

MBTA

BOARD MEETING OF SEPTEMBER 7, 2011

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

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

Also in attendance were: the Secretary, Mr. Davey, the Acting General Manager, Mr. Davis, and Messrs. Kelley, and Wallace, Miss Estey, Special Counsel and Miss Fallon, Acting Recording Secretary to the Board.

The Chairman, Mr. Jenkins, presided.

Chairman Jenkins called the 1051th Open Meeting to order.

The Chairman announced the start of the public comment period and introduced the first speaker, Taisha O'Bryant, Vice Chairperson from the T Riders Union (TRU). She gave out a list of future events, background history for the TRU. She also wanted to speak on the hardships that a fare increase would create to the riding public. Judy Babikan, Gwen Vincent, Patricia Hayden, Rene Mardones, Louise Baxter, Jeremy Hanson, Lee Matsueda from TRU also spoke regarding the fare increase and the hardships it would be for themselves as well as everyone else.

Marylyn McNab congratulated the Secretary and Acting General Manager and passed out a letter. She wanted to express her concerns for the in person assessments for the RIDE. She looked into information about evaluations from Spaulding Rehabilitation Network. She would like us to look into their practice.

Steven Kaiser from Associates of Cambridge Neighborhoods spoke on the selection for the new General Manager. He believes that more good news we have the better candidates we would get. He used the example of the brick building housing in Somerville. The community submitted a design to the MBTA about how the tracks would work. The information was sent back and forth and incorporated them in the draft plans.

The next speaker Representative Bradley spoke in support of the Hingham project. They helped spur the redevelopment of the Hingham area. This item is very important to the revitalization of the area. This parking area is needed for the developer bring in a larger anchor store which will spur job growth for the area. He gave a letter from the Town of Hingham in support for the project.

Chairman Jenkins asked that we move on to agenda Item number 6 the Power procurement due to the timeliness item.

Jonathan Davis, Acting General Manager presented the item 6 to the board. The company chosen was BP Energy Company for an electric power supply agreement in amount not to exceed \$60 million with a budgetary savings in Fiscal 2012 by blending and extending. This bidding requested that the supplier electric power supply for the period. August 1, 2011 through December 31, 2016. This will replace current contract set to expire on December 31, 2012. This allows the MBTA to calculate the costs of the blend and extend option and evaluate that with the savings in Fiscal Year 2012/2013. For the in a power procurement the MBTA also requested several bid prices for renewable energy certificates in the amount of 15, 20, and 25 percent of the MBTA power requirements. The MBTA received 6 bids based on the evaluations on the prices offered. 5 firms were short listed and presented contract terms. Upon agreement the firms became eligible to provide final bids today. These bids last two hours with a verbal agreement in that time period and then a signed agreement is needed by the end of the day. BP Energy Company gave the lowest bid price. The Authority recommends approval of this contract.

On motion, duly made and seconded, it was

VOTED: That the General Manager and Rail & Transit Administrator, be and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, permission to approve "Power Supply Agreement" with BP Energy Company for a sum not to exceed \$120,000,000 for a period of time not to exceed beyond December 31, 2015.

Director Loux also added that she would like to thank Jon Davis for stepping up and taking

on the Acting General Manager role.

Director Alvaro asked Jonathan if these certificates were trade able and if so we can get some value for them. The Director wanted to make it a point to mention that when this was discussed that the last Finance and Audit meeting Director Levin made it a point to recognize that even though renewable energy was not the least expensive route to take our charter goes beyond our financial but as well as the public interest.

The Chairman asked what the savings will be to our 2012 budget. Jonathan answered the total will be about \$4milliom in savings.

Secretary Davey wanted to thank Jonathan and his team for coming up with this program. This follows Governor Patrick's green energy initiatives. The Secretary encourages the Board to explore this in the future.

Director Levin added that it was very important having Andrew Brennan's presentation about Greendot to see how we can advance our goals.

The vote was unanimous.

Chairman Jenkins continues the open discussion for the MBTA.

The next speaker is Heika Schatten and she would like to discuss the renewal of the contract with Veolia and MBCR. They are against this renewal because they provide transportation in the illegal settlements in Palestine. Judith Glaubman spoke second on

the same issue as well as Salma Abu Ayyash. They would like the board to consider their request. Chairman Jenkins informed them that we have received their letters and a response is forthcoming.

The next speakers, Drew Grande and Erin Glynn from the Sierra Club spoke about the new electric contract the MBTA is signing. They applaud the MBTA with the work we have done with taking cars off the road each day, leaps and bounds in energy efficiency, Bridgewater and Kingston wind turbines and the solar panels in Somerville. They believe the MBTA has a ways to go but they would like to work closely with MBTA getting there. They hope that the MBTA will invest into these projects in the future. Secretary Davey and the General Manager are willing to sit down with the Sierra Club on these projects.

The next speaker is Peter Brennan, Chief of Staff from Senator Hedland's office. Mr. Brennan wanted to come to this meeting to speak in support of the Hingham project on the agenda today.

The Chairman closes open comment.

The next item on the agenda is the approval of the August 10, 2011 meeting minutes. The minutes were approved with Director Alvaro abstained.

Next Item is the ratification of Jonathan Davis as Acting General Manager.

Unanimous vote to approve.

The General Manager's report is next on the agenda. Jonathan Davis starts his report by announcing the appointment of Ron Nickle as Chief Safety Officer. Ron will be responsible for implementing strategic and transformative programs to advance the safety culture here at the MBTA. He will also work to ensure that all employees have a safe work environment and ensure the safety of our customers.

MBTA and OSHA staff met on August 30 to continue the dialogue of how the MBTA can improve safety in the work place. OSHA will be reviewing our policies and procedures and will provide feedback on how they can be improved. OSHA will also be scheduling a site visit within the next couple of weeks to see how those policies and procedures are implemented in the field.

I extend my sincere appreciation to every employee who helped the MBTA and our RTAs face the challenge of hurricane Irene. This was truly a team effort and it began days before the storm arrived as departments worked closely together and with other agencies to ready the necessary materials, employees and plans to address the forecasted conditions.

The MBTA will begin the discussion on its Fiscal 2013 Budget at the Finance Committee meeting on September 27. Facing a \$161 million deficit, everything is on the table for discussion. The MBTA has contracted with Central Transportation Planning Staff to do alternative analysis on revenues and service levels. At this time, nothing has been decided.

Operations and the Customer Employee Response Team hosted the Employees Award Recognition Ceremony at the Charlestown Facility on August 17. Approximately 250 employees attended the event in which 89 awards were given to employees in two categories: "Taking Pride in your Station" which recognizes those employees who provide excellent customer service to our passengers and who take pride and ownership in their station; and, the "Break Through Leader" which is given to an individual who exhibits leadership skills, has the ability to motivate staff and gets the job done.

Last week, both Secretary Davey and I participated in the Rider Oversight Committee "end of the summer" meeting. This meeting gave the members an opportunity to thank Secretary Mullan for his service to MassDOT and to thank Secretary Davey for his service as the General Manager of the MBTA. In addition, the members toured the Everett facilities, spoke directly with some of our talented employees and viewed the shop work that is required to maintain a large transit system.

We continue to move forward looking for new ways to enhance the customer experience. Just two weeks ago, the first app was released using our Commuter Connect tool. This new app, "Talk to the T" allows iPhone users to send a comment and a picture directly to our customer support center. Using this picture, our maintenance and operations teams can address the problem quickly. In the short time this app has been available; we are already seeing notable use of this new tool.

Jon Davis completed his report. Chairman Jenkins asked if there were any questions or comments.

Next up is the presentation from DPU. Anne Berwick, Chair of DPU introduces Brian Cristy who gives the presentation. Brian wanted to give a brief overview of the state safety oversight agency requirements. After the crash in Washington the government set up requirements to make sure all departments were talking to make sure this type of accident didn't occur again. The MBTA has taken on the role and kept in constant contact with DPU with updates and meetings yearly as well as a regular basis. Massachusetts and California were credited by Congress and TSB to be the leaders in state safety oversight. He believes it is due to the great relationship between the DPU and the departments at the MBTA. He went on with a quick overview which is listed in the presentation. Chairman Jenkins commented that the access includes the board as well as the MBTA. Secretary Davey wanted to comment and thank the DPU. The DPU has taken a leadership role in the country as well as providing guidance and continue openness in helping us making significant changes even though we have a lot more work to do.

Next up is Melissa Dullea, director of plans and schedules providing general statics for the Boards information. The first couple pages are statistics based on the 2009 national transit database. They are working on the 2011 submission now. They also look at the pier agencies which they use the 2009 numbers to be consistent. The next slide is on the Service and Infrastructure Profile followed by maps of the Service area and accessibility of Subway and Commuter Rail stations and ferry terminals. Melissa's presentation also

discussed the operating expenses and fare revenue by mode. Melissa also talked about the use and sources of capital funds. Melissa's presentation went into great detail of the options and the program of the ride. (attached) Chairman Jenkins asked that next time Melissa should include an executive summary of the key points because this presentation had so much information. Director Loux thanked her and her team for all her work because it is the most information they have ever been given in the past. Director Levin asked that this be made accessible on the website. Director Alvaro asked about the Blue Ribbon committee. Jonathan Davis answered that in 2000 we entered into forward funding and a committee was put together to report on the expenses and budget of the MBTA. Director Alvaro would like the summary as well as management's view on this study.

Chairman Jenkins moves on to the next item number #7. The item is requesting ratification and approval of the Haverhill Line Double Track and Signal Improvements. Jody Ray presented the item to the board. Jody begins by seeking the approvals necessary to procure, install and place into service, a signal system that will control train movements as part of the ARRA Haverhill Double Track Project. There are two separate actions requested of the Board.

Firstly, the Board of Directors voted on July 22, 2009 to authorize the General Manager to take any action deemed necessary to accelerate economic stimulus projects funded under the American Recovery and Reinvestment Act of 2009 ("ARRA") further the Board required that any actions so authorized to be brought before the Board within 60 days for ratification. The first action is a request ratification of the General Manager's July 15, 2011 execution of Project Initiation Agreement No.CRSTIM-28 in the amount of

\$5,000,000. The funds for this portion of the work is being funded from the American Recover and Reinvestment Act of 2009 (ARRA) under Grant Number MA56-0001, Project Number D19.

Secondly, this staff summary requests the Board to approve an additional Project Initiation Agreement with MBCR to complete the signal system through the limits of double track segment of the Haverhill Line. The source of the funds will NOT be ARRA but will be funded with a Federal Transit Authority (FTA) Formula Fund made available through the Northern New England Passenger Rail Authority (NNEPRA). These formula funds are available to the MBTA by a cooperative agreement with the Northern New England Passenger Rail Authority (NNEPRA).

This second request that the Board of Directors approve and authorize the General Manager to execute a Project Initiation Agreement No. CRSTIM-29 with the Massachusetts Bay Commuter Railroad Company (MBCR), for an amount not to exceed \$5,885,249.00 for the procurement of signal materials and labor needed for the Signal Improvements needed to support the Haverhill Line Double Track Project. The combined total cost of the signal work ratified and approved pursuant to these actions for the procurement of signal materials and labor is \$10,885,249.

On motion, duly made and seconded, it was

VOTED: That the General Manager and Rail & Transit Administrator, be and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, permission to the execution of Project Initiation Agreement No. CRSTIM-28 with the MBCR for an amount of for an amount of \$5,000,000 and

VOTED: The Board of Directors approves and authorizes the General Manager to execute a Project Initiation Agreement No. CRSTIM-29 with the Massachusetts Bay Commuter Railroad Company LLC, for \$5,885,249 to fund the procurement, construction and placing the signal system into service in support the Haverhill Line Double Track and Signal Improvement Project.

Chairman Jenkins asked if this was a cost plus with MBCR. John answered yes because it is a forced account agreement part of the terms of the procured contract. Chairman Jenkins asked how the estimate was decided. Jody answered that HNTB design firm developed a scope and then given to MBCR to give an estimate which includes materials and labor. Director Levin asked if he thought that this was within the original MBCR contract. Jody answered that the contract has a separate part which included force account work and how it would be added to the overall contract. Director Levin stated that we may be better served if and when possible we should go out and get competitive bids. Jonathan Davis responded that this was part of the ARRA projects so there was more of a time constraint because FTA requested us to do projects, Haverhill and the Fitchburg lines, at the same time. Director Alvaro asked if we would have the money if we went through the bidding process. Jody answered that we may not have been able to do the projects if they weren't considered "shovel ready." Chairman Jenkins commented that he

feels comfortable with this project because it is a cost plus but when possible we should still when we can go through the bidding process.

The next item presented by Mark Boyle was approval for the sale of 170 Freeport Street in the Dorchester Neighborhood of Boston, to Local 103 I.B.E.W Educational Corporation. The facility currently holds seven employees in the quality control department. They are currently being moved to Arborway where the department is relocated. The property is now considered surplus and considered for sale. The property was publicly advertised for sale at a minimum bid price established at \$1,500,000. At the July 13, 2011 bid opening, the Authority received two bids, one from Local 103 I.B.E.W. Educational Corp. for \$2,617,103 and the second bid from the Boston Police Patrolmen's Association Inc. for \$2,615,000. Mark recommends that the board approve this item.

Chairman Jenkins motions for approval. Director Loux stated that she would motion for approval with the stipulation that if I.B.E.W. does not accept then the approval of the sale goes back to the Board of Directors.

Director Alvaro asked if we have had the property appraised cash and closed with no contingencies. Mark answered yes.

On motion, duly made and seconded, it was unanimously

VOTED: That the Acting General Manager and Rail & Transit Administrator, be and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, permission to authorize the purchase and sale agreement, Deed and any and all other instruments deemed necessary for the sale of the +/- 10,000

Square foot building, located at 170 Freeport Street in Dorchester neighborhood of Boston, to Local 103 I.B.E.W. Educational Corporation.

The next item on the agenda will be presented by Mark Boyle as well. It is the lease of land at Hingham Shipyard Parking lot to Samuel and Associates Hingham II LLC for an approximately 3.85 acre portion of the 17.61 acre parcel of land located at the MBTA's Hingham Shipyard Commuter Parking Lot on Essington Drive in Hingham. The initial annual base rent in the amount of \$62,500.00 per acre of land determined pursuant to an instrument survey of the demised premises or an approximate total initial annual rent of \$240,625.00. Upon lease of the land, MBTA's remaining parking supply will continue to exceed current day parking demand and be sufficient to support future commuter boat growth. The proposed development of approximately 22% of MBTA's underutilized parking lot will generate non-fare revenue to be used in support of MBTA's transportation system including the popular Hingham Water Shuttle. Additionally, the Town of Hingham and its local elected officials support the proposed lease.

Director Alvaro asked what the property was worth. Mark Boyle stated it was appraised at \$60,000 per acre. Director Alvaro asked why we didn't consider sale. We didn't consider a sale because it is a facility that is in use. Mark Boyle said that he will conduct an appraisal on the entire property. Director Levin said that she did receive phone calls from concerned commuters. Chairman Jenkins asked if we got an appraisal and who it was from. Mark answered that we did get the \$60,000 was the appraisal amount and it was done by an independent appraiser. Director Levin would like Mark to make clear what interest there are and what the plans are for the entire site. Chairman Jenkins asked if the tabling of the item impeded on the contract because he is influenced by the comments of

the Town of Hingham and the officials. Mark answered that is does not there is no strict deadline. Director Alvaro would like to motion to table this item. Director Loux withdrew her motion. Director Whittle Seconded.

TABLED

The next Item on the agenda was presented by Lee Ann Ross Berry on the Excess Liability Policy. Lee Ann Ross the Risk Manager for the MBTA briefed the committee on the Liability Insurance. The policy renew is on September 17, 2011. The liability insurance is required by state law to be maintained by the MBTA at \$7.5 million. The renewals are from Rail and Transit market and are very limited and it has been harder in the past two years. This year is facing a significant challenge because we have or will be having significant claims that exceed the \$7.5 million of self insured retention which means our insurer will be paying out on some claims. AON Risk Services is the Authorities liability broker. This is finishing up our third year of a contract with a fee of \$160,000. We are required to use a broker because all viable markets clearly state they will only go through a broker or intermediary and not to the insurer. This year's renewal approached 15 markets which include the US, London and Bermuda markets. Preliminary results show that the three incumbent carriers are offering the most competitive and comprehensive pricing and coverage for us. Lee Ann stated Lexington provides the primary layer of \$17.5 million and Steadfast Zurich and Excel Europe each have \$25 million for the \$50 million layer. We are working diligently to get a flat renewal but we do anticipate a 5-10% increase. Our annual premium last year was \$4,350,000 and if we have a 10% increase

our premium will be \$4,209,250. Massachusetts Legislation requires that for any contract with the Rail Authority we maintain and secure these limits and our contractual obligations require these minimal limits.

Director Loux requested that she get something in writing that demonstrates that these insurance companies bond together and refuse to only use brokers and find out whether or not they have a right to do that. Director Loux is not satisfied and thinks our insurance program needs to be revamped. Chairman Jenkins asked Lee Ann to address Director Loux's questions. Lee Ann stated that in her experience that she is not aware of any company in the liability area to not use a broker. Director Alvaro would like to know for \$160,000 a year or less if we could get someone internally, a full time employee, to track the markets. Lee Ann stated that they do more than just look at markets but they also look at our claim, work with reserves and the companies. Director Loux asked if we bid this out. Chairman Jenkins asked how many years are we in the contract. Lee Ann answered it is three years and we are on our third year. Lee Ann was not sure of the exact expiration date. Director Loux asked why we don't bid the brokerage before we buy and she would like someone to get back to her on when exactly the contract expires. Chairman Jenkins added that from his experience in the Insurance business it would be hard to find someone for the amount of \$160,000 to do what we are getting from the company but we should look into maybe getting it cheaper next year. He thinks in just in the increase alone the MBTA has saved \$160,000. Chairman Jenkins added that in prior years we used an advisor but it was dropped because of Lee Ann's experience and it saved us \$20,000.

Chairman Jenkins made a motion to approve. One opposed.

VOTED: That the Acting General Manager and Rail & Transit Administrator, be and hereby is, authorized to execute in the name and on behalf of the Authority, subject to the approval of the Massachusetts Department of Transportation (MassDOT) and in a form approved by the General Counsel, permission to renew the Excess Liability Insurance policies with Lexington Insurance Company (part of Chartis Group), Steadfast Insurance Company (part of Zurich Group), and XL Europe Limited with limits of \$67.5 million excess of a \$7.5 million self insured retention, through AON Risks Services, for the period 9/19/11 to 9/19/12 for an annual premium of \$4,209,250, which includes an annual broker fee of \$160,000.

The next item on the agenda is the Board to appoint a Preliminary Screening Committee to “solicit and screen applicants for the position of General Manager of the MBTA and to provide the Board with a list of applicants qualified for further and final evaluation. Director Levin presented that at the Labor and Compensation meeting they support the search for the General Manager. The process consists by establishing the screening committee which consists of three people, two board members and the Secretary. The full board will make the final selection. It will be an open process in accordance with the open meeting law. Director Levin received a request to include someone from the Advisory Board but they decided to keep the process streamlined due to the timeframe. Director Loux made a motion to appoint Chairman Jenkins and Director Loux to the preliminary screening committee and to charge the committee to solicit and screen applicants for the position of General Manager of the MBTA and to provide the Board with a list of applicants qualified for further and final evaluation. The Preliminary Screening Committee should consider each applicant’s qualifications and experience in the following areas: public agency or

public sector management, transit and/or transportation experience, budget management, customer service, effective communications, and safety.

Director Alvaro requested that the interviews not be included during the board meetings.

Chairman Jenkins amended to include Secretary Davey. Director Loux added Secretary Davey to the charge. Director Alvaro seconded the motion.

Secretary wanted to commend the board with having an open process and he acknowledged Directors Levin and Loux for all of their work and diligence and thinking about a process we look forward to executing in a couple of months.

VOTED: To appoint Chairman Jenkins, Director Levin and Secretary Davey to a preliminary screening committee for the General Manager search and to charge the preliminary screening committee with the following task: “to solicit and screen applicants for the position of General Manager of the MBTA and to provide the Board with a list of applicants qualified for further and final evaluation. The Preliminary Screening Committee should consider each applicant’s qualifications and experience in the following areas: public agency or public sector management, transit and/or transportation experience, budget management, customer service, effective communications, and safety.”

On motion, duly made and seconded, it was unanimously

VOTED: To adjourn the 1051 Open Meeting.

DOCUMENTS RELIED ON AT THE MEETING

Minutes of the Meeting of August 10, 2011.

General Manager's Report.

Presentation on the Department of Public Utilities (DPU's) overview of the federally mandated state safety oversight program.

System Profile Report.

Staff Summary for the electric power supply.

Staff Summary for the ARRA Haverhill Double Track Project.

Staff Summary for the 170 Freeport Street Sale

Staff Summary for Hingham Shipyard Lease

Staff Summary for the Excess Liability Insurance

Staff Summary for the Preliminary Screening Committee for General Manager Search

Letter presented by Marylin McNab