

**MINUTES
DALLAS AREA RAPID TRANSIT
BOARD OF DIRECTORS'
November 11, 2008**

The Dallas Area Rapid Transit **Board of Directors'** meeting convened on Tuesday, November 11, 2008, at 6:31 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:** **October 28, 2008**

Mr. Noah made a motion to approve the October 28, 2008, Board of Directors' Meeting minutes with no corrections, deletions, or additions.

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

2. **Public Comments**

There were no Public Comments.

Consent Items:

Ms. Wilkins made a motion to approve Consent Items 3. – 11.

3. **Contract Modification for Construction Manager/General Contractor-III (CM/GC-III) Construction Services - Hawes Avenue**

Approval of Resolution No. 080181 that authorizes the President/Executive Director or his to is authorized to execute a contract modification, subject for legal review, for Construction Manager/General Contractor-III (CM/GC-III) construction services for Hawes Avenue with Archer Western-Herzog (AW-H), a Joint Venture, for an amount not to exceed \$1,300,000, funded from existing contingency; therefore, the total authorized amount not to exceed \$499,384,525 remains unchanged.

4. **Declare Public Necessity, Establish Just Compensation, and Authorize the Acquisition of Parcels I1-1, I1-2, I1-3, I1-4, and I1-5 Located in the City of Dallas for the Line Section Irving-1 (I-1) and Authorize Eminent Domain Proceedings if Necessary**

Approval of Resolution No. 080182 that states:

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

Section 2: These properties are 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 properties as determined by DART's appraisals.
- 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 parcels 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 parcels 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 parcels 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 Dallas.
- Section 8:** DART's exercise of the power of eminent domain in acquiring the herein described parcels I1-1, I1-2, I1-3, I1-4, and I1-5 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.
- 5. Declare Public Necessity, Establish Just Compensation, and Authorize the Purchase of Property for Glenn Heights Parking Expansion**

Approval of Resolution No. 080183 that 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 the proposed Glenn Heights Parking Expansion, 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 parcel required for the Glenn Height Parking Expansion shall be the value of the property as determined by an appraisal.

Section 4: The President/Executive Director or his designee is hereby authorized to execute all necessary legal instruments and to pay, title policy expenses, closing costs, and other such costs as may be required by law to close the purchase of the property.

6. Declare Public Necessity, Establish Just Compensation, and Authorize the Acquisition of Parcel SE-1-10-2 for the Southeast Corridor Line Section Southeast-1 (SE-1) and Authorize Eminent Domain Proceedings if Necessary; Declaration and Sale of Surplus Properties, Parcels SE1-010-4 (1), SE1-010-4 (2) and SE1-010-4 (3)

Approval of Resolution No. 080184 that states:

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

Section 2: These properties are necessary and proper for construction of the Southeast 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 parcel required for the Southeast Corridor shall be the value of the properties 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 parcels 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 parcels 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 Southeast 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 Dallas.

Section 8: DART's exercise of the power of eminent domain in acquiring the herein described Exhibit 1 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.

Section 9: The interest of DART in and to the subject tracts described and shown on Exhibit 2 is hereby declared surplus to DART.

Section 10: The President/Executive Director or his designee is authorized to take such action and execute such documents as shall be necessary to convey the subject tracts, as shown on Exhibit 2, "as is" "where is" without warranties, to Westdale Properties America I, LTD., for fair market value as determined by appraisal.

7. Contract Modification for Construction Manager/General Contractor-I (CM/GC-I) Construction Services for the Addition of a Pocket Signal at the Southeast Junction

Approval of Resolution No. 080185 that authorizes the President/Executive Director or his to is authorized to execute a contract modification for Construction Management/General Contractor-I (CM/GC-I) construction services for the addition of a pocket signal at the Southeast Junction with Archer-Western-Brunson-Carcon (AWBC), A Joint Venture [C-1007571-01], in an amount not to exceed \$550,000. This modification will be funded from existing contingency; therefore, the total authorized amount not to exceed \$429,250,346 remains unchanged.

8. **Approval to Increase the Vanpool Fleet and Add Funding to the DART Vanpool Program**

Approval of Resolution No. 080186 that authorizes the President/Executive Director or his to is authorized to execute a contract modification, subject to legal review, for the lease, maintenance and delivery of multi-passenger vans in support of the DART Vanpool Program with Enterprise Leasing Company of DFW to:

Section 1: Increase the Vanpool Fleet by 31 to 198 vehicles with Enterprise Leasing Company of DFW [Contract No. C-1009165-01].

Section 2: Increase the contract amount by \$370,101 for a new total authorized amount not to exceed \$6,217,056.

9. **Approval of a Shuttle Bus Access Agreement with the Texoma Area Paratransit System (TAPS)**

Approval of Resolution No. 080187 that authorizes the President/Executive Director or his designee to execute a three-year Shuttle Bus Access Agreement with the Texoma Area Paratransit Systems (TAPS), in substantially the form as shown in Attachment 1.

10. **Local Assistance Program (LAP)/Congestion Management System (CMS) Programming Request for the City of Garland**

Approval of Resolution No. 080188 that approves the LAP/CMS programming request for the City of Garland, as contained in Attachment 1.

11. **Call for Public Hearing and Approval of Submission of Fiscal Year 2009 Federal Transit Administration (FTA) and Federal Railroad Administration (FRA) Grant Applications and Amendments**

Approval of Resolution No. 080189 that states:

Section 1: A public hearing is called on December 15, 2008, at 12:00 p.m. and 6:00 p.m. in the DART Board Room to solicit public comments on the projects for the FY 2009 Grant Applications and Amendments.

Section 2: Subsequent to the public hearing, the President/Executive Director or his designee is authorized to execute and file applications for Federal assistance on behalf of DART, as

designated recipient, with the Federal Transit Administration and the Federal Railroad Administration for Federal Assistance authorized by 49 USC Chapter 53, Title 23, United States Code; or other Federal statutes authorizing a project administered by the Federal Transit Administration or Federal Railroad Administration.

Section 3: The President/Executive Director or his designee is authorized to execute and file with its grant applications and amendments the annual certifications and assurances and other documents the Federal Transit Administration and Federal Railroad Administration requires before awarding a Federal assistance grant agreement.

Section 4: The President/Executive Director or his designee is authorized to execute the grant agreements with the Federal Transit Administration and the Federal Railroad Administration on behalf of DART.

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

Individual Items:

12. Providing Agenda and Meeting Information to the Board in an Electronic Format

Mr. Christian made a motion that authorizes the Director of Board Support, Nancy Johnson, and/or her designees to proceed with implementing providing agenda and meeting information to the Board in an electronic format.

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

13. Amendments to Rules 3., 4., and 11. of the DART Board Rules of Procedure

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

14. Approval of Litigation: Dallas Area Rapid Transit v. Greg Abbott, in his Official Capacity as Attorney General of the State of Texas

Ms. Dunlop Gates made a motion to approve Resolution No. 080190 that authorizes the General Counsel to initiate litigation against Greg Abbot, in his Official Capacity as the Attorney General of the State of Texas.

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

15. *Update on Design-Build Request for Proposals (RFP) Process for Irving and Rowlett Corridors

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

Other Items:

16. Public Comments

There were no additional Public Comments.

17. Adjournment

There being no further business to discuss, the meeting was adjourned at 6:33 p.m.

Gail Cook
Board/Committee Secretary

/glc

+ Same Night Item
* Briefing Item