

**MINUTES
DALLAS AREA RAPID TRANSIT
BOARD OF DIRECTORS'
August 12, 2008**

The Dallas Area Rapid Transit **Board of Directors'** meeting convened on Tuesday, August 12, 2008, at 6:00 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

Pamela Dunlop Gates was absent.

General Items:

1. **Recognition of Former DART Board Members**

Chair Chrisman recognized Ms. Angie Chen Button for her service to the DART Board of Directors'. Chair Chrisman related the highlights of Ms. Button's six-year involvement with the DART Board and presented her with a commemorative token of appreciation. Ms. Button thanked the DART Board, staff, and public for affording her the pleasure and honor of representing the City of Garland on the DART Board.

2. **Approval of Minutes: July 10, 2008**

Mr. Noah made a motion to approve the July 10, 2008, Board of Directors' Meeting minutes with no corrections, deletions, or additions.

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

3. **Committee Advisory Reports**

3.1 Paratransit Access Advisory Group (PAAG): Chair Chrisman stated that the scheduled report from the PAAG was deferred.

3.2 PAAG Most Valuable Driver Award: Mr. Victor Burke, Executive Vice President of Operations, introduced Ms. Delores Armstrong. Mr. Burke stated that Ms. Armstrong had earned the Award by demonstrating exemplary work habits. Ms. Armstrong accepted the Award and expressed her thanks.

4. **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).

The following individuals addressed the Board:

Avis E. Hardaman, 2157 Volga Avenue, Dallas, Texas, 75216, (214) 541-7842: Ms. Hardaman said that the facilities and amenities at the VA Medical Center (rail stop) should be improved (i.e.; enclosed and air conditioned) for the comfort and safety of the many veterans that use the station.

Thomas Hutchison, 1911 Lavon Creek Lane, Arlington, Texas, 76006, (817) 261-2607: Mr. Hutchinson stated that he has been a DART bus operator for many years and wished the Board to know that passengers had recently assaulted several

operators. Mr. Hutchinson also related how operators who try to defend themselves (from violent passengers) are arrested and incarcerated by DART Police. Mr. Hutchinson stated that, to his knowledge, the individuals who assault drivers are not prosecuted.

Epitacio Camacho, 422 East Fifth Street, Dallas, Texas, 75203, (214) 994-3907: Mr. Camacho stated that he was employed as a bus operator by DART for a period in excess of three years. Mr. Camacho explained the sequence of events that led to his termination and said that, prior to his termination, he had been accosted (by passengers) as well.

Oxumba Lluk-X, 4106 Vineyard Drive, Dallas, Texas, 75212, (214) 329-7082: Mr. Lluk-X spoke concerning an incident involving unnecessary physical contact with two members of the DART Police that occurred on July 23rd at the West End Transit Center. Mr. Lluk stated that he had reported the incident to DART Police administration and to Internal Affairs and was not satisfied with the way the matter had been handled.

Tim Sofge, 13191 Emily Road, #240, Dallas, Texas, 75240: Mr. Sofge suggested that DART institute a "lottery" in member cities to create revenue.

Albert Dirla, Jr., 2004 Robinson Street, Irving, Texas, 75060, (972) 672-7947: Mr. Durling stated that he is employed as a bus operator by DART and wished to air his concerns with the 'Mystery Rider' program.

CeCe Roberson, 1301 Wheatland Road, Dallas, Texas, 75232, (972) 228-3822: Ms. Roberson stated that she had witnessed passengers (who appeared to be intoxicated) strike operators driving on routes 163 and 161. Ms. Roberson said she was a regular rider of both of these routes and did not want the violent behavior of other passengers to result in injury to anyone and loss of good drivers.

Kenneth Day, P. O. Box 710237, Dallas, Texas, 75204, (214) 828-1641: Mr. Day introduced himself as the President and business agent of the Amalgamated Transit Union (ATU) representing DART employees. Mr. Day stated that the operators who had previously spoken were members of the ATU and the problems they described had escalated to the Board's attention because satisfactory resolutions were not being achieved according to internal processes. Mr. Day expressed dissatisfaction with the chronic arrest of operators, the impact of anonymous accusations made by the 'Mystery Rider' program, and other issues affecting the operators.

Gwain Wooten, 4625 Bryan, Dallas, Texas, (214) 827-3777: Ms. Wooten stated that the \$3.00 fare to travel from Washington/Munger to Lamont (using bus route 51) is too high because passengers have to transfer. Ms. Wooten continued that the buses used in the routes she accesses are unacceptably cleaned and maintained.

Sherlyn Mbakwe, 2225 Swansee, Dallas, Texas, 75232, (214) 333-8297: Ms. Mbakwe stated that she was currently employed as a bus operator by DART. Ms. Mbakwe continued that, in the past, operators enjoyed “hazard pay” which afforded operators amenities like regular lunch breaks, etc. Ms. Mbakwe questioned the efficiency of the current management due to their unfamiliarity with the actual operations.

Rotina Holman, 12250 Abrams, #1244, Dallas, Texas, 75243, (214) 542-2695: Ms. Holman stated that she has been employed by DART for 10+ years as a customer service representative. Ms. Holman stated that the agency should hire more customer service representatives to respond to the growth of the agency.

Brian Blanks, 745 Millcreek, Dallas, Texas, 75146, (214) 682-1663: Mr. Blanks stated that he has been a driver for DART for nearly 20 years. Mr. Blanks voiced concerns about the ‘Mystery Rider’ program. Mr. Blanks said the program is unfair because employees are disciplined based on the observations of the “Mystery Rider” but never come into contact with the Mystery Rider who made the accusation. Mr. Blanks concluded by suggesting that management could easily fabricate accusations which would produce retaliatory discipline by manipulating the “Mystery Rider” program according to their own agenda.

Consent Items:

Mr. Carlson made a motion to approve Consent Item 5.

5. Use of Outside Counsel in Monroe Shop Partners, Ltd. V. Dallas Area Rapid Transit, Cause No. DC-08-01935-B

Approval of a Resolution No. 080108 that authorizes the General Counsel to continue the engagement of Thomas Brandt and the firm of Fanning, Harper & Martinson, P.C. in litigation styled Monroe Shop Partners, Ltd. v. Dallas Area Rapid Transit, Cause No. DC-08-01935-B, in a total amount not to exceed \$125,000.

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

Individual Items:

6. +Approval to Distribute Proposed FY 2009 Budget to DART Member Jurisdictions for Review

Mr. Strauss made a motion to approve Resolution No. 080109 that authorizes the President/Executive Director or his designee to distribute the proposed FY 2009 Annual Budget to the governing bodies of the member jurisdictions for their review.

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

7. **Contract Modification for Emergency Armed Security Guard Services for DART Facilities and Stations**

Mr. Carlson made a motion to approve Resolution No. 080110 that authorizes the President/Executive Director or his designee to execute a contract modification for armed security guard services for DART facilities and stations with Texas Industrial Security, Inc. [Contract No. 1015522-1] to:

Section 1: Exercise the six-month contract option.

Section 2: Increase the not-to-exceed amount by \$750,600, for a new total authorized amount not to exceed \$999,600.

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

8. **Interlocal Contract for the Purchase of Electrical Power**

Mr. Carlson made a motion to approve a Resolution No. 080111 that authorizes the President/Executive Director or his designee to enter into an Interlocal Contract (ILC), subject to legal review, with the Texas General Land Office (GLO) to provide DART's electrical power, and execute an extension to the existing ILC for DART's electrical power needs beginning sometime during August or September 2008 depending on market conditions and to end 5 years after commencement date, prior to the expiration of the existing contract, for a not-to-exceed amount of \$75,000,000, for a new total authorized amount not to exceed \$117,000,000.

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

9. **Agreement between DART and Harvest/NPE L.P. for Construction of a Pedestrian Overpass at the Park Lane Light Rail Transit (LRT) Station to be Funded by a Grant from the North Central Texas Council of Governments (NCTCOG)**

Mr. Tsao made a motion to approve Resolution No. 080112 that states:

Section 1: That DART is authorized to act as sponsor and pass-through agency for a Sustainable Development Transportation Infrastructure Grant from North Central Texas Council of Governments ("NCTCOG") to Harvest/NPE L.P.; and

Section 2: That the President/Executive Director or his designee is authorized to execute an agreement, substantially in the form attached to this Resolution as Attachment 1, between DART and Harvest/NPE L.P. for construction of a pedestrian overpass at the Park Lane LRT station.

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

10. **Interlocal Agreement between DART and North Central Texas Council of Governments (NCTCOG) for Implementation and Administration of the Sustainable Development Project for a Pedestrian Overpass at the Park Lane Light Rail Transit (LRT) Station**

Mr. Tsao made a motion to approve Resolution No. 080113 that authorizes the President/Executive Director or his designee to execute an Interlocal Agreement between DART and the North Central Texas Council of Governments for implementation and administration of the sustainable development project for Sustainable Development Project with Harvest N.P.E., LP for the Park Lane Light Rail Transit (LRT) Station Pedestrian Overpass, substantially in the form attached to this resolution as Attachment 1.

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

11. **Rail Corridor Ad Hoc Negotiation Committee Recommendation**

Chair Chrisman called the Board's attention to the revised (green sheet) that had been distributed for consideration.

Mr. Noah made a motion to approve Resolution No. 080114 that adopts the following negotiation objectives for the Cotton Belt Rail Corridor:

Section 1: DART owns the Cotton Belt rail corridor from Wylie to Fort Worth. This corridor provides an opportunity for regional rail transit service and is a potentially viable business opportunity that involves and includes DART, the Fort Worth Transportation Authority (The T), the Regional Transportation Council, and numerous cities and third parties.

Section 2: DART will protect and preserve the corridor until a business opportunity is defined, determined and developed. Any encumbrance, sale or lease of any part of the Cotton Belt Corridor will not be considered unless it is part of a business opportunity.

Section 3: DART will allow only one type of rail vehicle to provide public transit service on the entire Cotton Belt Corridor and the

regional rail system. The vehicle shall be an FRA compliant light rail vehicle that is generally the same size (length, height and width) as the current DART light rail vehicle, and would be within 8% measured in bulk as cubic feet. Noise/vibration impacts will be mitigated to a level consistent with DART Light Rail. Emissions will meet or beat Environmental Protection Agency (EPA) Standards of Tier IV (2011-2014).

Section 4: DART will manage and control its interest in the Cotton Belt corridor for the best interest of DART, taking into consideration revenue opportunities and use of the corridor for transit service.

Section 5: Because of its importance, this policy shall take effect and be implemented immediately. Further, DART will immediately begin the definition, development and implementation of the business opportunity.

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

12. **Settlement of DART v. J. Valenzuela, Southwest Traders Inc., and Penske Truck Leasing Company, L.P., Cause No. 07-10435-E**

Mr. Carlson made a motion to approve Resolution No. 080115 that authorizes General Counsel to execute all documents necessary to settle *DART v. J. Valenzuela, Southwest Traders Inc., and Penske Truck Leasing Company, L.P., Cause No. 07-10435-E* pursuant to the terms presented to the Board of Directors in closed session.

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

Mr. Enoch left the room at 6:45 p.m.

13. **+Settlement of the Queen City Railroad Construction, Inc., and the Alman Construction Services, L.P. Pass Through Claims in the Appeal of Martin K. Eby Constrction Company, Inc., DART Docket No. 06-002**

Mr. Carlson made a motion to approve Resolution No. 080116 that states:

Section 1: The President/Executive Director or his designee is authorized to execute a settlement agreement, subject to legal review, resolving disputed pass through claims made by Queen City Railroad Construction, Ind., in DART Contract Appeal No. 06-002.

Section 2: The President/Executive Director or his designee is authorized to execute a settlement agreement, subject to legal review, resolving disputed pass through claims made by Alman Construction Services, L. P., in DART Contract Appeal No. 06-002.

Section 3: The President/Executive Director or his designee is authorized to fund these settlements from DART's Financial Reserve pursuant to the agreement reached by the parties which satisfies the criteria discussed in closed session.

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

Mr. Enoch rejoined the meeting at 6:48 p.m.

14. *Briefing on Options for Charging for Parking at Transit Centers

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

Policy Items:

15. Amendment of Joint Development Policy and Adoption of Transit-Oriented Development Policy

This item was approved at the Committee-of-the-Whole and, according to procedure governing Policy Items, will be considered by the Board in two weeks (August 26th, 2008).

Other Items:

16. Officer Reports

There was no report.

17. Chair Report

Chair Chrisman said the agency will celebrate its 25th Anniversary tomorrow, August 13th. He said that donuts and other items would be distributed at various stations as a way of expressing thanks to patrons and citizens who have made DART a resounding success.

Mr. Whitaker interjected that he did not wish to be considered out of order, but several serious allegations had been voiced during the Public Comments section. He continued that he felt it would be appropriate to respond with a statement that the

Board would research the allegations and return with an update of the results of the investigation. Chair Chrisman responded that he had discussed the matters with Mr. Gary Thomas, President/Executive Director, and an investigation would occur. Mr. Whittaker said that was fine, but the public should be made aware that answers would be forthcoming because he was concerned as a Board member.

18. General Counsel's Report

There was no report.

19. President/Executive Director's Report

There was no report.

20. Communications and Public Comments

There were no additional communications or public comments.

21. Adjournment

There being no further business to discuss, the meeting was adjourned at 6:49 p.m.

Gail L. Cook
Board/Committee Secretary

/glc

+ Same Night Item

* Briefing Item