn't want to take  
00 23 48 13 their funding authorization and use it  
00 23 50 14 towards a special project.

00 23 52 15 The first task was to get the  
00 23 55 16 project out and awarded. There was a real  
00 23 58 17 desire on the part of the secretary of  
00 24 00 18 transportation at the time and the general  
00 24 01 19 manager at the time to show some real --

00 24 04 20 MR. MULLAN: You might want to  
00 24 07 21 specify who that might have been.

00 24 09 22 MR. DePAOLA: Secretary Aloise.  
00 24 13 23 -- was to show some actual work as  
00 24 14 24 part of the stimulus recovery program. So

00 24 18 1 we gave them the first half to get the bus  
00 24 20 2 running, then we identified the sidewalk.

00 24 23 3 MS. LEVIN: So there is a story with  
00 24 25 4 it.

00 24 26 5 MR. DePAOLA: Yes.

00 24 30 6 MS. LEVIN: Thank you.

00 24 31 7 MR. ALVARO: I just have a technical  
00 24 33 8 observation for the votes. You need to go  
00 24 36 9 back and correct all the votes to eliminate  
00 24 39 10 the word "acting" so I don't have to say it.  
00 24 48 11 It appears through all the materials today.  
00 24 49 12 You guys need to fix those.

00 24 51 13 MR. DePAOLA: Understood.

00 24 55 14 MR. JENKINS: Other discussion? All  
00 24 58 15 those in favor?

00 25 02 16 (Motion approved.)

00 25 02 17 MR. JENKINS: Motion approved. Item  
18 number 4.

19 (Mr. DePaola then read document as  
20 follows:

21 "This item requests the Board to  
22 ratify and authorize the General Manager to  
23 execute Change Order Number 20 to a contract  
24 entitled 'Blue Line Modernization, State

1 Street Station Rehabilitation: Boston,  
2 Massachusetts' with Barletta Heavy Division,  
3 for a sum not to exceed \$321,940.21.

4 "During State 3 excavation, numerous  
5 utility conflicts were identified. As a  
6 result, these utilities had to be relocated  
7 and also caused delays due to these unknown  
8 conflicts. The primary conflict was mainly  
9 the discovery of 115KV duct bank running  
10 through the proposed footprint for Station  
11 construction Stages 3 and 4. The general  
12 contractor performed exploratory test pits  
13 in the areas of work. The exploratory test  
14 pits identified the utility conflicts, which  
15 caused the project to coordinate with the  
16 designer and utility companies to redesign,  
17 relocate, and rebuild all pertinent  
18 materials to complete the project.

19 "This change order will compensate  
20 the contractor and provide for the labor,  
21 materials, and equipment necessary to  
22 enlarge and rebuild the existing NStar  
23 electrical manholes on State and Congress  
24 Streets, relocate nine NStar conduits across

1 Congress Street, and reroute electrical  
 2 conduits and feeder cables out of the  
 3 existing manhole on State Street to make  
 4 room for the new NStar conduit duct bank.  
 5 "This additional work may be the  
 6 result of a design error and will be  
 7 reviewed by the MBTA's Error and Omission  
 8 Committee.

9 "This action is funded through 80%  
 10 federal funds and 20% MBTA revenue bond  
 11 funds. This contract has an 18% DBE goal.  
 12 This change order contains 47% (\$151,476.70)  
 13 DBE participation. The total DBE  
 14 participation to date is 11%  
 15 (\$5,820,737.81). The SOMWBA certified DBE  
 16 firms participating in this change order is  
 17 Eastwind Corporation. The contractor has  
 18 confirmed that they will make every  
 19 reasonable effort to meet the contract's DBE  
 20 goal.

21 "I recommend approval of this  
 22 item."

23 MR. JENKINS: Can I get a motion,  
 24 please?

1 (Motion moved and seconded.)

2 MR. JENKINS: Discussion?

3 MS. LEVIN: I wanted to know who  
 4 your design consultant was.

5 MR. DePAOLA: Dominic Hicks.

6 MS. LEVIN: And our staff summary, I  
 7 think, sounded a little different than what  
 8 you said. The project staff considers this  
 9 work to be the result of the design  
 10 omission. And you feel comfortable you will  
 11 get the money back?

12 MR. DePAOLA: Since it had to be  
 13 done anyways, our approach on omissions is,  
 14 what is the premium that we incurred.  
 15 Because if it had included in the original  
 16 bid, the bids would have reflected a higher  
 17 cost. So we have to look at what is the  
 18 premium that we incurred because it is not  
 19 competitively bid.

20 MR. WHITTLE: Can I ask about the  
 21 committee? You said with the errors and  
 22 omission committee. I don't know about the  
 23 errors and omissions committee. Could you  
 24 tell us about the procedure?

1 MR. DePAOLA: Within design and  
 2 construction, the senior staff, including  
 3 myself, we get together at the end of each  
 4 job, and we review all the change orders  
 5 that were initially identified as either an  
 6 error or omission, and we calculate what we  
 7 feel are the damages incurred by the  
 8 Authority as a result of those errors and  
 9 omissions. We then sit down and enter into  
 10 negotiation with the design consultant. We  
 11 hold retainage on the design consultant. In  
 12 certain cases, we don't pay them on the  
 13 tasks that we think may be time correcting  
 14 or could be an error on their part. So we  
 15 hold that money, and we discuss with them  
 16 the recovery of damages. Sometimes, it is  
 17 recovered in services; sometimes it is  
 18 recovered in an actual check.

19 MR. WHITTLE: But you wait until the  
 20 close-out of the entire project, so this  
 21 could be many, many years. This already six  
 22 years going?

23 MR. DePAOLA: Right, unless there is  
 24 something really severe. It is very

1 important to keep a cooperative relationship  
 2 with the designer through completion. They  
 3 know our policy. We are not lying in wait  
 4 to surprise them at the end. But to start  
 5 cost recovery negotiations and get into a  
 6 legal footing with a consultant that is  
 7 still trying to advance job, it makes it  
 8 very more difficult.

9 MR. JENKINS: Does the design  
 10 consultant in the future get penalized for  
 11 doing work for with us if they continue to  
 12 get bad grades, if you will?

13 MR. DePAOLA: We do a review or sort  
 14 of like a movie review of each consultant on  
 15 each job, and that reference information is  
 16 given to our selection committee as we are  
 17 soliciting new work. So they have current  
 18 knowledge of the past performance of the  
 19 consultant and can take that into account  
 20 when they are creating their short list to  
 21 make a selection.

22 MR. JENKINS: Thank you.

23 MR. ALVARO: I have a question  
 24 first, Frank. This action has been taken

00 29 59 1 already?

00 29 59 2 MR. DePAOLA: Yes, sir.

00 30 00 3 MR. ALVARO: The work has been done?

00 30 03 4 MR. DePAOLA: Yes, sir.

00 30 05 5 MR. ALVARO: This should have been

00 30 07 6 reported to the board? Per policy, is this

00 30 09 7 something that should have been submitted to

00 30 11 8 the board?

00 30 11 9 MR. DePAOLA: We have a change order

00 30 13 10 procedure within our department. The board

00 30 14 11 regulations allow for instances where, due

00 30 16 12 to pressures of schedule or maintenance of

00 30 21 13 service, certain items, the board

00 30 22 14 regulations recognize that certain items.

00 30 25 15 MR. ALVARO: When was this done?

00 30 27 16 MR. DePAOLA: This was done about

00 30 28 17 three or four months ago.

00 30 30 18 MR. ALVARO: So you did the work

00 30 32 19 three to four months ago, it took four

00 30 36 20 months to let us know that you did work that

00 30 38 21 you should have brought us to for approval?

00 30 40 22 MR. DePAOLA: This project was

00 30 41 23 authorized by the then acting General

00 30 44 24 Manager to proceed on a time and material

00 30 46 1 basis under board regulations when, when

00 30 49 2 there is an event that could cause the

00 30 51 3 Authority excessive costs due to delay

00 30 53 4 waiting for this to be approved, the

00 30 55 5 contract --

00 30 57 6 MR. ALVARO: Why do you need

00 30 58 7 approval? If you have the authorization to

00 31 00 8 proceed, why do you need the board now to

00 31 03 9 ratify this? You are saying you had the

00 31 06 10 authority to do this. Why do you need an

00 31 08 11 approval from us?

00 31 09 12 MR. DePAOLA: Well, the

00 31 10 13 authorizations in the board regulations say

00 31 13 14 we need come back to the board and tell them

00 31 15 15 of the action we took.

00 31 16 16 MR. ALVARO: What if the board says

00 31 18 17 no? What happens them?

00 31 20 18 MR. DePAOLA: If the board was to

00 31 21 19 say no, we would deny payment to the

00 31 23 20 contractor, and the contractor would notify

00 31 25 21 us of --

00 31 26 22 MR. ALVARO: Then we get sued

00 31 27 23 because the work has been done already?

00 31 29 24 MR. DePAOLA: Yes, sir.

00 31 30 1 MR. ALVARO: I would suggest that

00 31 31 2 this makes absolutely no sense. You guys do

00 31 36 3 the work, you authorize the work, you spend

00 31 37 4 the money. And then you come back and ask

00 31 40 5 us to either ratify or get sued. Those are

00 31 44 6 the alternative, is get sued if I we don't

00 31 47 7 say yes. So basically, the board is being

00 31 50 8 taken out of the process altogether. You

00 31 57 9 are telling us that if we say no, we are

00 31 59 10 going to get sued.

00 32 00 11 MR. DePAOLA: I understand your

00 32 01 12 reservation, sir.

00 32 02 13 MR. MITCHELL: If I may. But the

00 32 04 14 alternative, Director, is that they stop the

00 32 07 15 job, and you face delay damages by the

00 32 09 16 contractor?

00 32 12 17 MR. DePAOLA: Correct.

00 32 13 18 MR. MITCHELL: So that if we were

00 32 15 19 not able to --

00 32 17 20 MR. ALVARO: I understand that there

00 32 20 21 are time pressures. What I am saying is, if

00 32 24 22 the policy is that you have the authority to

00 32 26 23 spend money without board approval, by all

00 32 28 24 means, do so. But don't come back to us and

00 32 33 1 tell us we have to approve it.

00 32 35 2 MR. MITCHELL: But you don't have

00 32 37 3 to. You can deny it. If you feel strongly

00 32 41 4 that it is work that should have been done,

00 32 42 5 we could deny it and we would end up

00 32 46 6 defending it in a lawsuit.

00 32 47 7 MR. ALVARO: I don't see the point

00 32 48 8 of bringing something to the board that is

00 32 52 9 already a done deal. It is like saying,

00 32 56 10 "Can I spend money to buy a bus? By the

00 33 01 11 way, we bought it already and we are going

00 33 03 12 to get sued if you don't approve it."

00 33 06 13 MR. JENKINS: I think that the issue

00 33 08 14 here is, I think we can intellectually

00 33 10 15 understand that there will be times when you

00 33 12 16 will have to do this. And first of all, we

00 33 16 17 should make the time between when you do it

00 33 19 18 and when we hear about it should probably be

00 33 22 19 less than 120 days and should probably be as

00 33 28 20 soon as possible, perhaps the next meeting.

00 33 29 21 Secondly, it is not something that

00 33 30 22 should be implemented 30 times a year. So

00 33 38 23 by delaying it, the costs obviously could

00 33 42 24 increase if the person is off the job and

00 33 43 1 then they have got to come back. I am not  
00 33 46 2 worried about being sued by them. I am  
00 33 49 3 looking at an expense that would be greater  
00 33 51 4 than if we continued.

00 33 53 5 So there is a common sense -- it  
00 33 54 6 might be a safety issue. There might be a  
00 33 57 7 lot of reasons why you would have to do it.  
00 33 59 8 So my question is, how many times have we  
00 34 01 9 done that, let's say, in the last 12 months?

00 34 05 10 MR. DePAOLA: Probably half a dozen.

00 34 11 11 MR. ALVARO: That is a lot of times.

00 34 13 12 MR. DePAOLA: Not on a single  
00 34 13 13 contract.

00 34 16 14 MR. ALVARO: We had a bunch of  
00 34 17 15 these. I don't know if it dated back to the  
00 34 19 16 last board. Maybe it didn't. I don't know.  
00 34 22 17 We had this issue before. And I said then  
00 34 27 18 that I was not going to be forced to  
00 34 29 19 retroactively approve actions that I had no  
00 34 33 20 opportunity to consider. And I was told  
00 34 36 21 that, at that board meeting, that there was  
00 34 39 22 a backlog of issues, and that they were all  
00 34 41 23 behind us, and we wouldn't have these  
00 34 44 24 anymore. That is what I was told at that

00 34 48 1 board meeting.

00 34 49 2 Now you are tell us that this is  
00 34 50 3 just part of normal practice. If it happens  
00 34 56 4 six times in 12 months, then it is part of  
00 34 59 5 normal practice.

00 35 00 6 MR. MITCHELL: One of the things  
00 35 01 7 that I think that we have to be considering  
00 35 03 8 is approving a budget for the project which  
00 35 07 9 would kind of eliminate this problem. If we  
00 35 09 10 get any unforeseen changes, they would be  
00 35 12 11 incorporated under the original  
00 35 14 12 appropriation, so we can approve a dollar  
00 35 16 13 amount, rather than coming back into you for  
00 35 19 14 every action we have. So that is something  
00 35 21 15 we have been talking about, and I think that  
00 35 24 16 would eliminate this problem.

00 35 25 17 MR. ALVARO: That is fine. I have  
00 35 27 18 already had a conversation with the general  
00 35 29 19 manager, telling him that if the existing  
00 35 31 20 policy is creating the dysfunction, then the  
00 35 36 21 proper approach is to present a modified  
00 35 40 22 policy, not to simply wing it and then come  
00 35 45 23 back and ask the board to approve it.

00 35 47 24 MR. DePAOLA: If I could make one

00 35 55 1 suggestion. Currently under our policy,  
00 35 56 2 when we run into these instances, I write a  
00 35 56 3 memorandum from myself to the general  
00 35 58 4 manager, recommending that he authorize us  
00 36 01 5 to proceed with the work.

00 36 03 6 If I were to suggest that I also, in  
00 36 05 7 that package, write a memorandum from the  
00 36 07 8 general manager to the board of directors  
00 36 10 9 that the general manager, if he is in favor  
00 36 12 10 of the action, also signs, and it gets sent  
00 36 16 11 that day to the board of directors,  
00 36 18 12 notifying them of our need and the  
00 36 21 13 justification as to why the project must  
00 36 23 14 proceed with the extra work.

00 36 25 15 MR. ALVARO: That is consistent with  
00 36 27 16 what I said to the general manager earlier.  
00 36 30 17 That sounds like a sensible modification of  
00 36 32 18 the policy. Notwithstanding that, that  
00 36 36 19 isn't the policy now. The policy, in my  
00 36 38 20 mind, was disregarded. And I understand the  
00 36 42 21 reason for it. The last time around, I went  
00 36 45 22 along with these things. But I am not going  
00 36 50 23 to vote in support of something when I am  
00 36 53 24 being told that the only choice I have is to

00 36 57 1 submit the T to liability, basically holding  
00 37 01 2 a gun to my head and saying, you have to  
00 37 03 3 approve this, or the T is going to get sued.  
00 37 06 4 That is inappropriate alternative in these  
00 37 12 5 presentations.

00 37 15 6 MS. LOUX: I, too, have had issues  
00 37 20 7 around these things in the past. But long  
00 37 23 8 ago, when we created under tab B, the  
00 37 29 9 summary of subcontract actions, the heart of  
00 37 35 10 the discussion around all of that -- and I  
00 37 38 11 truly think that these things need to be  
00 37 40 12 emergency situations, and they do exist --  
00 37 44 13 was being able to track the total sum.

00 37 46 14 And I actually don't want to be in a  
00 37 51 15 position where staff are implementing these  
00 37 55 16 things, and they are not coming even -- what  
00 37 58 17 we have said in the past is, you need to  
00 38 02 18 come to the board and explain yourself on  
00 38 04 19 these issues. So I am not disagreeing with  
00 38 06 20 you that these things need to be tightened.  
00 38 10 21 There needs to be a good reason for it, and  
00 38 11 22 I think your suggestion is the correct one.  
00 38 14 23 But from my perspective, I want some  
00 38 18 24 monitoring.

00 38 34 1 MR. ALVARO: The question isn't  
 00 38 34 2 whether this should or shouldn't have been  
 00 38 37 3 done, whether we should or shouldn't spend  
 00 38 42 4 the money. I agree with you that we need to  
 00 38 42 5 track these expenses, absolutely. It is  
 00 38 45 6 part of our stewardship obligation.

00 38 48 7 My objection is, anything that is  
 00 38 52 8 presented to this board, and it has happened  
 00 38 56 9 in the past. Sometimes, board members  
 00 38 58 10 disagree with management assessments, and  
 00 38 03 11 things are turned down. This procedure  
 00 39 06 12 essentially disempowers us. Whatever it  
 00 39 10 13 says on this sheet, whether we agree with it  
 00 39 14 14 or not, and I happen to agree with this, but  
 00 39 16 15 it doesn't matter whether I agree with it or  
 00 39 19 16 not. But my choice to approve or get sued,  
 00 39 22 17 that is my issue.

00 39 23 18 MS. LOUX: But the regulations are  
 00 39 25 19 clear as to how much money they can do this  
 00 39 25 20 with.

00 39 30 21 MR. MITCHELL: And the problem is  
 00 39 31 22 that the construction division is out there,  
 00 39 33 23 and they have to make a decision on the  
 00 39 34 24 site, or they are going to delay the

00 39 37 1 project, and they are going to expose the  
 00 39 41 2 Authority to delay damages if they don't  
 00 39 42 3 make the decision to move the project  
 00 39 44 4 forward.

00 39 45 5 And I agree with you that it is not  
 00 39 48 6 a comfortable position to be bringing it  
 00 39 48 7 back in after the fact. But maybe if we  
 00 39 50 8 could do the memo, sign off through the  
 00 39 53 9 general manager to the board.

00 39 55 10 MR. ALVARO: I think it is a great  
 00 39 57 11 idea. I am just wondering why it took so  
 00 39 59 12 many years for something that Frank just  
 00 40 02 13 came up with at the podium.

00 40 05 14 MR. DAVEY: Director, there needs to  
 00 40 07 15 be a rationalization overall with the  
 00 40 11 16 management and the board's relationship in  
 00 40 15 17 understanding not only what there are for  
 00 40 16 18 approvals; but also, I think there will be  
 00 40 17 19 other items that will be brought to you  
 00 40 39 20 today that get to your point of,  
 00 40 39 21 unfortunately, not giving the board options,  
 00 40 35 22 whether it is this, or procurements that may  
 00 40 36 23 cease very soon.

00 40 39 24 And that is something that I am not

00 40 39 1 interested in bringing to this board in any  
 00 40 39 2 event. So for me, I need to rationalize the  
 00 40 40 3 concept, to make sure that you can hold us  
 00 40 41 4 accountable as the management team. But to  
 00 40 44 5 the same extent, we need to have the  
 00 40 45 6 flexibility to make quick decisions in  
 00 40 48 7 circumstances, as well.

00 40 50 8 And so I think we all agree on that  
 00 40 52 9 point. But I would recommend that I will  
 00 40 55 10 look at this memo procedure that Bill has  
 00 40 56 11 suggested. But further, I would want to  
 00 40 58 12 look at just the process generally, to make  
 00 40 59 13 sure the board is comfortable with  
 00 41 01 14 management's decisions, and you do not feel  
 00 41 04 15 as though we are coming to you moments prior  
 00 41 07 16 to a lawsuit or contract ending, et cetera.  
 00 41 12 17 So you have that commitment from me.

00 41 16 18 MS. LEVIN: I would like in that  
 00 41 18 19 review to actually look carefully at what  
 00 41 22 20 does come to us, what doesn't, to see if  
 00 41 24 21 there should be additional changes to the  
 00 41 25 22 policy. Because my belief is that for the  
 00 41 28 23 MassDOT board, not enough comes to us, and  
 00 41 31 24 that we really need to look carefully at the

00 41 34 1 delegations that are supposed to come back  
 00 41 35 2 to us to discuss. I think we should be more  
 00 41 38 3 active, and I think there is more stuff that  
 00 41 41 4 should come.

00 41 42 5 Here, I think we are asked too much,  
 00 41 45 6 to get engaged at a level of detail that  
 00 41 49 7 isn't necessary in that. In some cases, we  
 00 41 53 8 are not the best people to do it. So I  
 00 41 57 9 would like to see that looked at.

00 42 06 10 MR. MULLAN: Have you been talking  
 00 42 09 11 to Director Whittle? You had the same  
 00 41 58 12 point.

00 41 58 13 MR. WHITTLE: I made the identical  
 00 42 12 14 point to him just a few minutes ago,  
 00 42 15 15 outside.

00 42 17 16 MS. LEVIN: Isn't that interesting.

00 42 31 17 MR. MULLAN: I just want to provide  
 00 42 31 18 Director Levin with the same answer I gave  
 00 42 36 19 to Director Whittle. What I said is, I am  
 00 42 41 20 aware of the disparity, and we should be  
 00 42 43 21 working on some statistical analysis of the  
 00 42 47 22 number of times these things will come up on  
 00 42 50 23 the highway side versus the transit side.  
 00 42 52 24 And we will provide that to the board for

00 42 52 1 its consideration.

00 42 55 2 So I am very well aware of it, and I

00 42 58 3 appreciate the point.

00 43 00 4 MS. LOUX: One more point. The

00 43 02 5 levels of caps on procurements are different

00 43 08 6 for MassDOT than they are for the MBTA.

00 43 13 7 They are governed by the regulations that we

00 43 14 8 have adopted.

00 43 16 9 MR. MULLAN: No question. It does

00 43 17 10 get complicated.

00 43 19 11 MR. JENKINS: I appreciate this.

00 43 19 12 This is good all discussion. I think the

00 43 23 13 general manager gave has that as a task.

00 43 27 14 This is ongoing.

00 43 33 15 The Secretary and I had a similar

00 43 34 16 conversation today, briefly, in that we

00 43 37 17 wanted to take a look also at what comes

00 43 39 18 before this board and what the agenda looks

00 43 42 19 like, so that we can move into other areas.

00 43 45 20 So all of that is consistent, and we will

00 43 47 21 work together.

00 43 48 22 However, Frank is standing here with

00 43 50 23 a lawsuit or a non-ratification, and we have

00 43 54 24 had discussions. Any further discussion on

00 43 55 1 this?

00 43 56 2 MR. ALVARO: I just want to just

00 43 57 3 give a final comment. Frank, please take

00 43 59 4 this to heart. I say it to you, and I would

00 44 02 5 like the record to reflect, that there is

00 44 05 6 three items today on the agenda that fall

00 44 08 7 into this category. This is the last time

00 44 13 8 that I personally -- I am not speaking for

00 44 16 9 anybody else -- will go along with something

00 44 19 10 like this. I mean, it is inexcusable that

00 44 23 11 it took three or four months for us to hear

00 44 27 12 about this. I mean, if it happened

00 44 29 13 yesterday, and it came in today, I would

00 44 32 14 have more sympathy than if it had happened

00 44 35 15 three months ago, three board meetings. And

00 44 40 16 we are hearing about it today because we are

00 44 43 17 going to get sued if it doesn't happen. So

00 44 45 18 I am telling you guys right now, this is the

00 44 48 19 last time I am going to go along with this.

00 44 50 20 MR. MITCHELL: If I may, the issue

00 44 54 21 is, work will have to be done, whether we

00 44 56 22 bring it to you the next day. If the work

00 44 58 23 has already been moved forward --

00 45 00 24 MR. ALVARO: I think there has to be

00 45 02 1 a process, though, developed.

00 45 07 2 MR. JENKINS: Let me be clear that

00 45 11 3 we understand as a board -- I think I can

00 45 14 4 speak for the board. If I can't, somebody

00 45 18 5 correct me -- that there will be times when

00 45 24 6 you have to make that decision. And it is

00 45 28 7 going to be a decision on the spot, that we

00 45 31 8 don't have the -- I mean, you will have time

00 45 34 9 to get to the general manager, but you don't

00 45 36 10 have time to get to the board. We would

00 45 38 11 expect that those times are very few, and I

00 45 42 12 don't know what few is, in order to not

00 45 46 13 cause us further damage or safety or cost or

00 45 50 14 whatever. So I don't want to walk out of

00 45 53 15 here today saying if tomorrow, if you ran

00 45 55 16 into that information, that you could not

00 45 57 17 act on it.

00 45 58 18 MR. DePAOLA: Understood.

00 46 00 19 MR. JENKINS: You can act on it.

00 46 02 20 But we are going to very quickly get some

00 46 05 21 parameters around that, that the general

00 46 08 22 manager will work, I would suggest, with the

00 46 12 23 finance and audit committee, to get

00 46 15 24 something that the board will be happy with.

00 46 16 1 MR. ALVARO: Just one final

00 46 18 2 question. Is there an understanding that

00 46 21 3 this happened before? I assume that there

00 46 22 4 is some point beyond which you would have to

00 46 27 5 come back to the board, no matter what

00 46 29 6 happens. I mean, if instead of a few

00 46 33 7 hundred thousand dollars, the contractor had

00 46 35 8 said, it looks like this is another \$25

00 46 37 9 million, and we can't wait, because it is

00 46 39 10 going to cost you more, I assume the answer

00 46 43 11 would be, that is too bad. What is that

00 46 47 12 threshold?

00 46 47 13 MR. DePAOLA: There is no a hard

00 46 49 14 dollar threshold. It would depend on each

00 46 53 15 situation. It is hard for me to give you a

00 46 54 16 number of a half a million dollars, for

00 47 01 17 example.

00 47 02 18 But to bring back to the other

00 47 04 19 comment you said, Director Alvaro, is, it

00 47 05 20 might be some things that we need to talk

00 47 05 21 about at the executive session another day.

00 47 07 22 But this particular contract at State Street

00 47 09 23 has been on the ground for almost six years

00 47 12 24 now, and there are several outstanding cost

00 47 15 1 items. So we might need to talk about this  
00 47 19 2 at some later date.

00 47 21 3 MR. ALVARO: I don't want to beat  
00 47 24 4 this to death. But as you consider your new  
00 47 24 5 policy, it seems to me there should be some  
00 47 27 6 number where you say, I understand it is  
00 47 31 7 going to cost us more, but I just can't make  
00 47 34 8 that kind of commitment without going back  
00 47 36 9 to the board. If, presumably, the \$25  
00 47 39 10 million would cause you to step back and  
00 47 43 11 say, I am not making that decision.

00 47 46 12 MR. DePAOLA: I will agree to \$25  
00 47 47 13 million right now.

00 47 50 14 MR. ALVARO: I am just saying there  
00 47 50 15 ought to be some cap.

00 47 52 16 MR. DePAOLA: We will do a  
00 47 54 17 statistical analysis and propose a number.

00 47 54 18 MR. JENKINS: I will call for a  
00 47 54 19 vote.

00 48 01 20 (Motion passed.)

00 48 02 21 MR. JENKINS: Would you identify all  
00 48 05 22 those that fall into this category.

00 48 08 23 MR. DePAOLA: When we say "ratify,"  
00 48 10 24 it is already done. When we say "approve,"

00 48 12 1 it is pending.

00 48 12 2 MR. JENKINS: Say it louder.

00 48 19 3 (Mr. DePaola then read document as  
4 follows:

5 "This item requests the Board to  
6 approve and authorize the General Manager to  
7 execute Change Order Number 24 to a contract  
8 entitled 'Blue Line Modernization, State  
9 Street Station Rehabilitation: Boston,  
10 Massachusetts' with Barletta Heavy Division,  
11 for a sum not to exceed \$349,572.64.

12 "During Stage 3 excavation on the  
13 southbound side of the station, the 53 State  
14 Street side, the actual building's  
15 foundation differed from what was shown on  
16 the contract drawings. The MBTA's  
17 consultant's drawings depicted foundations  
18 as shown on the 53 State Street drawings.  
19 One excavation started, it was discovered  
20 that the 53 State Street's building  
21 foundation encroached into the proposed area  
22 of the new station expansion. This  
23 encroachment caused a redesign and  
24 relocation of the communication room to the

1 mezzanine level, and all associated conduits  
2 needed to extend an additional 200 feet to  
3 the new communication room location. This  
4 change order will provide the labor,  
5 materials, and equipment to complete the new  
6 communication room and its components.

7 "This action is funded through 80%  
8 federal funds and 20% MBTA revenue bond  
9 funds. This contract has an 18% DBE goal.  
10 There is no DBE participation on this change  
11 order. The total DBE participation to date  
12 is 11% (\$5,820,737.81.) The contractor has  
13 confirmed that they will make every  
14 reasonable effort to meet the contract's DBE  
15 goal.

16 "I recommend approval of this  
00 49 31 17 item."

00 49 31 18 MR. JENKINS: Can I get a motion,  
00 28 55 19 please?

00 28 56 20 (Motion moved and seconded.)

00 28 58 21 MR. JENKINS: Any discussion,  
00 49 42 22 questions or discussion?

00 49 44 23 MR. MULLAN: Is there a trespass  
00 49 46 24 involved here?

00 49 47 1 MR. DePAOLA: No. 53 State Street  
00 49 49 2 is the old Boston stock exchange building.  
00 49 52 3 If you remember, back in the '80s, they  
00 49 53 4 gutted the building and built the tower next  
00 49 55 5 to it. So when we did the research, we got  
00 49 57 6 the information for the building renovation.

00 49 58 7 The old granite facade has a stepped  
00 50 02 8 granite footing on wooden piles. So when  
00 50 07 9 the engineer drew it, and we were going to  
00 50 08 10 expand the station, he took the foundation  
00 50 11 11 line that was shown at the edge of the  
00 50 13 12 public way and designed the station out to  
00 50 16 13 there.

00 50 16 14 Now we have to accommodate that  
00 50 16 15 encroachment. We are all partners in the  
00 50 21 16 public way there, the building foundation,  
00 50 23 17 the MBTA, and public works. What we have  
00 50 24 18 been able to do is work around the  
00 50 27 19 encroachment. And as we work our way out,  
00 50 30 20 and we build a communication room, we will  
00 50 32 21 build it at the next level up, and we will  
00 50 34 22 reroute the conduits to it.

00 50 38 23 MR. MULLAN: So the foundation is  
00 50 40 24 actually extending into the public way below

00:50:40 1 ground?

00:50:40 2 MR. DePAOLA: Yes.

00:50:41 3 MR. MULLAN: Is there a design

00:50:42 4 problem here? And is there an issue here

00:50:46 5 with the design error?

00:50:48 6 MR. DePAOLA: No. It wasn't an

00:50:50 7 error. We consider it a different site

00:50:52 8 condition. Because all the information that

00:50:54 9 was made available to them showed that the

00:50:55 10 building foundation was straight down at the

00:50:58 11 depth of the platform. The actual granite

00:51:01 12 foundation steps out to make the footing to

00:51:04 13 hold the pilings that hold up what was the

00:51:05 14 original building, and it is now just a

00:51:08 15 granite facade there.

00:51:11 16 MR. WHITTLE: When you say it is

00:51:12 17 unforeseen, it is not surprising. Things

00:51:14 18 like that, in fact, are very common. All

00:51:15 19 historic structures in Boston have granite

00:51:20 20 foundations that step out. You are giving

00:51:20 21 the designer a buy out of this, just to say

00:51:24 22 it is unforeseen?

00:51:25 23 MR. DePAOLA: We are. He had done

00:51:28 24 this research and gotten the drawings that

00:51:30 1 were on record of inspectional services of

00:51:32 2 the building.

00:51:33 3 MR. WHITTLE: And had he done test

00:51:35 4 bits or anything else?

00:51:36 5 MR. DePAOLA: The test bits would

00:51:37 6 have been in excess of 30 feet deep. It is

00:51:40 7 really not a practicality to do that.

00:51:43 8 MS. LOUX: Was the building built

00:51:45 9 with rebar?

00:51:46 10 MR. DePAOLA: The old building?

00:51:48 11 MS. LOUX: Or was it before rebar?

00:51:50 12 MR. DePAOLA: It was before rebar.

00:51:50 13 It was granite blocks stacked. It is like a

00:51:51 14 pyramid.

00:51:51 15 MS. LOUX: They all come up. Yes,

00:51:55 16 they all come up. I even know that.

00:52:00 17 MR. JENKINS: Any other discussion?

00:52:06 18 All those in favor?

00:52:10 19 (Motion passed.)

00:48:45 20 (Mr. DePaola then read document as

21 follows:

22 "This item requests the Board to

23 ratify and authorize the General Manager to

24 execute Change Order Number 23 to a contract

1 entitled 'Blue Line Modernization Project,

2 Maverick Square Station and Blue Line Vents,

3 East Boston, MA' with J.F. White Contracting

4 Company, for a sum not to exceed

5 \$382,684.51.

6 "This change order consists of two

7 components. This change order will

8 authorize payment to the contractor for

9 labor, material and equipment for additional

10 work as described below:

11 "The first component (\$214,587.83)

12 will investigate, relocate, modify, and

13 reroute the installation of the 13.8KV

14 cables and conduit from the new manhole in

15 the Blue Line tunnel to the new unit

16 substation at Maverick Station. This

17 additional work is considered to be the

18 result of a design error and will be

19 reviewed by the MBTA's error and omission

20 committee.

21 "The second component (\$168,096.68)

22 will continue the work originally authorized

23 by Change Order Number 16. This work

24 involves the removal of the existing

1 concrete surface slab which has a varying

2 thickness from four to seven inches. The

3 original change order authorized the removal

4 of the top slab of approximately 60% of the

5 station platform. This change order will

6 complete the work on the remainder of the

7 station platform area.

8 "Funds for this action are available

9 through 80% federal funds and 20% MBTA

10 revenue bond funds. This contract has a 17%

11 DBE goal. There is no DBE participation on

12 this change order. The total DBE

13 participation to date is 14.24%

14 (\$5,842,427.24). The SOMWBA certified DBE

15 firms participating in this contract

16 include: Atlantic Bridge and Engineering;

17 Dagle Electrical Construction; Dependable

18 Masonry; McCoy Fence; Maverick Contractors;

19 MON Landscaping, Inc.; Roxbury Electric

20 Company; Regis Steel; Richard W. Reid

21 Electrical Company, Inc.; Stafford

22 Construction; and Wildeca Construction.

23 "I recommend approval of this

24 item.")

00 54 23 1 MS. LOUX: I make a motion to  
 00 54 24 2 approve with the adjusted amount of  
 00 54 30 3 \$382,684.51.  
 00 54 30 4 MR. JENKINS: Discussion?  
 00 54 34 5 I just have a question. On several  
 00 54 35 6 of these, you said the DBE was not made.  
 00 54 39 7 MR. DePAOLA: Right.  
 00 54 39 8 MR. JENKINS: But they will try to.  
 00 54 41 9 Is there any followup at some point?  
 00 54 43 10 MR. DePAOLA: Yes. We do a review  
 00 54 44 11 with our office of diversity and whatever CR  
 00 54 48 12 stands for. Civil rights. Sorry. In cases  
 00 54 53 13 like this, in particular, Maverick, we added  
 00 54 58 14 items like elevators and escalators, where  
 00 55 02 15 this is millions of dollars of added work,  
 00 55 04 16 but very little opportunity to have the  
 00 55 07 17 18-16 percent DBE participation. That is  
 00 55 12 18 why the effective total participation for  
 00 55 14 19 the job is less than the goal.  
 00 55 14 20 We reviewed that with our office of  
 00 55 18 21 diversity and civil rights. If we can show  
 00 55 19 22 them that there was certain large -- the  
 00 55 23 23 original contract as awarded complied with  
 00 55 24 24 the contract requirements. As we added

00 55 27 1 dollars, we couldn't add 18 percent dollars  
 00 55 30 2 on every charge order, which is why  
 00 55 32 3 effectively, that number is lower.  
 00 55 33 4 If the contractor does not meet it,  
 00 55 35 5 he can be penalized if he does not make a  
 00 55 35 6 good faith effort. In some cases, you see  
 00 55 39 7 where they subbed out 40, 50, 60 percent of  
 00 55 43 8 change orders if applicable to DBE forms.  
 00 55 46 9 MR. JENKINS: Have you ever  
 00 55 46 10 penalized anybody?  
 00 55 50 11 MR. DePAOLA: I have only been here  
 00 55 51 12 about year. I don't recall. But my  
 00 55 52 13 previous agency would penalize them ten  
 00 55 54 14 percent of the shortfall.  
 00 55 57 15 MR. JENKINS: Your agency being  
 00 55 59 16 what?  
 00 55 59 17 MR. DePAOLA: The Mass. Water  
 00 56 00 18 Resources Authority.  
 00 56 01 19 MR. JENKINS: MWRA?  
 00 56 02 20 MR. DePAOLA: Yes.  
 00 56 04 21 MR. JENKINS: So in effect, there is  
 00 56 05 22 no penalty?  
 00 56 05 23 MR. DePAOLA: Yes.  
 00 56 06 24 MR. JENKINS: We ought to fix that.

00 56 06 1 I mean, if that is what the policy is, we  
 00 56 13 2 will follow policy.  
 00 56 15 3 Any other discussion on this one?  
 00 56 18 4 MS. LEVIN: This had 72 change  
 00 56 20 5 orders. Is that typical?  
 00 56 22 6 MR. DePAOLA: No.  
 00 56 28 7 MR. JENKINS: Other discussion?  
 00 56 30 8 Those in favor?  
 00 56 34 9 (Motion passed.)  
 00 56 34 10 MR. DePAOLA: Thank you.  
 00 56 35 11 MR. JENKINS: The next presenter is  
 00 56 42 12 Mr. Erik Scheier. I have been informed that  
 00 56 49 13 our lease on this room expires around  
 00 56 53 14 five o'clock, so we want to try and move a  
 00 56 55 15 little bit more quickly. I think we are  
 00 56 58 16 doing okay.  
 00 57 02 17 MR. SCHEIER: Good afternoon.  
 00 48 45 18 (MR. Scheier then read document as  
 19 follows:  
 20 "This item requests the Board of  
 21 Directors to approve and authorize the  
 22 acting general manager an acting rail &  
 23 transit administrator to amend MBTA Contract  
 24 Number Z90Ps02, entitled 'On-Call

1 Construction Management/Project Management  
 2 (CM/PM) Oversight Services for the MBTA  
 3 American Recovery and Reinvestment Act  
 4 (ARRA) Program,' with Gilbane Building  
 5 Company, for an additional amount not to  
 6 exceed \$4.5 million.  
 7 "The initial CM/PM contract with  
 8 Gilbane was approved by the Board of  
 9 Directors on August 6, 2009, for \$3.5  
 10 million. This amendment will bring the  
 11 total Gilbane contract amount to \$8 million.  
 12 The total MBTA ARRA program cost is  
 13 \$273,500,000, which includes Phase 1 (\$164  
 14 million), Phase 2 (\$68 million), Highway  
 15 Flex (\$39 million) and TIGGER (\$2.5 million)  
 16 projects. The proposed Gilbane contract  
 17 total of \$8 million represents less than 3%  
 18 of the total MBTA ARRA program value.  
 19 "The initial ARRA program CM/PM  
 20 needs was determined to be approximately \$7  
 21 million, based on the Phase 1 projects  
 22 approved in July 2009. However, it was  
 23 unclear at that time, which of the two  
 24 selected oversight firms, Gilbane or HNTB,

1 would be best positioned to perform CM/PM  
2 services for the various ARRA projects. As  
3 a result, when the task order contracts were  
4 brought to the Board of Directors on  
5 August 6, 2009, the funding was split evenly  
6 between the two firms at \$3.5 million each.

7 "As ARRA project managers worked  
8 with both Gilbane and HNTB to develop a plan  
9 for managing the ARRA program, it became  
10 evident that it was in the best interest of  
11 the MBTA to have a single firm perform all  
12 of the CM/PM tasks. This provided several  
13 benefits:

14 "1. It allows one firm to  
15 coordinate manpower scheduling for all ARRA  
16 Temporary Special Project employees, so that  
17 they can be shifted among ARRA projects as  
18 needed.

19 "2. It allows one firm to oversee  
20 all ARRA-funded commuter rail work being  
21 performed by MBCR, for which oversight and  
22 railway safety issues are very similar.

23 "3. It allows one firm to provide  
24 procurement support for all ARRA-funded

1 projects, including requisition and  
2 specification review, coordination of  
3 delivery dates with TSP availability, and  
4 material storage.

5 "4. It ensures that all ARRA  
6 project reporting is consistent, which is  
7 critical, given the level of federal  
8 reporting requirements for the ARRA program.

9 "After careful review, Gilbane was  
10 selected as the firm best suited for CM/PM  
11 oversight of the ARRA projects. The  
12 projected CM/PM needs are summarized as  
13 follows:

14 "ARRA Phase 1 projects: \$7 million.

15 "ARRA Phase 2 projects: \$350,000.

16 "ARRA Flex projects: \$650,000.

17 "Total CM/PM Costs: \$8 million.

18 "Approved to Date (Gilbane): \$3.5  
19 million.

20 "Amendment request: \$4.5 million.

21 "Tab B of the staff summary package  
22 lists those projects for which Gilbane CM/PM  
23 support is to be provided. The ARRA  
24 projects requiring Gilbane CM/PM support

1 total \$86.2 million in value. The \$8  
2 million in CM/PM costs reflect 9.3% of the  
3 project costs, which is considered fair and  
4 reasonable, considering the significant  
5 oversight and reporting requirements  
6 associating with the MBTA ARRA program.

7 "This contract has a 15% DBE goal.  
8 Gilbane has achieved a 14% DBE participation  
9 for tasks approved to date. Gilbane has  
10 committed to working to exceed the 15% goal  
11 with this amendment.

12 "Funds for this amendment will be  
13 provided through the ARRA program at a 100%  
14 federal contribution; there is no MBTA share  
15 associated with this effort.

16 "I respectfully recommend approval  
17 of this item.")

01 01 17

18 MR. JENKINS: Can I get a motion?  
19 (Motion moved and seconded.)

01 01 17

20 MR. JENKINS: Discussion?

21 So you really looked at not doing a  
22 new solicitation? I mean, this is a new  
23 high for me in terms of a change order. You  
24 would characterize it as a change order?

1 MR. SCHEIER: It is an amendment.

2 MR. JENKINS: An amendment for 125%  
3 of the original contract?

4 MR. SCHEIER: That's right. We did  
5 consider putting out a new solicitation.  
6 But given that there is significant pressure  
7 for us to spend this money in a timely  
8 manner, and that it is stimulus money, in  
9 looking at it, we realized that it would be  
10 at least a six-month delay in terms of  
11 getting another firm or firms on board and  
12 then getting them up to speed, considering  
13 that Gilbane and HNTB had already invested  
14 considerable time in getting to know these  
15 projects.

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16 MR. JENKINS: Wouldn't you think --  
17 it doesn't seem like you got a deal in the  
18 first portion. We got a \$3.5 million and  
19 then \$4.5 million for the second amendment.  
20 Why I am paying \$1 million dollars more for  
21 the same service?

22 MR. SCHEIER: When we originally  
23 brought this to the board, the \$7 million  
24 authorization, that was for phase one of all

01 02 45 1 the ARRA money, which was \$178 million.  
 01 02 49 2 Since last August, additional money was  
 01 02 52 3 added onto it, so we needed to add  
 01 02 52 4 additional CM/PM oversight services to the  
 01 02 55 5 overall project to provide for that  
 01 02 57 6 additional funding, those additional  
 01 02 59 7 projects.

01 03 01 8 MS. LOUX: Would there be a problem  
 01 03 03 9 if we waited 30 days on this?

01 03 06 10 MR. SCHEIER: It would potentially  
 01 03 07 11 slow down progress of these ARRA projects.  
 01 03 11 12 There are ARRA projects that are obviously  
 01 03 13 13 under way now.

01 03 15 14 MS. LOUX: I don't see slowing  
 01 03 17 15 things down as a problem. I am just saying,  
 01 03 20 16 is there a problem? Because my inclination  
 01 03 23 17 is that the general manager examine this and  
 01 03 25 18 come back with this.

01 03 28 19 MR. WHITTLE: I agree. This is a  
 01 03 28 20 bait and switch here. After all, HNTB is  
 01 03 32 21 under pressure from the project manager.  
 01 03 33 22 And now you are essentially giving them \$3.5  
 01 03 35 23 million in engineering services, apart from  
 01 03 41 24 what you are asking here for Gilbane. It

01 03 44 1 strikes me as a strange way of doing  
 01 03 46 2 business.

01 03 48 3 MR. SCHEIER: The original RFP did  
 01 03 51 4 provide for both, so.

01 03 52 5 MR. WHITTLE: That is not the way it  
 01 03 53 6 is described. In fact, you are switching  
 01 04 00 7 all that to HNTB and then going back to the  
 01 04 04 8 well and asking for a lot more money on  
 01 04 06 9 construction project management.

01 04 09 10 MR. SCHEIER: We could have used  
 01 04 10 11 either firm to provide the CM/PM services.

01 04 13 12 MR. WHITTLE: But they had to make  
 01 04 16 13 bids on this and have competitive bidding.  
 01 04 17 14 Essentially, you are created \$3.5 million  
 01 04 18 15 worth of engineering without any bidding  
 01 04 21 16 process here.

01 04 24 17 MS. LOUX: I make a motion to table.

01 04 40 18 MR. SCHEIER: We did procure this  
 01 04 42 19 through the standard FDA-approved  
 01 04 42 20 solicitation process.

01 04 47 21 MR. WHITTLE: For the CM/PM?

01 04 49 22 MR. SCHEIER: And for the  
 01 04 50 23 engineering, the initial solicitation.

01 04 54 24 MR. WHITTLE: That is not consistent

01 04 55 1 with what you have written here.

01 04 57 2 MR. SCHEIER: We would have to go  
 01 04 58 3 back and look at the original staff summary  
 01 04 59 4 for when we awarded the initial contract.  
 01 05 00 5 This is an amendment to an existing  
 01 05 02 6 contract.

01 05 04 7 MR. WHITTLE: But the way it is  
 01 05 05 8 written here, it is another piece of work  
 01 05 06 9 that you have since discovered. And in  
 01 05 08 10 fact, you are sort of passing that along to  
 01 05 11 11 one of the two firms that you have  
 01 05 13 12 identified. That is the way it is written.

01 05 21 13 MR. SCHEIER: I think the original  
 01 05 22 14 intent, when we put out the solicitation, we  
 01 05 24 15 realized that many of these projects would  
 01 05 27 16 require some additional engineering and  
 01 05 29 17 design services, so the scope was written to  
 01 05 31 18 accommodate that. So whether it was done by  
 01 05 34 19 HNTB or Gilbane, we knew we couldn't decide  
 01 05 37 20 that at the time.

01 05 38 21 But we knew all along that there  
 01 05 41 22 would be engineering services required. It  
 01 05 42 23 is just not to the level that would  
 01 05 46 24 ordinarily be required, but we knew that it

01 05 50 1 would happen. Given the pressure to spend  
 01 05 52 2 this money quickly, and given that we didn't  
 01 05 54 3 know, the decision was made at the time not  
 01 05 55 4 to do a separate solicitation for  
 01 05 57 5 engineering services.

01 06 00 6 MS. LOUX: I have a motion on the  
 01 06 04 7 table.

01 06 05 8 MR. JENKINS: Discussion?

01 06 05 9 MS. LEVIN: I understood it as it  
 01 06 06 10 was a quantifications-based selection, it  
 01 06 11 11 was authorization up to \$7 million. You  
 01 06 16 12 choose two firms that you could use in  
 01 06 22 13 however you wanted, and you made a decision  
 01 06 29 14 that it was more efficient to have one firm  
 01 06 33 15 do it. I don't know if you had HNTB do  
 01 06 38 16 anything, but you want one firm to do it.  
 01 06 43 17 And there was some things to add onto it.

01 06 46 18 And that is what you are coming back  
 01 06 48 19 here for, to basically make sure that they  
 01 06 54 20 can do the \$7 million that was there before,  
 01 06 57 21 and then there is a certain amount added on.

01 07 00 22 MR. SCHEIER: Right. Correct.

01 07 02 23 MS. LEVIN: And it is qualifications  
 01 07 03 24 based.

01 07 05 1 MR. SCHEIER: Yes.

01 07 07 2 MS. LEVIN: Thank you. I feel okay

01 07 07 3 with that, actually.

01 07 09 4 MR. JENKINS: Discussion?

01 07 11 5 MR. DAVEY: Can I ask you a

01 07 13 6 question, Erik? In the 30 days, how much

01 07 14 7 would we have spent to Gilbane? Do you

01 07 18 8 know?

01 07 18 9 MR. SCHEIER: That, I don't know.

01 07 18 10 MR. DAVEY: So we won't exhaust the

01 07 21 11 \$3.5 million in the next 30 days?

01 07 25 12 MR. SCHEIER: No.

01 07 26 13 MR. DAVEY: So it shouldn't delay

01 07 27 14 the project?

01 07 28 15 MR. SCHEIER: No.

01 07 30 16 MR. JENKINS: I think we had a

01 07 32 17 second. Further discussion? Or you wanted

01 07 37 18 to modify the motion?

01 07 39 19 MR. DAVEY: May I, Mr. Chairman? I

01 07 41 20 would like to offer that we withdraw this

01 07 43 21 from the table so I can further consider it,

01 07 45 22 and then come back to the board next month

01 07 47 23 with a decision and/or recommendations as to

01 07 50 24 how to proceed.

01 07 51 1 MR. JENKINS: Who made the original

01 07 53 2 motion?

01 07 54 3 MS. LOUX: I made the original

01 07 55 4 motion. I have made a motion to table it

01 07 57 5 and to examine it for 30 days and come back

01 08 00 6 to the board.

01 08 00 7 MR. JENKINS: I don't know that we

01 08 12 8 need a motion. So the motion is withdrawn,

01 08 15 9 and we will come back on that one. We will

01 08 17 10 table that.

01 08 20 11 MS. LOUX: My motion was the same as

01 08 22 12 was stated the first time. Table it.

01 08 26 13 MR. ALVARO: We have a motion on

01 08 29 14 tabling it.

01 08 30 15 MR. JENKINS: Vote to table it?

01 08 36 16 Approved. Thank you.

01 08 36 17 Next we have Janis Kearney.

01 08 36 18 (Ms. Kearney then read document as

01 08 38 19 follows:

01 08 38 20 "Mr. Chairman, Board Members, Item

01 08 38 21 Number 8 requests approval of a contract to

01 08 38 22 furnish eight head and power engines for

01 08 38 23 railroad operations, with an option for an

01 08 38 24 additional 14 units. The option for the

1 additional 14 units will be exercised as

2 additional grant funding becomes available.

3 "This procurement is financed with

4 EPA national clean diesel grant funds. The

5 contractor has advised this project will

6 save up to four jobs and may generate one

7 new manufacturing position.

8 "Invitations for bid were sent to

9 six firms and advertised. Three firms

10 submitted bids. The invitation requested

11 pricing on eleven units, with an option for

12 an additional 14 units. This action is for

13 eight units, complementing an order for

14 three authorized by the acting general

15 manager.

16 "A locomotive has a large diesel

17 engine (prime mover) that generates traction

18 power needed to move a train. In addition,

19 the locomotive has a smaller head end power

20 engine that generates electricity needed to

21 run passenger coach functions, such as

22 lighting, eating, A/C and communications.

23 "This purchase will provide new each

24 end power engines that are more fuel

1 efficient, meet current emission standards,

2 and are quieter. The installation of the

3 units will occur under the terms of the

4 operating agreement with MBCR.

5 "The DBE participation goal for this

6 procurement is 5%. The contractor will meet

7 the goal using a SOMWBA-certified DBE to

8 provide technical support.

9 "I recommend an award of a contract

10 to Transportation Technology, Inc., to

11 furnish eight head end power engines with an

12 option for 14 additional units in the amount

01 10 22 13 not to exceed \$2,174,216.")

01 10 22 14 MR. JENKINS: Can I get a motion,

01 10 25 15 please? Discussion? All those in favor say

01 10 38 16 aye. No opposed. Thank you.

01 10 40 17 (Motion approved.)

01 10 43 18 MR. JENKINS: This is when we are

01 10 44 19 going to remove from the table. Mr. Michael

01 10 47 20 Turcotte, please.

01 10 54 21 MR. TURCOTTE: Good afternoon,

01 10 55 22 Mr. Chairman and members of the board.

01 10 57 23 MR. MITCHELL: Can we have a motion

01 10 59 24 to remove it from the table first?

01 11 03 1 MR. LOUX: I make a motion to remove  
 01 11 04 2 it from the table.  
 01 11 16 3 Can I just ask a question? Isn't  
 01 11 18 4 this different from what we tabled? We  
 01 11 20 5 tabled the bigger plan, and this is a  
 01 11 22 6 listing of things that are cherry picked  
 01 11 24 7 until Fred's clan came up.  
 01 11 27 8 MR. MITCHELL: I believe it is the  
 01 11 28 9 same item. However, what the issue was is  
 01 11 32 10 the management.  
 01 11 34 11 MS. LOUX: As I read it, it was the  
 01 11 36 12 same item, with a reduced number of vehicles  
 01 11 38 13 until the plan came out. Did I read that  
 01 11 40 14 wrong? No? It is the exact same?  
 01 11 43 15 MR. TURCOTTE: It is the exact same  
 01 11 44 16 plan for 40 maintenance of way vehicles.  
 01 11 51 17 MR. ALVARO: Yes, it is the same  
 01 11 53 18 plan. We have now discussed it at the  
 01 11 55 19 finance committee, and I think we were all  
 01 11 57 20 happy with what has been presented.  
 01 12 00 21 MS. LOUX: Thank you.  
 01 12 03 22 MR. JENKINS: All those in favor?  
 01 12 09 23 (Motion passed.)  
 01 12 09 24 MR. JENKINS: Back on the table.

1 maintenance schedules are continuously  
 2 modified, costing time and money. The  
 3 current level of obsolete vehicles and  
 4 equipment, which are in some cases dating  
 5 back over 20 years, need to be replaced to  
 6 allow specific condemned equipment to be  
 7 retired.  
 8 "The procurement of these identified  
 9 pieces of equipment will enhance the ability  
 10 of the maintenance of way department to  
 11 proactively schedule maintenance initiatives  
 12 versus continuing a reactive approach to the  
 13 most pressing issues based on the limited  
 14 availability of vehicle and equipment  
 15 resources. A fleet management plan for SMI  
 16 vehicles and equipment is being developed,  
 17 beginning with the replacement of these key  
 18 assets in this purchase request.  
 19 "Key pieces of equipment such as the  
 20 Unimog and the Spot Tamper, for example,  
 21 will require a long lead time, specifically  
 22 a year from notice to proceed. These pieces  
 23 of equipment must be available to respond to  
 24 emergencies, i.e., the rescue of high rail

01 12 09 1 (Mr. Turcotte then read document as  
 01 12 09 2 follows:  
 01 12 14 3 "This item is to request the board  
 01 12 15 4 of directors approve and authorize the  
 01 12 17 5 general manger to execute a  
 01 12 19 6 procurement authorization for a targeted  
 7 group of 40 critical maintenance of way  
 8 vehicles for the purpose of replacing  
 9 equipment which has gone long past its  
 10 useful life span. This procurement of key  
 11 equipment, as shown on the enclosed  
 12 exhibits, will not exceed \$5 million.  
 13 "The MBTA transit system is  
 14 comprised of 182 miles of track which  
 15 requires daily maintenance to ensure safe  
 16 and efficient passenger service. Due to the  
 17 age and conditions of many of the 180+  
 18 pieces of rail maintenance equipment, SMI's  
 19 maintenance of way department has numerous  
 20 scheduling problems associated with failed  
 21 equipment. Although we make every effort to  
 22 schedule rail maintenance, due to lack of  
 23 parts available for obsolete rail  
 24 maintenance vehicles and equipment,

1 and rail bound vehicles which have been  
 2 disabled on the right of way. The current  
 3 Unimog was purchased in 1988, while the Spot  
 4 Tamper dates back to 1989. Without existing  
 5 available parts, these and many other  
 6 integral pieces of equipment will not be  
 7 available to perform daily maintenance  
 8 functions.  
 9 "SMI has consistently requested  
 10 replacement equipment for the past six years  
 11 within its annual initiatives in each year's  
 12 CIP. This particular authorization request  
 13 is an essential step toward correcting  
 14 deficiencies in our equipment fleet within  
 15 the maintenance of way department.  
 16 "With the savings realized through  
 17 this contract, MBTA will not be as dependent  
 18 on the leased vehicle market, which in 2009  
 19 saw SMI expend \$680,000 in rentals and  
 20 leasing due to unavailable rail equipment.  
 21 "This contract will be funded in  
 22 part by the FTA at 80% with a 20% match of  
 23 MBTA revenue bond funds. Funds for this  
 24 procurement are included in grant R04A05-V90

1 non-revenue vehicles. Materials management  
2 will issue IFBs for each vehicle procurement  
3 associated with this contract, which will go  
4 out for public bid. Materials management  
5 will request a DBE goal from the office of  
6 diversity and city rights for each IFB  
7 issued under this contract.

8 "Therefore, I respectfully request  
9 the board of directors approve and authorize  
10 the acting general manager and acting rail  
11 and transit administrator to authorize the  
12 procurement of these maintenance of way rail  
13 maintenance vehicles and equipment. The sum  
14 of this procurement is not to exceed \$5  
15 million.")

16 MS. LOUX: A bit of information,  
17 Mr. Chairman. This is a board action that  
18 was tabled at this board.

19 MR. TURCOTTE: Yes.

20 MS. LOUX: The appropriate  
21 distribution of the materials would have  
22 been to the entire board. I have no  
23 objection that the finance committee has  
24 that information. But we, the rest of the

1 board, sit here, not having been able to see  
2 the fleet management plan, being asked to  
3 vote on something that we haven't gotten the  
4 information on.

5 MR. ALVARO: Actually, Director  
6 Loux, what I have to say is, Mr. Turcotte  
7 was not at that finance committee meeting.

8 MS. LOUX: The report has never been  
9 given to us.

10 MR. ALVARO: I specifically  
11 requested, when we received that material to  
12 the finance committee, that it be  
13 distributed to the board.

14 MS. LOUX: But it was a board  
15 action. It should have been a natural flow.

16 MR. ALVARO: So there is a double  
17 thing here. We should have gotten it. I  
18 asked the question whether the rest of the  
19 board had gotten at that meeting, and the  
20 answer was no. I asked that it be  
21 distributed to the board. Apparently, it  
22 was not.

23 MR. DAVIS: No, Director. The  
24 information was delivered to all the other

01:17:07 1 board members who were not at that meeting.

01:17:12 2 MS. LOUX: I don't have a  
01:17:13 3 recollection of getting it, Mr. Davis.

01:17:15 4 MR. DAVIS: We can certainly track  
01:17:17 5 that down.

01:17:18 6 MS. LOUX: And Mr. Turcotte just  
01:17:21 7 stood there and said it given to the finance  
01:17:23 8 committee, and then he was told no. So if  
01:17:27 9 you want to belabor your point, I am happy  
01:17:27 10 to get into it.

01:17:28 11 MR. DAVIS: It was presented to the  
01:17:30 12 finance committee.

01:17:31 13 MS. LOUX: It was a board action.  
01:17:31 14 And based on it being a board action, we  
01:17:34 15 should have gotten the information. I  
01:17:35 16 didn't receive it.

01:17:36 17 MR. JENKINS: I think he is saying  
01:17:37 18 that it was indeed sent to the board  
01:17:40 19 members, and if you didn't get it. Did  
01:17:46 20 other board members get it?

01:17:49 21 MR. ALVARO: The three of us who  
01:17:50 22 were at the meeting certainly got it.

01:17:52 23 MR. JENKINS: So I would be the only  
01:17:54 24 one other. I am going to assume that I got

01:17:57 1 it.

01:17:57 2 MR. DAVIS: It was delivered.  
01:17:58 3 That's correct. But I can figure it out. I  
01:18:00 4 apologize, Director Loux, if it didn't get  
01:18:03 5 in your hands, but I will check.

01:18:05 6 MS. LOUX: I made my point, and you  
01:18:06 7 made yours.

01:18:08 8 MR. TURCOTTE: If it helps, I do  
01:18:10 9 have some with me that I can provide.

01:18:12 10 MS. LOUX: I have further questions  
01:18:14 11 for you, Mr. Turcotte.

01:18:16 12 MR. JENKINS: Let's go back to the  
01:18:18 13 process. Can I get a motion?  
01:18:18 14 (Motion moved and second.)

01:18:24 15 MR. JENKINS: Discussion?

01:18:24 16 MS. LEVIN: I had a couple things.  
01:18:31 17 I did go out with the general manager, and I  
01:18:33 18 saw where all these vehicles were, and I saw  
01:18:37 19 the person who was doing the fleet  
01:18:39 20 management plan, and I have great respect  
01:18:42 21 for the kind of effort that was put in. So  
01:18:45 22 I appreciate that.

01:18:45 23 And then the other day I read in the  
01:18:47 24 newspaper that there was a some equipment

01 18 50 1 that was broken that didn't get to a site, I  
01 18 55 2 think the Red Line.

01 18 56 3 MR. TURCOTTE: It was actually out  
01 18 58 4 on the rail. It was a work train.

01 19 03 5 MS. LEVIN: Right. But if we  
01 19 05 6 approve this, this is a different kind of  
01 19 08 7 equipment.

01 19 08 8 MR. TURCOTTE: Yes.

01 19 09 9 MS. LEVIN: But it just highlighted  
01 19 10 10 the importance of being able to get the  
01 19 13 11 equipment to where things need to be.

01 19 17 12 MR. TURCOTTE: To that point,  
01 19 18 13 Director, we had this vehicle out on the  
01 19 20 14 rail in 2007, which is one of the vehicles  
01 19 23 15 in this 40, this morning. It broke down.

01 19 26 16 It was in the same spot that the work train  
01 19 29 17 broke down. We got it off the track moments

01 19 33 18 before the first train. It is only a sign  
01 19 38 19 of things to come. There will be service  
01 19 40 20 delays, putting equipment like this out on  
01 19 44 21 the rail.

01 19 44 22 MR. JENKINS: Thank you. Director  
01 19 47 23 Loux?

01 19 47 24 MS. LOUX: Now let's talk about the

01 19 49 1 leasing in the \$680,000. What was the  
01 19 52 2 highest price that we paid, and who did we  
01 19 57 3 pay it to?

01 19 57 4 MR. TURCOTTE: The leases are broken  
01 19 59 5 up over, I believe, four different  
01 20 02 6 contractors, most of which are for moving  
01 20 05 7 the equipment and for utilizing equipment  
01 20 08 8 that is down. J.F. White is one of the  
01 20 12 9 large leasing contractors. Marr Equipment  
01 20 15 10 is another.

01 20 16 11 MS. LOUX: Is there a singular lease  
01 20 18 12 that was higher than the others?

01 20 19 13 MR. TURCOTTE: I don't know that  
01 20 20 14 answer. I don't know that answer off the  
01 20 27 15 top of my head.

01 20 29 16 MR. JENKINS: It was a bid process?

01 20 32 17 MR. TURCOTTE: It is a bid process.

01 20 35 18 MS. LOUX: All the leases were bid  
01 20 37 19 through a process?

01 20 38 20 MR. TURCOTTE: I believe we bid the  
01 20 39 21 leases.

01 20 42 22 MS. LOUX: I am very concerned about  
01 20 44 23 this, Mr. General Manager. To my

01 20 46 24 understanding, this is an extraordinarily

01 20 48 1 high leasing figure between the \$680,000.

01 20 52 2 And I am not happy with the way this

01 20 55 3 came to the board, with the way it was dealt

01 20 58 4 with, and the back story to it. So I would

01 21 02 5 like on the record some discussion on a

01 21 05 6 leasing and the costs, and I want to make a

01 21 10 7 request to the general manager to get in the

01 21 11 8 middle of this. And if there was an

01 21 14 9 extraordinarily high lease figure done for

01 21 18 10 one of these contractors that is

01 21 21 11 extraordinary, I know to want to know. I

01 21 25 12 guess the executive summary will bear that

01 21 27 13 out.

01 21 29 14 MR. DAVEY: Director, we will do

01 21 30 15 both. I will get in the middle that and get

01 21 33 16 you the information.

01 21 33 17 MR. JENKINS: Let me just say, I

01 21 38 18 would like to get a report from the finance

01 21 40 19 and audit committee; you have reviewed this,

01 21 42 20 and what is your comments and recommendation

01 21 46 21 to us.

01 21 47 22 MR. ALVARO: You may recall that I

01 21 49 23 had an objection to this at the last board

01 21 51 24 meeting. And my objection basically was

01 21 59 1 that this was presented as part of the

01 22 01 2 larger fleet plan. And my question was, why

01 22 04 3 can't we just get the whole fleet plan.

01 22 09 4 The answer then was that this is

01 22 12 5 pressing and needs to be done quickly. I

01 22 15 6 didn't accept that at that board meeting.

01 22 19 7 We tabled the item. We had a pretty good

01 22 22 8 hearing on this, not on the larger fleet

01 22 28 9 plan, but why this smaller piece was so

01 22 31 10 urgent; and I think we were all persuaded

01 22 36 11 that the condition of that equipment and the

01 22 39 12 potential impact on the system of not

01 22 42 13 replacing it does make this an urgent item.

01 22 47 14 That doesn't necessarily address the

01 22 50 15 issue that I raised at the last board

01 22 53 16 meeting, which is why don't we have the

01 22 56 17 whole fleet plan.

01 22 57 18 However, the committee is here.

01 23 01 19 They can speak for themselves. But we were

01 23 03 20 persuaded, as a committee, that there is a

01 23 06 21 real urgency for this piece of the

01 23 08 22 equipment.

01 23 12 23 MS. LOUX: These workers need this

01 23 14 24 equipment. I just don't like how this is

01 23 16 1 handled.

01 23 16 2 MR. ALVARO: I would not disagree

01 23 18 3 with that, Director. But I am saying that

01 23 21 4 we agreed with management that they need

01 23 24 5 this equipment to maintain the system, and

01 23 25 6 they it need urgently. And I would also

01 23 28 7 agree with you that this was not handled in

01 23 30 8 the best way.

01 23 47 9 MS. LOUX: And just to say one more

01 23 47 10 time to the general manager, the details of

01 23 47 11 all those leases, I think, should have been

01 23 47 12 much more transparent. And we will see what

01 23 47 13 the information bears.

01 23 48 14 MR. JENKINS: A part of your

01 23 51 15 rationale here is all these savings that you

01 23 53 16 talked about. So whenever I see savings, I

01 23 55 17 think, what is the LOI in payback on this

01 23 58 18 thing. Did you do any calculations on this?

01 24 01 19 MR. TURCOTTE: I have not. I think

01 24 02 20 some of the confusion is -- and I am not

01 24 08 21 trying to deflect anything. I think I need

01 24 09 22 to explain that. The maintenance of way in

01 24 13 23 the responsibility, we are the users of

01 24 14 24 these vehicles. We don't purchase or

01 24 18 1 maintain these vehicles. So it is not an

01 24 22 2 excuse. It is just trying to get you to

01 24 25 3 understand that I am approaching you for

01 24 29 4 this because we are the users of these

01 24 31 5 vehicles, and they desperately need it.

01 24 34 6 MR. JENKINS: I think we got that.

01 24 36 7 Can you answer my question?

01 24 37 8 MR. DAVIS: Sure. If you did a

01 24 39 9 simple payback, and you assume that these

01 24 42 10 numbers are correct, there is a little less

01 24 43 11 than a ten-year payback.

01 24 45 12 MR. JENKINS: So it is not

01 24 46 13 financially justified? It is based on the

01 24 48 14 service need?

01 24 49 15 MR. DAVIS: If you look at it from a

01 24 51 16 true ROI standpoint, that is correct.

01 24 54 17 However, as Director Loux pointed out, these

01 24 58 18 vehicles are needed for the people out on

01 24 59 19 the system to deal with the service that is

01 25 02 20 needed across the system.

01 25 05 21 MR. JENKINS: So any further

01 25 07 22 discussion? I call for a vote.

01 25 15 23 (Motion approved.)

01 25 17 24 MR. JENKINS: Motion approved.

01 25 23 1 And Mr. Jody Ray, item number 10.

01 25 23 2 (Mr. Ray then read document as

01 25 33 3 follows:

01 25 33 4 "Good afternoon Mr. Chairman and

5 members of the board, Mr. Secretary, and

6 Mr. General Manager. My name is John Ray,

7 and I am the MBTA's director of railroad

8 operations. I am here today to present

9 item 10.

10 "This item requests the board of

11 directors to ratify the general manager's

12 execution of a project initiation agreement

13 with the MBCR, to fund the track and right

14 of way construction elements of the

15 Haverhill line double track and signal

16 improvements ARRA project.

17 "The Board of Directors voted on

18 July 2, 2009, to authorize the general

19 manager to take any and all actions deemed

20 necessary to accelerate economic stimulus

21 projects funded under the American Recovery

22 and Reinvestment Act of 2009. Further, the

23 Board required that any actions so

24 authorized be brought before this Board

1 within 60 days of ratification. The item I

2 am presenting is to request ratification of

3 the general manager's prior authorization of

4 project initiation agreement number CRSTIM

5 with the MBCR, for an amount not to exceed

6 \$5,031,218, for the construction of track

7 and other right of way elements necessary

8 for the Haverhill line double track and

9 signal improvements project.

10 "The major project elements include:

11 "Installation of a second track

12 beginning at a point just east of

13 Ballardvale Station to roughly the site of

14 the former Shawsheen Station in Andover.

15 "The conversion of a low speed

16 freight siding to a second main line track

17 from Shawsheen Station to the existing

18 double track east of Andover Street crossing

19 Lawrence.

20 "The creation of a new low speed

21 freight siding from Route 495 bridge to

22 Andover Street in Lawrence.

23 "The relocation of four tracks in

24 the MBTA-owned Lawrence freight yard.

1 "The creation of a new freight  
2 siding in the Lawrence industrial park to  
3 replace the track space lost in the Lawrence  
4 freight yard.

5 "The addition of a retaining wall  
6 and drainage improvements at the Andover  
7 Station.

8 "Repairs to track #17 between  
9 Andover Street crossing and the previously  
10 constructed Frost Interlocking.

11 "Replacement of four grade  
12 crossings.

13 "The track work for three new  
14 interlockings and modifications to two  
15 others.

16 "All of this work takes place on  
17 MBTA-owned property with the exception of  
18 the replacement track in the Lawrence  
19 Industrial Park, and provides benefits for  
20 the MBTA's commuter rail, NNEPRA's  
21 Downeaster service (Amtrak), Pan Am, the  
22 Freight Railroad, and the Lawrence  
23 Industrial Park.

24 "This work is funded entirely from

1 the ARRA 2009 under grand number MA-56-0001,  
2 project number D19. The total approved  
3 grant amount for this project is  
4 \$17,410,648. There is no local share or  
5 MBTA funds associated with this project.

6 "Through ARRA 2009, the Authority is  
7 able to address a number of improvement  
8 projects that have long term and wide  
9 ranging benefits to the MBTA commuter rail  
10 service. While we have been submitting  
11 capital funding requests for years to  
12 restore some or the entire Haverhill line  
13 double track, it has always been delayed due  
14 to funding issues. The work approved  
15 restores the second track for a distance of  
16 about five miles, and will provide much  
17 better separation of passenger and freight  
18 trains.

19 "The benefits of this work can be  
20 expanded exponentially with the future  
21 add-on project that would include:

22 "Addition of second platform at  
23 Andover Station.

24 "The addition of the second track

1 through and second platform at Ballardvale  
2 Station.

3 "The planned second track from  
4 Ballardvale to Wilmington Junction, a NNEPRA  
5 project currently seeking federal funds.

6 "Although not considered a true  
7 state of good repair project, the benefits  
8 afforded include:

9 "Significant increases in track  
10 capability.

11 "A marked improvement in reliability  
12 and service delivery.

13 "It provides significant cost  
14 savings and reduces passenger impacts for  
15 all maintenance performed after it is  
16 completed.

17 "As an alternative, the Board can  
18 terminate the Haverhill line double track  
19 and signal improvements project and lose the  
20 ARRA funds which have been designated for  
21 these specific work elements. This  
22 alternative is not recommended, as it will  
23 eliminate a project that has many benefits  
24 for MBTA and other transportation

1 stakeholders.

2 "It is therefore respectfully  
3 recommended that the Board of Directors  
4 ratify general manager's execution this  
5 project initiation agreement for a total  
6 amount not to exceed \$5,031,218."

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7 MR. JENKINS: May I have a motion,  
8 please?

9 (Motion moved and seconded.)

10 MR. JENKINS: Discussion?

11 MR. MULLAN: Let me just note for  
12 the record that the general manager left the  
13 room in accordance with our prior agreement  
14 that he can avoid any appearance of any  
15 conflict with his prior employment. In his  
16 stead is the former acting general manager,  
17 current general counsel, Bill Mitchell.

18 Bill will be prepared to answer any  
19 questions you have from management.

20 MR. JENKINS: Any further discussion  
21 or any discussion on it? Those in favor?

22 (Motion passed.)

23 MR. JENKINS: Item number 11,  
24 Mr. Joe Kelley.

1 (Mr. Kelley then read document as  
2 follows:

3 "Good afternoon, Mr. Secretary, MBTA  
4 Board Members, and Mr. General Manager.

5 "The purpose of this staff summary  
6 is to request the Board of Directors to  
7 authorize the general manager to exercise  
8 the first of three one-year options with  
9 Cubic Transportation, Inc., (formerly ERG  
10 Transit Systems, Inc.) at the same price,  
11 terms, and conditions set forth in the base  
12 agreement, to operate the Authority's  
13 Electronic Fare Media (EFM) sales programs  
14 and to provide support to customers enrolled  
15 in these programs.

16 "The current contract was awarded to  
17 ERG Transit Systems, Inc., in April 2007 as  
18 a result of a two-phased procurement by the  
19 MBTA for services to process and fulfill  
20 customers' orders for Electronic Fare Media,  
21 also known as CharlieCards and  
22 CharlieTickets. The agreement is for a  
23 three-year period, with a commencement date  
24 of June 1, 2007, with three one-year options

1 to extend the term, upon mutual agreement  
2 for additional one-year periods.

3 "The contract is for processing and  
4 fulfillment for the corporate pass program,  
5 online and telephone sales programs, and the  
6 retail sales program.

7 "Additional scope of services  
8 includes provision of a customer call center  
9 for support activities related to the above  
10 sales channels; processing and routing  
11 services concerning returns of fare media;  
12 marketing and business development services  
13 concerning use of fare media and RSTs; and  
14 installation and maintenance services  
15 relating to RSTs.

16 "The largest of the sales  
17 mechanisms, the corporate program, serves  
18 over 120,000 riders from over 1,300  
19 companies and yields average monthly  
20 revenues of \$11 million. This program has  
21 grown by 4.9% between FY2008 and FY2009 as a  
22 result of the expanded services options  
23 available and the business development  
24 services provided by Cubic, which include:

1 The distribution of CharlieCards and  
2 CharlieTickets to corporate clients;  
3 customer call center activities; accounts  
4 receivable billing and collection  
5 responsibilities; and marketing and business  
6 development.

7 "Individual MBTA customers can  
8 obtain and update fare media without going  
9 to a fare vending machine or a pass sales  
10 office by using the online or telephone  
11 sales programs. This contract provides the  
12 systems and support services for telephone  
13 and web-based fare media purchases.  
14 CharlieCard customers now have expanded  
15 account management functions including:  
16 Online purchase of bus or link passes and  
17 stored value, MyCharlieCard registration,  
18 protection against loss or theft, and  
19 automatic reloading of monthly passes. This  
20 contract also includes phone and web-based  
21 support services for customers of The Ride  
22 and provides the following functions in  
23 relation to these programs: Distribution of  
24 CharlieCard and CharlieTickets to individual

1 customers; customer call center activities;  
2 replacement of registered lost/stolen  
3 CharlieCards; daily sales transaction  
4 reports for The Ride.

5 "Finally, the Retail Sales Program  
6 allows the MBTA to make fare media available  
7 to customers throughout the MBTA services  
8 area where fare vending machines are not  
9 easily accessible, such as along bus routes,  
10 Silver Line, Green Line surface and commuter  
11 rail stations. There are currently 160  
12 retail locations in service that average  
13 over \$1 million a month in sales.

14 "Service functions that Cubic  
15 provides related to the Retail Sales Program  
16 are: Recruitment and retention of retail  
17 locations; installation and equipment  
18 maintenance services; customer service and  
19 training of retail location; ticket stock  
20 inventory supply to retail locations;  
21 accounts receivable billing and collection  
22 responsibilities.

23 "The DBE participation goal for this  
24 option remains at the base contract level of

1 12%. Cubic Transportation, Inc., has  
2 committed to this rate using ACA Computer  
3 Integrators, Inc., for RST installation and  
4 maintenance. ACA Computer Integrators is  
5 certified by the State Office for Minority  
6 and Women Business Assistance.

7 "Funds for this action have been  
8 requested in systemwide modernization's FY11  
9 operating budget and will be requested in  
10 future budgets.

11 "I respectfully request that the  
12 Board of Directors authorize the acting  
13 general manager to exercise the first three  
14 one-year options with Cubic Transportation,  
15 Inc., at the same prices, terms, and  
16 conditions set forth in the base agreement,  
17 to operate the Authority's EFM sales  
18 programs and to provide support to customers  
19 enrolled in these programs at a cost not to  
20 exceed \$2,308,730.")

01 34 08

21 MR. JENKINS: Can I get a motion?  
22 (Motion moved and seconded.)

01 34 08

01 34 15

23 MR. JENKINS: Discussion?

01 34 28

01 34 29

24 MR. ALVARO: Joe, I made this point

1 earlier, so I am not going to belabor it.  
2 The reason why effectively there are no  
3 alternatives to this contract, and why it  
4 won't be disrupted and let it expire, is  
5 that you waited until April to tell us about  
6 a contract that was expiring in May. And I  
7 would suggest that doing things like that,  
8 as I said earlier, disempowers the board.

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9 MR. KELLEY: Yes, sir.

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10 MR. ALVARO: I would very much  
11 appreciate it if, when next year's option  
12 comes up, you guys give us more an a couple  
13 week's notice, and really consider whether,  
14 in fact, there are alternatives to our  
15 existing vendor.

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16 MR. KELLEY: We will make that  
17 decision six months ahead of time.

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18 MR. JENKINS: Is that enough to time  
19 to go to the marketplace?

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20 MR. KELLEY: Yes, it is.

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21 MR. JENKINS: I heard you talk about  
22 a review in December, I think.

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23 MR. KELLEY: Review and make a

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24 decision in December. I think in the

01 35 30 1 original contract with ERG, if they were  
01 35 32 2 still the contractor, we would have made the  
01 35 35 3 decision to go out to bid in the summer.  
01 35 37 4 But based on the commitment and what Cubic  
01 35 40 5 had brought to the table when we purchased  
01 35 41 6 them last August, in consultation with the  
01 35 43 7 general manager, the decision was made that  
01 35 46 8 they had actually done a very good job.

01 35 49 9 MR. JENKINS: Other discussion?

01 35 55 10 Those in favor say aye.

01 36 02 11 (Motion passed.)

01 36 02 12 MR. JENKINS: See you in December.

01 36 05 13 Mr. Victor Rivas, please.

01 36 05 14 (Mr. Rivas then read document as

01 36 05 15 follows:

01 36 16 16 "Good afternoon, Mr. Chairman, board  
17 members, and General Manager. My name is  
18 Victor Rivas. I am the deputy director of  
19 capital budget. As required by its enabling  
20 legislation, each year the MBTA publishes  
21 for public review its five-year Capital  
22 Investment Program. The CIP describes the  
23 MBTA's infrastructure and the capital needs  
24 to maintain the system, outlines ongoing and

1 programmed capital projects, and details  
2 planned projects to expand the  
3 transportation network.

4 "This year, a draft version of the  
5 FY2011-FY2015 CIP was published on  
6 February 12, 2010. Public comments were  
7 received from February 12 to March 5, 2010.

8 To encourage public participation and input,  
9 four public workshops and one public hearing  
10 were held in locations in the MBTA's service  
11 district. The MBTA staff has provided the  
12 MBTA Advisory Board staff information  
13 regarding new funding for the proposed CIP.

14 "In total, around 91 comments were  
15 received, about half from the public  
16 meetings and half via e-mail and postal  
17 mail. The majority of the comments involved  
18 the MBTA's existing infrastructure, while  
19 the rest were directed at operations and  
20 service, planning and development, and other  
21 subjects.

22 "The FY2011-FY2015 CIP outlines  
23 planned expenditures for the next five  
24 years, totaling \$3.84 billion, of which the

1 MBTA will fund \$2.89 billion. Of the  
 2 Authority's \$2.89 billion, 99% or \$2.86  
 3 billion is programmed for state of good  
 4 repair or enhancement projects. This  
 5 represents an all-time high investment in  
 6 state of good repair/enhancement projects.  
 7 The Commonwealth has committed to fund the  
 8 remaining projects for \$945 million. It is  
 9 important to point out that the Authority  
 10 will use \$178 million from the Federal  
 11 Stimulus Bill (ARRA 2009). The Federal  
 12 Stimulus funding program does not require  
 13 MBTA matching funds.

14 "The CIP contains a number of  
 15 initiatives, which I will go through  
 16 briefly. There are a number of efforts that  
 17 have an impact on service reliability. The  
 18 customer will see improvements involving the  
 19 procurement of commuter rail locomotives and  
 20 coaches, and buses, which will maintain the  
 21 Board's commitment on an average fleet age  
 22 of less than eight years. In addition, the  
 23 Authority will initiate and complete a  
 24 number of overhaul programs for a portion of

1 the fleet on the Red Line, Green Line,  
 2 commuter rail locomotives, and coaches and  
 3 buses. Other vehicle programs include  
 4 funding for the procurement of vessels for  
 5 ferryboat service and the design of new  
 6 vehicles for Red and Orange Line service.

7 "Other projects, which increase  
 8 services reliability but are not visible to  
 9 the average rider, include the replacement  
 10 of track, signal, and power equipment  
 11 throughout the transit network. Power  
 12 improvements include replacement or  
 13 rehabilitation of critical equipment, such  
 14 as traction power substations and  
 15 transformers. The program incorporates  
 16 close to a 300% increase in funding for the  
 17 power program and a 33% increase in funding  
 18 for bridge rehabilitation.

19 "The MBTA continues to maintain and  
 20 expand accessibility to the transit network.  
 21 Funding has been programmed to replace and  
 22 rehabilitate elevators and escalators across  
 23 the entire system. Working with the Boston  
 24 Center for Independent Living, the Authority

1 has identified potential locations for  
 2 installation of redundant elevators on the  
 3 rapid transit system. Locations include  
 4 Harvard, Porter Square, Park Street,  
 5 Downtown Crossing, and State Street  
 6 Stations. Considering the continued efforts  
 7 to improve customer service, it is important  
 8 to point out that the current capital  
 9 program funds a bus countdown information  
 10 and next train announcement program.

11 "Overall, the CIP invests around  
 12 three-quarters of capital funds in the core  
 13 service area, defined by subway, Silver  
 14 Line, and bus service, and around one  
 15 quarter in the suburban service area,  
 16 primarily served by commuter rail.

17 "The MBTA's Capital Investment  
 18 Program is fiscally constrained. The  
 19 FY2011-FY2015 CIP is contingent upon  
 20 sufficient funds being made available to  
 21 support the investments contained within the  
 22 program.

23 "The Authority strongly believes  
 24 that the state of good repair investments is

1 critical to the continued viability of the  
 2 transit system. The Authority's share of  
 3 this capital investment continues to be  
 4 drawn from bond funds, due to the persistent  
 5 lack of growth in sales tax revenues and the  
 6 corresponding scarcity of available  
 7 pay-as-you-go capital.

8 "The Authority's financial situation  
 9 in the current fiscal year is challenging.  
 10 Without a discrete source of pay-as-you-go  
 11 capital funds, the MBTA will likely be  
 12 unable to invest the full amounts included  
 13 in the CIP.

14 "The Authority recommends approval  
 15 of the FY2011-FY2015 Capital Investment  
 16 Program.")

17 MR. JENKINS: Can I get a motion,  
 18 please?

19 MS. LOUX: We are not being asked to  
 20 vote on this today, are we?

21 MR. JENKINS: Yes. Because it has  
 22 to go to the legislature.

23 MS. LOUX: You know, usually what  
 24 the board is given is a chance to have a

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01 43 28 **1** presentation on it, we go to another month.  
 01 43 36 **2** MR. JENKINS: Can I get a motion?  
 01 43 40 **3** MS. LOUX: What is the deadline for  
 01 43 43 **4** this to the legislature?  
 01 43 44 **5** MR. JENKINS: Make the motion, and  
 01 43 46 **6** then we will have the discussion.  
 01 43 51 **7** (Motion moved and seconded.)  
 01 43 51 **8** MR. JENKINS: So the question is,  
 01 43 52 **9** when does it have to be at the legislature?  
 01 43 55 **10** MR. RIVAS: I understand it has to  
 01 43 57 **11** be presented to the legislature by May 1.  
 01 44 07 **12** MR. JENKINS: Other discussion?  
 01 44 10 **13** MR. ALVARO: We had sort of an  
 01 44 23 **14** imperfect review of this at the finance  
 01 44 26 **15** committee. At the last regularly-scheduled  
 01 44 31 **16** finance committee, we were handed a document  
 01 44 33 **17** at the meeting, and I observed that the  
 01 44 39 **18** finance committee could not say anything or  
 01 44 42 **19** do anything with this unless we have had a  
 01 44 45 **20** chance to read this lengthy document. So  
 01 44 47 **21** for that reason, we scheduled a special  
 01 44 52 **22** meeting of the finance committee ahead of  
 01 44 56 **23** our first board meeting today to discuss the  
 01 45 01 **24** CIP, and had a good discussion on the CIP.

01 46 20 **1** But in the normal course of business, I  
 01 46 24 **2** would have preferred that the board got it,  
 01 46 30 **3** the finance committee reviewed it after the  
 01 46 32 **4** board got it, and then we had a full board  
 01 46 36 **5** discussion today.  
 01 46 40 **6** I don't know if Mr. Davis wants to  
 01 46 42 **7** speak to why it didn't unfold that way. But  
 01 46 48 **8** I can say that at least the finance  
 01 46 47 **9** committee members have had a week to review  
 01 46 52 **10** it. We have all read it carefully, we have  
 01 46 58 **11** questioned management on it. But I will  
 01 46 58 **12** also say that that doesn't address Director  
 01 47 01 **13** Loux's concern that the whole board didn't  
 01 47 05 **14** get it in time to review it in detail before  
 01 47 07 **15** we were being able to vote upon it.  
 01 47 10 **16** So John, I don't know if you want to  
 01 47 12 **17** talk about why we got it so late this year.  
 01 47 14 **18** MR. DAVIS: It was just that we  
 01 47 18 **19** started late with the number of changes that  
 01 47 19 **20** took place within the organization and being  
 01 47 23 **21** able to line up the public hearings, public  
 01 47 28 **22** workshops. As I said in the finance  
 01 47 31 **23** committee this morning, I apologized for  
 01 47 33 **24** that late start, and we have committed

01 45 01 **1** However, the first person who came  
 01 45 10 **2** forward, Mr. Allen, who came forward and  
 01 45 12 **3** raised this issue about the Arborway  
 01 45 14 **4** facility, is something which is forwarded by  
 01 45 17 **5** the Mayor and other state legislators, this  
 01 45 20 **6** is something we were not made aware of in  
 01 45 24 **7** the course of our discussions with  
 01 45 27 **8** management on the CIP.  
 01 45 29 **9** Given the stature of the people who  
 01 45 36 **10** were supporting that initiative, I would  
 01 45 39 **11** have thought -- I don't know if my  
 01 45 40 **12** colleagues share this, but it seems like  
 01 45 42 **13** that is something we ought to have heard  
 01 45 45 **14** about when this was presented to the finance  
 01 45 47 **15** committee. If the Mayor of Boston and State  
 01 45 52 **16** senators and State legislators are saying  
 01 45 54 **17** that there is a project that ought to be  
 01 45 57 **18** included, but hasn't been, I think that is  
 01 46 01 **19** worthy of a presentation to the finance  
 01 46 03 **20** committee.  
 01 46 05 **21** I would echo Director Loux's  
 01 46 09 **22** observation. And I think that there were  
 01 46 16 **23** some exigencies this year with the plan and  
 01 46 17 **24** why it was presented so late in the year.

01 47 35 **1** ourselves to making sure that it does get to  
 01 47 39 **2** the finance committee and the full board  
 01 47 42 **3** well before any action has to be taken, so  
 01 47 45 **4** that you can review it accordingly, prior to  
 01 47 49 **5** any action at the board. And that is a  
 01 47 53 **6** commitment that I made at the finance  
 01 47 55 **7** committee this morning, and certainly is a  
 01 47 58 **8** commitment that I would make to the full  
 01 48 00 **9** board, also.  
 01 48 02 **10** MR. ALVARO: Can I ask a question?  
 01 48 03 **11** Were you guys aware of this issue that was  
 01 48 06 **12** raised by the Mayor and Senators Chang Diaz  
 01 48 10 **13** and Sanchez?  
 01 48 11 **14** MR. DAVIS: I was, yes.  
 01 48 13 **15** MS. LOUX: Was it removed at the  
 01 48 14 **16** eleventh hour?  
 01 48 16 **17** MR. DAVIS: It has not been in the  
 01 48 20 **18** Capital Investment Program for the past  
 01 48 22 **19** couple years. Yes, I was aware of it.  
 01 48 28 **20** MR. DAVEY: We did reach out to  
 01 48 29 **21** officials prior to this meeting, to let them  
 01 48 31 **22** know that we pledge to work with them and  
 01 48 33 **23** the community to make some modifications.  
 01 48 35 **24** But I also told them that as a funding

01 48 37 1 source, we could work together. So it will  
01 48 40 2 not come as a surprise to those officials  
01 48 42 3 that we could not include it in this CIP.

01 48 46 4 But to your point, it should not come as a  
01 48 48 5 surprise to you from a member of the public.

01 48 52 6 MR. ALVARO: Certainly not on the  
01 48 53 7 day that we are being asked to vote on this  
01 48 55 8 thing.

01 48 58 9 MS. LEVIN: I don't understand how  
01 48 58 10 you can work with people for 13 years and  
01 49 02 11 not fund a project that you have been out  
01 49 04 12 there, there is a need, you have talked to  
01 49 06 13 them, people have spent their time for 13  
01 49 10 14 years. I can understand it if it was short.  
01 49 13 15 But 13 years?

01 49 18 16 MR. JENKINS: I have a question and  
01 49 24 17 a comment. The question is, within these  
01 49 29 18 dollars that we are going to spend, how much  
01 49 31 19 movement do we have after we have submitted  
01 49 35 20 it to the legislature? In other words,  
01 49 37 21 let's say six months from now, we decided we  
01 49 40 22 wanted to take something out and put  
01 49 42 23 something else in, and assume it is a  
01 49 48 24 reasonable dollar figure. Do we have that

01 49 50 1 latitude?

01 49 51 2 MR. DAVIS: Yes, you do. We always  
01 49 53 3 have the ability to amend the Capital  
01 49 57 4 Investment Program, and we have done that  
01 49 57 5 several times over the past year, as it  
01 49 59 6 relates to the stimulus funds.

01 50 01 7 MR. JENKINS: So to address this  
01 50 03 8 issue of the Arborway yard and be able to  
01 50 09 9 move forward to meet the legislative  
01 50 12 10 deadlines, it would seem to me that we feel  
01 50 16 11 that we need to -- which I don't have a  
01 50 18 12 position on it -- but if we feel that we  
01 50 21 13 need to have a discussion on whether that  
01 50 23 14 was appropriately or inappropriately left  
01 50 25 15 out, two months from now, we could put it  
01 50 27 16 in, if we so desired. Correct?

01 50 30 17 MR. DAVIS: That's correct.

01 50 32 18 MR. JENKINS: So that doesn't  
01 50 34 19 preclude. This is not written in gold, that  
01 50 35 20 we can't change anything. So I just want to  
01 50 37 21 say that, so that everybody would feel  
01 50 40 22 comfortable that if we want to revisit that,  
01 50 43 23 we can. We can do that at our May meeting,  
01 50 48 24 if we want.

01 50 47 1 But my inclination would be to  
01 50 50 2 address the legislative need. Because let's  
01 50 53 3 say it is 95 percent right, or 90 or  
01 50 57 4 something, but it is adequate, it is  
01 50 59 5 generally directionally how we want to go,  
01 51 02 6 and the amounts and the major projects are  
01 51 04 7 in there, and we may have to tweak it  
01 51 06 8 subsequently.

01 51 08 9 MR. ALVARO: I don't know how I feel  
01 51 26 10 about the Arborway yard, because the first  
01 51 29 11 time I heard about it was this afternoon. I  
01 51 33 12 was really addressing the process more than  
01 51 37 13 anything else. And that is, it seems to me  
01 51 39 14 that while we certainly don't have to hear  
01 51 43 15 every complaint that everybody made at every  
01 51 46 16 public meeting, if we have something in hand  
01 51 49 17 from the Mayor of Boston and the State  
01 51 52 18 legislators saying that we ought to  
01 51 54 19 reconsider the plan, it doesn't necessarily  
01 51 58 20 mean that we are going to heed their wishes.  
01 52 03 21 But we ought to at least be advised to the  
01 52 07 22 fact that those wishes are out there, as we  
01 52 10 23 are considering the plan.

01 52 12 24 MR. JENKINS: Director Loux.

01 52 13 1 MS. LOUX: Thank you. I have a  
01 52 15 2 couple of questions. You said 30 cents of  
01 52 20 3 every dollar goes to debt service. The  
01 52 23 4 backlog of state of good repair is \$2.7  
01 52 29 5 billion.

01 52 30 6 MR. DAVIS: Correct.

01 52 31 7 MS. LOUX: It is \$470 million to  
01 52 33 8 maintain the current backlog. You have a  
01 52 39 9 database that you prioritize things on.  
01 52 43 10 That is a good thing.

01 52 43 11 My main criticism of this report is  
01 52 47 12 that the things that are most concerning and  
01 52 50 13 most critical to the state of good repair  
01 52 52 14 are not organized in a way that we, as a  
01 52 55 15 board, can understand them. It is very,  
01 52 59 16 very poorly done. I suspect that there is a  
01 53 02 17 light gray box that goes around 7 items that  
01 53 07 18 seemed to be critical projects.

01 53 10 19 I do not appreciate not being able  
01 53 16 20 to pick this up and understand where the  
01 53 19 21 critical issues are in the state of good  
01 53 21 22 repair. It relates to the safety, it  
01 53 24 23 relates to worker safety, which translates  
01 53 27 24 into public safety. And I just don't

01 53 28 **1** appreciate it. There are some real issues  
 01 53 32 **2** in there that we needed to understand.  
 01 53 35 **3** The line item for the signal system,  
 01 53 39 **4** overall modernization is \$141 million. How  
 01 53 44 **5** much of that is going to be apportioned to  
 01 53 46 **6** the Green Line signal system?

01 53 48 **7** MR. RIVAS: Okay. I will give you a  
 01 53 49 **8** little bit of an overview. The signal  
 01 53 52 **9** program overall is, as you mentioned, \$141  
 01 53 55 **10** million.

01 53 56 **11** MS. LOUX: How much of it  
 01 53 58 **12** apportioned? Just answer the question.

01 54 00 **13** MR. RIVAS: The Green Line is \$9.6  
 01 54 02 **14** million.

01 54 02 **15** MS. LOUX: And I gave you a heads up  
 01 54 02 **16** on this question, so it should be simple.

01 54 08 **17** MR. RIVAS: Yes. But I need to  
 01 54 09 **18** explain that there is also a \$37 million  
 01 54 11 **19** account that is flexible enough, and some of  
 01 54 13 **20** that money can go to the Green Line, in  
 01 54 17 **21** addition.

01 54 17 **22** MS. LOUX: In this CIP, out of the  
 01 54 18 **23** \$141 million, how much is currently  
 01 54 21 **24** apportioned to the Green Line signal system?

01 54 24 **1** MR. RIVAS: \$9.6, plus whatever is  
 01 54 27 **2** available in the \$37 million dollars that is  
 01 54 29 **3** provided for all modes.

01 54 32 **4** MS. LOUX: Okay. Well, I will go on  
 01 54 36 **5** the record that I am not satisfied with  
 01 54 37 **6** that, also.

01 54 38 **7** And I think it is very important  
 01 54 41 **8** that we meet our date, and I think that --  
 01 54 46 **9** please hear me. Because if next year, this  
 01 54 48 **10** thing isn't organized in a way where we can  
 01 54 51 **11** understand what the critical issues are in  
 01 54 54 **12** the state of good repair within the system,  
 01 54 57 **13** I am going to vote against the plan, and you  
 01 54 59 **14** all should know better. We need information  
 01 55 02 **15** that we can understand and we can use and we  
 01 55 04 **16** can identify. And it is not in this  
 01 55 07 **17** booklet. Thank you, Mr. Chairman.

01 55 10 **18** MR. ALVARO: Director Loux, I just  
 01 55 13 **19** want to say that at the finance committee  
 01 55 14 **20** meeting, one of the things that we tasked  
 01 55 18 **21** management with was to make this document  
 01 55 21 **22** more, not only understandable to us, but  
 01 55 25 **23** understandable to the general public, when  
 01 55 27 **24** it gets posted on the web site.

01 55 30 **1** MR. JENKINS: Director Levin?  
 01 55 32 **2** MS. LEVIN: Yes. We had that  
 01 55 33 **3** conversation in the meeting. And it is  
 01 55 37 **4** really, I think, next year, because I  
 01 55 39 **5** understand this was a complicated year.

01 55 42 **6** But I will say it while the general  
 01 55 45 **7** manager is here: Our work is really in many  
 01 55 49 **8** ways geared towards the customers and the  
 01 55 52 **9** passengers. And so when we talk about where  
 01 55 56 **10** we are spending the money, we really want to  
 01 56 00 **11** have the number of passengers there, and  
 01 56 03 **12** also critical kinds of issues. And when we  
 01 56 06 **13** look at what we are doing this year, 26  
 01 56 09 **14** percent of the expenditures are on the  
 01 56 11 **15** commuter rail, 10 percent of our people,  
 01 56 14 **16** customers. It may be perfectly appropriate,  
 01 56 17 **17** but it may be that our buses and our subways  
 01 56 22 **18** have some choices, and we should be able to  
 01 56 25 **19** see those trade-offs.

01 56 27 **20** So I really would like to have more  
 01 56 29 **21** information on the customers, what we know  
 01 56 33 **22** about them. I would like more information  
 01 56 35 **23** on the capacity, so we know if there are  
 01 56 38 **24** capacity constraints in the system in areas

01 56 41 **1** where, if we had more capacity, we could get  
 01 56 44 **2** more riders. And then I think it would be  
 01 56 47 **3** easier to see where we are spending the  
 01 56 49 **4** money and in the state of good repair  
 01 56 51 **5** programs, as well.

01 56 53 **6** MR. DAVIS: Sure. And Director  
 01 56 55 **7** Loux, you have my assurance, as well as the  
 01 56 58 **8** full board, that we will address your  
 01 57 00 **9** concerns in next year's Capital Investment  
 01 57 04 **10** Program. And I apologize for the way it has  
 01 57 04 **11** transpired.

01 57 04 **12** MR. WHITTLE: One question, and I  
 01 57 04 **13** feel the frustration of all of my  
 01 57 11 **14** colleagues. But I mean, is this just a  
 01 57 13 **15** style or format that you have used in the  
 01 57 17 **16** past? This, after all, is not the first  
 01 57 19 **17** time you have put together a Capital  
 01 57 21 **18** Investment Program report. Is this shopping  
 01 57 22 **19** list format standard?

01 57 23 **20** MR. DAVIS: It is pretty much the  
 01 57 26 **21** same format as we have had in the past.

01 57 29 **22** MR. WHITTLE: Well, then I  
 01 57 32 **23** definitely chip in and say, you ought to  
 01 57 33 **24** change that. I will throw in my two cents

01 57 36 **1** and say that it should be more intelligible.

01 57 38 **2** MR. DAVIS: Sure. And we certainly

01 57 41 **3** heard the comments of the finance committee

01 57 42 **4** today, and from the full board, and we will

01 57 44 **5** commit ourselves to doing that for next

01 57 46 **6** year's. Absolutely.

01 57 48 **7** MR. JENKINS: Further discussion?

01 57 52 **8** MS. LOUX: Having said that, thank

01 57 53 **9** you for the time and effort put in.

01 57 55 **10** MR. JENKINS: It is a lot of work.

01 57 57 **11** It definitely is a lot of work.

01 57 58 **12** All those in favor?

01 58 03 **13** (Motion passed.)

01 58 03 **14** MR. JENKINS: With that, we had one

01 58 07 **15** other item on the agenda for the open

01 58 10 **16** meeting, which was the Green Line safety

01 58 10 **17** review. And we are going to, in the

01 58 13 **18** interest of having -- the general manager

01 58 18 **19** had an opportunity to spend some time in

01 58 20 **20** that space, as well as our crowded agenda

01 58 23 **21** today -- we are going to move this to the

01 58 25 **22** next meeting so it doesn't get rushed and

01 58 29 **23** short shrifted.

01 58 31 **24** So I don't know if I need a motion

1 COMMONWEALTH OF MASSACHUSETTS

2 Suffolk, ss.

3

4 I, Megan M. Castro, a Notary Public in

5 and for the Commonwealth of Massachusetts, do

6 hereby certify:

7 That the hearing that is hereinbefore set

8 forth is a true record of the testimony given by

9 all persons involved.

10 IN WITNESS WHEREOF, I have hereunto set

11 my hand this 26th day of April, 2010.

12

13

14 \_\_\_\_\_

15 Megan M. Castro

16 Notarhand Reporter

17 My Commission expires:

18 August 13, 2012

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01 58 34 **1** for that. So we were going to do that. May

01 58 41 **2** have a motion to meet in executive session?

01 58 48 **3** (Motion moved and seconded.)

01 58 48 **4** (Roll call taken. Directors

01 58 48 **5** Whittle, Loux, Alvaro, and Levin and the

01 58 55 **6** Chair vote aye.)

01 58 55 **7** MR. JENKINS: The purpose of the

01 58 58 **8** executive session is consideration of real

**9** estate personnel and potential litigation

**10** matters. The board will not reconvene after

**11** the executive session.

**12** (Whereupon, at 4:59 p.m., the

**13** hearing was adjourned.)

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