

**MINUTES
DALLAS AREA RAPID TRANSIT
BOARD OF DIRECTORS'
December 9, 2008**

The Dallas Area Rapid Transit **Board of Directors'** meeting convened on Tuesday, December 9, 2008, at 6:30 p.m., at DART Headquarters, 1401 Pacific Avenue, Dallas, Texas, with Chair Chrisman presiding.

City of Dallas

Scott Carlson
Jerry L. Christian
Pamela Dunlop Gates – **Assistant Secretary**
Angel Reyes
Robert Strauss – **Vice-Chair**
William Tsao
William M. Velasco
Claude Williams

City of Garland

Tracey M. Whitaker

City of Irving

John C. Danish – **Secretary**

City of Plano

Loretta Ellerbe

Cities of Addison, Highland Park, Richardson, and University Park

Raymond Noah

Cities of Carrollton and Irving

Randall Chrisman – **Chair**

Cities of Dallas, Plano, Glenn Heights, and Cockrell Hill

Faye Moses Wilkins

Cities of Farmers Branch, Garland, and Rowlett

Mark C. Enoch

General Items:

1. **Approval of Minutes:** November 18, 2008

Mr. Danish made a motion to approve the November 18, 2008, Board of Directors' Meeting minutes with no corrections, deletions, or additions.

Mr. Christian seconded the motion and it was approved unanimously.

Ms. Dunlop Gates left the meeting at 6:32 p.m.

2. **Public Comments**

Chair Chrisman reviewed the rules that govern the Public Comments portion of the meeting, including the Code of Conduct for Citizens, News Media, and Visitors at DART Board Meetings (on file in the Office of Board Support).

Mr. Velasco left the room at 6:33 p.m.

The following individuals addressed the Board:

An individual who identified herself as "Mrs. Customer", Dallas, Texas: Mrs. Customer asked the Board to address the employees concerning not rendering aid (to passengers) when it is clear an injury has occurred. Mrs. Customer stated that she had been injured by a malfunctioning hydraulic lift on a DART bus and, since that injury, has been treated in a cavalier manner.

Reverend Maurice Paul, 3522 Reed Lane, Dallas, Texas, 75210, (214) 723-1671: Rev. Paul stated that he had been made aware that DART employees are being treated unfairly due to their race. He said he had spoken with individuals who had been fired because they reported the disparaging treatment. Rev. Paul said he spoke on behalf of people that have been dealt with unjustly and unethical, discriminatory, racist hiring practices.

Reverend Ronald Wright, 7513 Olusta, Dallas, Texas, (214) 779-3549: Rev. Wright stated that he, too, wished to address allegations of racist hiring practices and intimidation of employees. Rev. Wright went on to say that he had reason to believe several heinous and illegal actions had been perpetrated by management. Rev. Wright said that the DART Board had been made aware of the allegations weeks ago and they should have had a meeting of some kind to address the accusations. Rev. Wright stated that if the matter was not properly investigated a bus boycott was not out of the question. Rev. Wright requested a meeting with Chair Chrisman and Victor Burke, Executive Vice President of Operations.

Mr. Brian Dickerson, 6712 Stone Branch Drive, Arlington, Texas, (972) 582-7650: Mr. Dickerson identified himself as the Regional Vice-President of Government and Education Segment of CIGNA Healthcare. He explained that he wished to draw the Board's attention to an upcoming Request for Proposal (RFP) that concerned healthcare for DART employees and retirees. Mr. Dickerson went on to describe the unique healthcare features that distinguished CIGNA from other vendors.

Ms. Barbara Carr, 321 Trefel, Cedar Hill, Texas, 75104, (972) 293-2787: Ms. Carr stated that the DART Board was obligated to be accountable and investigate and correct the allegations of racism in Human Resource practices directed by Ben Gomez, Executive Vice President of Administration, Lynda Jackson, Vice-President of Human Resources, Mya Coursey, Director of Management Services, and Tina Franco, Manager of Human Resources. Ms. Carr said preferential hiring of Hispanics violates State and Federal laws, the Civil Rights Act of 1964, and the FTA guidelines. Ms. Carr related her position concerning a highly publicized termination and her thoughts concerning Hyattye Simmons, DART General Counsel, motives for filing a lawsuit against the Attorney General of Texas. Ms. Carr said the Board should spare the agency further embarrassment by asking for the resignation of Ben Gomez, Ms. Jackson, Ms. Coursey, and Ms. Franco.

Mr. Lee Alcorn, 5809 R. L. Thorton, Dallas, Texas, (214) 232-3188: Mr. Alcorn stated that he was concerned about the lack of action displayed to date by the DART Board relating to the recently publicized allegations of racism perpetrated by members of Human Resources. Mr. Alcorn stated that the Board is ultimately responsible for the actions within the agency and he is disheartened as a life-long advocate of civil rights. Mr. Alcorn stated that if the tax paying public reports such a serious problem something should be done about it. Mr. Alcorn requested an immediate meeting with Chair Chrisman to discuss rectification of the matter.

Chair Chrisman informed Mr. Alcorn that his allotted time had expired and Mr. Alcorn objected to the lack of response. Chair Chrisman reminded him that the Guidelines for Public Speakers prohibited him, or any member of the Board, from making a reply. Mr. Alcorn, again, insisted on a replay and Chair Chrisman reiterated that it was not possible. A confrontation ensued and Chair Chrisman asked a member of the DART Police to escort Mr. Alcorn from the room.

Ms. Jennifer Houston, 5907 Vanderbilt Avenue, Dallas, Texas, 75206, (214) 675-3993: Ms. Houston identified herself as a Project Manager at the Museum of Nature and Science, located in the Fair Park of Dallas. She continued that through interacting with DART's Second Alignment Team (CBD) she was aware four finalist paths for the alignment were being considered. She explained that the

Museum planned on opening a new venue and detailed how the final selection of the second alignment would impact the success of that new location.

Mr. Al Lipscomb, 830 Clearwood, Dallas, Texas: Mr. Lipscomb stated that he had devoted his life to advancing civil rights in Dallas. Mr. Lipscomb continued that the recent allegations concerning racist Human Resources practices was unconscionable. Mr. Lipscomb continued by saying the reports of preferential hiring of Hispanics could not continue and deeply affected the livelihood of not just African-Americans but everyone else who does not “meet the quota”. Mr. Lipscomb said that the amount of contention within the agency should simply not be occurring.

Mr. Vincent` Gonzalez, 856 Gallant Fox Drive, Dallas, Texas, 75211, (214) 298-3328: Mr. Gonzalez identified himself as disabled and a senior citizen. He continued that on November 21st, 2008, his medication had caused slight mental disorientation and he accidentally got on the wrong bus. He said that he realized when the bus arrived at its final stop he was on the wrong bus and asked the driver for assistance. Mr. Gonzalez reported that the operator treated him very disrespectfully. Mr. Gonzalez concluded by saying that this was not the first time he had been treated in a rude and inconsiderate way while riding the bus.

Chair Chrisman stated that, per policy, the first 30-minute segment allocated to Public Speakers had expired and the remaining speakers would have to wait until the end (Item 24., **Public Comments**) of the meeting.

Consent Items:

Chair Chrisman reminded the assembly that two items (Item 9., **Approval of Sixth Supplemental Debt Resolution**, and Item 11., **Contract for 24 Police Motorcycles**) had been removed from the Consent Agenda. He said he would entertain a motion for the remainder.

Mr. Noah made a motion to approve Consent Items 4. – 8., 10, 12, and 13.

4. **Contract Modification for Construction Manager/General Contractor-III (CM/GC-III) Construction Services To Delete the Original Planned At-Grade Crossing at Lovers Lane and Add the Crossing Back at Gilford Avenue**

Approval of Resolution No. 0080198 that authorizes the President/Executive Director or his designee is authorized to execute, subject to legal review, a contract modification for Construction Manager/General Contractor-III (CM/GC-III) construction services to delete the original planned at-grade crossing at Lovers Lane and add the crossing back at Gilford Avenue with

Archer Western-Herzog (AW-H), a Joint Venture, for an amount not to exceed \$726,559, funded from existing contingency. The new total authorized not-to-exceed amount is \$499,328,043, which includes a reduction of \$56,482 in the not-to-exceed amount for the Closed-Circuit Television (CCTV) work (Resolution No. 080059).

5. **Contract for the Construction of the Parking Expansion at the Parker Road LRT Station (Red Line)**

Approval of Resolution No. 080199 that authorizes the President/Executive Director or his designee to award a contract, subject to legal review, for the construction of the parking expansion at the Parker Road Light Rail Transit (LRT) Station (Red Line) to Omega Contracting, Inc., in the amount of \$1,778,830, plus a supplemental work contingency of \$88,941 (5%) for unanticipated expenses, for a total authorized amount not to exceed \$1,867,771.

6. **Contract for the Construction of the Parking Expansion at the President George Bush Turnpike LRT Station (Under SH 190 & US 75)**

Approval of Resolution No. 080200 that authorizes the President/Executive Director or his designee is authorized to award a contract, subject to legal review, for the construction of the parking expansion at the President George Bush Turnpike Light Rail Transit (LRT) Station (Red Line) to Omega Contracting, Inc., in the amount of \$1,443,607, plus a supplemental work contingency of \$72,180 (5%) for unanticipated expenses, for a total authorized amount not to exceed \$1,515,787.

7. **Exercise Contract Option for Data Collection Services**

Approval of Resolution No. 080201 that authorizes the President/Executive Director or his designee is authorized to Dikita Management Services (Contract number C-1007947-1) to:

Section 1: exercise the final, one-year option; and

Section 2: increase the not-to-exceed amount by \$617,637, for a new total authorized amount not to exceed \$2,442,995.

8. **Approval of an Amendment to the Interlocal Agreement with the Texas Transportation Institute (TTI) for Technical Assistance for Planning, Design and Operations Issues**

Approval of Resolution No. 080202 that authorizes the President/Executive

Director or his designee is authorized to execute an amendment to the existing Interlocal Agreement with the Texas Transportation Institute, substantially in the form as shown in Attachment 1, to:

Section 1: extend the duration for four years from the date the amendment is executed; and

Section 2): increase the not-to-exceed amount by \$960,764 for a new total amount not to exceed \$1,465,764.

10. Agreement with North Central Texas Council of Governments (NCTCOG) for Funding of Capital Projects as Payment for Operation and Maintenance of High Occupancy Vehicle Lanes Outside of DART Service Area

Approval of Resolution No. 080204 that authorizes the President/Executive Director or his designee is authorized to execute an agreement with the North Central Texas Council of Governments (NCTCOG) for funding of capital projects as payment for operation of HOV lanes outside of the DART Service Area in substantially the form shown in Exhibit 1 to this Resolution.

12. Contract for a Computer Aided Dispatch (CAD)/Record Management System (RMS) System and Implementation of Mobile Data Computers (MDC) for the DART Police

Approval of Resolution No. 080206 that authorizes the President/Executive Director or his designee is authorized to award a one-year contract, subject to legal review, for the purchase and installation of a Computer Aided Dispatch (CAD) System/Record Management System (RMS), and the implementation of Mobile Data Computers to Austin Ribbon and Computer, for a total authorized amount not to exceed \$1,009,316.

13. Contract for Building Management Services for the DART Headquarters Building

Approval of Resolution No. 080207 that authorizes the President/Executive Director or his designee is authorized to award a three-year contract, subject to legal review, for building management services for the DART Headquarters building to Triad Commercial Real Estate Services, Ltd., in a total authorized amount not to exceed \$3,926,982.

Mr. Danish seconded the motion and it was approved unanimously.

Individual Items:

9. Approval of Sixth Supplemental Debt Resolution

Mr. Strauss stated that this item had been approved by the majority of the Budget and Finance Committee and unanimously approved by the Committee-of-the-Whole. As a result, **Mr. Strauss moved approval of Resolution No. 080203 which approves the Sixth Supplemental Debt Resolution, as prepared by Vinson & Elkins, will be in substantially the form shown in the attached document.**

Mr. Danish seconded the motion and it was approved unanimously.

11. Contract for 24 Police Motorcycles

Mr. Strauss left the meeting at 7:02 p.m.

Mr. Carlson reviewed the previous, Committee level approval of this item and moved approval of Resolution No. 080205 that authorizes the President/Executive Director or his designee is authorized to award a contract to purchase 24 police motorcycles from Dallas Harley Davidson, in the amount not to exceed \$527,726.

Ms. Ellerbe seconded the motion and it was approved by majority. (8/4; Mr. Enoch, Mr. Williams, Mr. Christian, and Mr. Whitaker voted against this item)

14. Contract for Austin Legislative Counsel Services

Mr. Christian made a motion to approve Resolution No. 080208 that authorizes the President/Executive Director or his designee to execute a 9-month legal services contract extension with the firm of Graydon Gibson & Brown, L.L.P., for legislative representation services in Austin serving as DART's Legislative Counsel from January 1, 2009, through September 30, 2009, in an amount not to exceed \$288,625.

Ms. Wilkins seconded the motion and it was approved unanimously.

15. +Approval of Contract Options for Bond Counsel and Other Legal Services Related to Finance Matters

Mr. Reyes made a motion to approve Resolution No. 080209 that authorizes the General Counsel to:

Section 1: Execute a one-year extension of the contract with the law firm of Vinson & Elkins, L.L.P., for bond counsel services in an amount to be approved as part of the debt transaction and based on an hourly fee plus necessary opinion fees; and for other legal services related to finance matters in an amount not to exceed \$300,000.

Section 2: Execute a one-year extension of the contract with the law firm of West & Gooden, P.C., for bond counsel services in an amount to be approved as part of the debt transaction and based on an hourly fee plus necessary opinion fees.

Mr. Noah seconded the motion and it was approved by majority. (10/2; Mr. Carlson and Mr. Williams voted against this item).

16. Approval of a Resolution in Support of a City of Dallas Transit-Oriented Development Tax Increment Financing District

Mr. Danish made a motion to approve Resolution No. 080210 that states:

DART supports the creation of a Transit-Oriented Development Tax Increment Finance District that includes DART's Lovers Lane, Mockingbird, Cedars, 8th and Corinth, Illinois, Kiest, and VA Light Rail stations.

Mr. Tsao seconded the motion and it was approved unanimously.

17. Approval of a Resolution in Support of Changes to City of Dallas Sign Regulations

Mr. Danish made a motion to approve Resolution No. 080211 that states:

DART supports amendments to the sign regulations contained in Article VII, Chapter 51A of the City of Dallas Development Code that would provide for greater flexibility in locating or relocating non-premise signs on DART-owned property in connection with transit-oriented development, light rail expansion, or any other DART service or facility.

Ms. Ellerbe seconded the motion and it was approved unanimously.

18. **Authorization to Negotiate with the National Railroad Passenger Corporation (Amtrak) for Amtrak Access to the Trinity Railway Express Corridor**

This item was not approved by the Committee-of-the-Whole.

19. **Approval of an Interlocal Cooperation Agreement Between the North Central Texas Council of Governments, Dalla Area Rapid Transit, and Fort Worth Transportation Authority for Disbursement of Funds Relating to Commuter Rail Service**

Mr. Carlson made a motion to approve Resolution No. 080212 that states:

Section 1: The President/Executive Director or his designee is authorized to execute an Interlocal Cooperation Agreement between the North Central Texas Council of Governments (NCTCOG), the Fort Worth Transportation Authority (the T) and Dallas Area Rapid transit (DART) for disbursement of funds relating to commuter rail service in substantially the form as shown in Attachment 1.

Section 2: Approval of this Interlocal Cooperation Agreement is for the current level of service and existing stations and does not in any way authorize additional commuter rail service or stations on the TRE Corridor.

Mr. Reyes seconded the motion and it was approved by majority. (11/1; Ms. Ellerbe opposed this item.)

20. **Declare Public Necessity, Establish Just Compensation, and Authorize the Acquisition of Parcels I1-7, I1-16, I1-17, I1-18, I1-20, I1-20 (TE), I1-21 (TE), I2-35, I2-35 (E), I2-37B-1, I2-39, I2-040-1 and I2-040-2 Located in the City of Irving for the Line Section Irving-1 (I-1) and Line Section Irving-2 (I-2) and Authorize Eminent Domain Proceedings if Necessary**

Ms. Wilkins made a motion to approve Resolution No. 080213 which states:

Section 1: There is a public necessity for the acquisition of the property described in Exhibit 1.

Section 2: This property is necessary and proper for construction of the Irving Corridor and for any other use authorized by Chapter

452 of the Texas Transportation Code, and such use is hereby declared to be a public use for a public purpose.

- Section 3:** The amount to be offered as just compensation for the parcels required for the Irving Corridor shall be the value of the property as determined by DART's appraisal.
- Section 4:** In the event the property owner accepts the offer of just compensation, the President/Executive Director or his designee is hereby authorized to execute all necessary legal instruments and to pay necessary relocation expenses, title policy expenses, closing costs, and other such costs as may be required by law to close the purchase of the property.
- Section 5:** Should the property owner decline the offer of just compensation, then the President/Executive Director or his designee is hereby authorized and directed to negotiate the purchase of such parcel in accordance with DART's Real Estate Policy.
- Section 6:** If the President/Executive Director or his designee is unable to negotiate the purchase of the parcel for just compensation, the General Counsel is hereby authorized and directed to initiate and prosecute to completion eminent domain proceedings for the acquisition of the parcel for the Irving Corridor.
- Section 7:** DART shall not exercise its power of eminent domain for the acquisition of the parcels described in Exhibit 1 without the approval of such acquisition by the City Council of the City of Irving.
- Section 8:** DART's exercise of the power of eminent domain in acquiring the herein described parcels will not unduly impair the then existing neighborhood character of property surrounding or adjacent to the property to be condemned, nor unduly interfere with interstate commerce, nor authorize DART to run its vehicles on railroad tracks which are used to transport property.

Mr. Noah seconded the motion and it was approved unanimously.

21. **Contract for Design-Build Services for the Irving Corridor (I-1/I-2)**

Ms. Wilkins made a motion to approve Resolution No. 080214 which authorizes the President/Executive Director or his designee to award a contract for design-build services for the Irving Corridor (I-1/I-2) with Kiewit, Stacy and Witbeck, Reyes, Parsons, a Joint Venture (KSWRP) in the amount of \$430,164,910, plus a supplemental work contingency of \$17,207,000 (4%) for unanticipated expenses, for a total authorized amount not to exceed \$447,371,910.

Mr. Danish seconded the motion and it was approved unanimously

22. **Three-Month Extension Related to the Sale of Surplus Property Located at 1515 Compton Street in the City of Dallas for Transit-Oriented Development Purposes**

Mr. Christian reminded the Board they were considering the revised (blue sheet) version of the Resolution.

Mr. Christian made a motion to approve Resolution No. 080215 that states if Sphinx Development Corporation executes the contract of sale for the Property and delivers the contract and earnest money to DART no later than noon local time on December 31, 2008, the President/Executive Director or his designee is authorized to take such action and execute such documents as shall be necessary to extend the closing date for the sale of this property from December 31, 2008, until March 31, 2009.

Mr. Danish seconded the motion and it was approved by majority. (10/2; Mr. Tsao and Mr. Williams opposed.)

23. ***Update on the Design-Build Request for Proposals (RFP) Process for the Rowlett Corridor**

This item was for consideration at the Committee-of-the-Whole only.

Chair Chrisman stated that he had been remiss and had not recognized Item 3., **Citizen Advisory Committee (CAC) Report**. He apologized and invited Mr. Claude Doan, Chair of the CAC, to proceed with his report.

3. **Citizen Advisory Committee Report**

Mr. Doane reported that the group's last meeting included an update on present and future HOV lanes. He said ongoing concerns and future Agendas was also

discussed. Mr. Doane concluded that the next report would be made to the Board after the holidays.

Chair Chrisman thanked Mr. Doane and refocused the Board's attention on the second portion of time dedicated to Public Comments.

Other Items:

24. Public Comments

The following individuals addressed the Board:

Ms. Beverlyn Banks, 6826 Old Ox Drive, Dallas, Texas: Ms. Banks identified herself as currently employed by DART. She said she had addressed the Board approximately one year ago concerning the lack of promotional opportunities afforded to her during her 16-year tenure at DART. She reviewed her education and credentials and stated that she now believed she had not been considered for promotion due to her race (African-American). She went on to say she has experienced intimidation, hostility in the workplace, etc. Ms. Banks asked the Board to explain to her why she cannot be promoted.

Mr. Mearian Harris, P. O. Box 794244, Dallas, Texas, (214) 941-8391: Mr. Harris stated that he was a citizen of Dallas and a resident of Dallas County. Mr. Harris questioned the integrity of the President/Executive Director's credibility. Mr. Harris questioned Mr. Thomas' ability to effectively represent DART's interests at the upcoming legislative session.

Mr. Rickey Williams, 530 Gallant Fox, Dallas, Texas, 75211, (214) 339-5577: Mr. Williams stated that he owned two pieces of property located in the the Fair Park area of Dallas. He continued that DART construction had damaged both properties. He said that he had been unsuccessful in negotiating with DART to either repair the properties or gaining compensation for them. Mr. Williams continued that he was extremely frustrated and had suffered financial hardship due to the long-standing unacceptable situation.

Ms. Chantelle Richardson, P. O. Box 460164, Garland, Texas, 75046, (972) 697-5317: Ms. Richardson identified herself as a long-time DART employee, about to celebrate her 21st anniversary with the agency. Ms. Richardson said she was very concerned about the proposed changes to the Service Incentive Program (SIP) program. She continued that she opposed the proposed modifications to SIP and asked the Board to allow the SIP program to remain intact without attack in the form of revision.

25. Adjournment

There being no further business to discuss, the meeting was adjourned at 7:25 p.m.

Gail Cook
Board/Committee Secretary

/glc

+ Same Night Item
* Briefing Item