



*Administration and Projects Committee Meeting* **MINUTES**

**MEETING DATE:** September 5, 2013

**MEMBERS PRESENT:** Robert Taylor, Julie Pierce, Newell Arnerich

**STAFF PRESENT:** Randell Iwasaki, Ross Chittenden, Susan Miller, Randy Carlton,  
Hisham Noeimi, Linsey Willis

**MINUTES PREPARED BY:** Mari Shine

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**A. CONVENE MEETING:** Chair Taylor convened the meeting at 8:40 am.

**B. PUBLIC COMMENT:** None.

**C. APPROVAL OF MINUTES:**

*ACTION:* The Committee approved the Minutes, 3-0, moved by Commissioner Pierce and seconded by Commissioner Arnerich.

**CONSENT CALENDAR**

*ACTION:* Item 6 was removed from the Consent Calendar by Commissioner Arnerich. The remainder of the Consent Calendar was approved 3-0, moved by Commissioner Pierce and seconded by Commissioner Arnerich.

**1.0 Monthly Project Status Report.**

**2.0 Accept Monthly Accounts Payable Invoice Report for June and July 2013.**

**3.0 Accept Quarterly Cash and Investment Report for the Period Ended June 30, 2013.**

**4.0 Accept Quarterly Sales Tax Revenue Report for the Period Ended June 30, 2013.**

**5.0 Listing of Contract Change Orders (CCOs).**

**6.0 Caldecott Fourth Bore Project Update (Project 1698/1001).**

*DISCUSSION:*

Commissioner Arnerich removed this item from Consent to allow Ross Chittenden, Deputy Executive Director, Projects, the opportunity to offer an update.

Mr. Chittenden commented that there has been no substantive change since the July APC Meeting, with the project trending at a combined construction and construction management budget of about \$340 million. Caltrans and CTC brought \$2.8 million in residual ARRA funds to manage their staff over-run. The Authority's total exposure will be \$4 million. Mr. Chittenden stated that he and Executive Director Iwasaki are in conversation with CTC. This is an information item that required no action by the APC.

- 7.0 City of Pleasant Hill – Geary Road Widening – Phase 3 (Project 24007).**
  - 7.1 95% Design Peer Review.**
  - 7.2 Request for Appropriation of Measure J Funds for Construction.**
- 8.0 Updated Policies and Procedures for Locally Sponsored Measure J Projects – Guidelines for Local Agency Coordination.**
- 9.0 State Route 4 – Railroad Avenue to Loveridge Road (Project 1405).**
  - 9.1 Contract Acceptance and Closeout for Landscape Construction Contract No. 241.**
  - 9.2 Authorization to Execute Amendment No. 10 to Agreement No. 124 with Contra Costa County for Additional Right-of-Way Services.**
- 10.0 State Route 4 Widening – Somersville Road to SR 160 – Segment 2 (Project 1407/3001).**
  - 10.1 Authorization to Execute Amendment No. 5 to Agreement No. 271 with Jacobs Project Management Co. (Jacobs).**
  - 10.2 Authorization to Execute Amendment No. 1 to Agreement No. 327 with BKF Engineers, Inc. for Design Services During Construction.**
- 11.0 State Route 4 Widening – Somersville Road to SR 160 – Segment 3A (Project 1407/3001) – Authorization to Execute Amendment No. 1 to Agreement No. 332 with Jacobs Project Management Co. (Jacobs).c**

**12.0 East Contra Costa Rail Extension (eBART) (Project 2001) – Authorization to Amend Resolution 12-15-P (Rev. 1) with BART.**

End of Consent Calendar

**REGULAR AGENDA ITEMS**

**13.0 Legislation.**

*DISCUSSION:*

Linsey Willis, the Authority's new Director of External Affairs, introduced Mark Watts of Smith, Watts, Martinez, LLC, who spoke on three highlighted bills: AB401, SB1, and SB489.

AB 401 was originally sponsored by the Orange County Transportation Authority to gain design-build authority for use on their I-405 project. It has grown into a 10-year extension of the design-build authority. Specific language would allow CCTA and other CMAAs to qualify for the whole ten-year period and allow unfettered design-build use on the state highway system. Cities and counties or streets and roads as stand-alone entities were excluded at the request of AFSCME, but one provision was put in that allows an expressway that is in an expenditure plan approved prior to 2014 to utilize design-build. 'Expressway' has a fairly loose definition.

There are still some questions about whether the bill has been drafted to meet the constitutional issues that were raised in the Senate transportation committee earlier this year. There is some degree of confidence that it does meet this test, but the engineering company may think that it violates Prop 35. This is moving forward and it looks like the Governor would sign if it gets to him in its current shape.

SB1 is Senator Steinberg's attempt at back-filling re-development. It focuses on sustainable community strategy areas for use of revenues generated through a voluntary tax increment financing approach. The Governor vetoed a similar bill last year and there is discussion as to whether he wants to carry it over to next year, since there are a number of cities still in financial trouble and the speculation is that the Governor would like to get that behind him before he embraces a new structure. SB1 is in intense focus now in the Capitol.

SB489 is a measure Mark Watts worked on with Will Kempton and Senator Desaulnier in the hope of enhancing Caltrans' public perception. It would have established an office of strategic assessment at the secretary level, establish performance metrics, and do in-depth reporting on how Caltrans is measuring up. It is based on what the state of Washington did about a decade ago. Within three years the public perception of their Department of Transportation went from 30 to almost 70 percent which then allowed them to ask voters for additional revenues. They could not have done that without the performance metric process. DeSaulnier is attempting to impose something like that in CA; it was amended on September 4, 2013 to place that responsibility back on Caltrans with the secretary providing the metrics and letting Caltrans do the reporting. He has run into a bit of resistance from the administration under the new Transportation agency, so the status is 'wait and see'.

AB210 authorized Alameda and Contra Costa counties to exceed the 2% cap. It was approved by the Governor and is in place as a tool.

SCA 4 and 8 were discussed early in the legislative session. The bills are still in their house of origin as are all similar bills that deal with voter threshold in the constitution for local taxes of all types. These two focus on transportation-oriented local taxes and would reduce the threshold to 55%. Leadership does not want to deal with this legislation this year. They want to have the conversation in 2014. If something emerges it could go on the 2014 ballot, whether for education, public safety or transportation facilities.

The one thing that happened in the Senate Transportation Committee with one of the bills was that it was recommended to both authors but only one chose to put some state policy into the bills. The prior efforts to reduce voter threshold simply said 'drop the threshold'. Here a case was made that perhaps the state could provide guidance in sales tax measures as they try to implement and fund SCS and the like, and greenhouse gas reduction in the transportation sector. One of the bills was amended to do two things: require that a portion of local tax proceeds would have to support projects within an SCS; the other requires that for any improvement funded by a local tax, pursuant to the 55% threshold on the state highway system that creates system expansion, additional lane miles, etc. must be accompanied by some level of maintenance.

The state finds itself with an increased lane-mile inventory without the budgetary capacity to do an adequate job maintaining it. Mr. Watts cautioned the Transportation Committee that a constitutional amendment like this has to pass muster with the voters, and if it is loaded with well-intended things, we do not know now what voter receptivity might be. It is something to be concerned about as we go forward. The policy objective adds more uncertainty to the process.

AB486 deals with the CMAC distribution process. It probably didn't need a bill, but in the wake of MAP21 there was a lot of uncertainty between the state and the regional partners. The regional partners were concerned that the state might change the distribution formulas; this bill locks it in with a little bit of a bump for high particulate matter areas of the state.

SB594 was amended on September 4. Mr. Watts plans to coordinate with Linsey Willis on an update to SB594.

Ms. Willis commented that there is a draft opposition letter to SB594 in the APC packet and asked that she have an opportunity to review the changes and delay approving the opposition letter before forwarding it to the Commission early next week.

Commissioner Pierce stated that the League sees the changes in the bill as refocusing the intent of the audits and removing the prohibition of agencies like the League, transportation authorities and the like to express opinions and lobby regarding measures. The League has withdrawn their opposition.

Mr. Watts stated that there is a fast-breaking temporary resolution to the transit funding dilemma occasioned by the passing of PEPRA last year. Local transit districts have been threatened with the loss of federal grants. The U.S. Department of Labor started the process of decertification of a billion and a half worth of grants pending in the current year. Sacramento stands to lose \$13 million on a project now under construction. A coordinated effort among the Department of Labor and several federal and local transit administrations has mapped out a bill to over-ride the decertification. A 15-month grace period was established for all transit agencies under PEPRA.

#### **14.0 Financial Audit Process for the Fiscal Year Ended June 30, 2013.**

*DISCUSSION:*

Randy Carlton, Chief Financial Officer, commented on the audit process and its relevancy. He announced that The Authority received the award for excellence in financial statements. He then introduced David Bullock of Macias, Gini, & O'Connell, LLP to explain the process.

Planning for the audit was begun in June of 2013. Areas of concern for review are internal controls over the Authority's assets, payroll, etc.; significant impacts to the Authority such as changes in laws and regulations on pension and other benefits and the ways in which they're reported in financial disclosures; sales tax fluctuation; and construction cost increases.

New GASB pronouncements and other standards will need to be implemented in the near future, specifically the new pension standards, which will impact most governmental organizations.

The swap arrangement between CCTA and its bonds is sensitive in the necessity for the Authority to record fair value of the swap agreement on its financial statements, and because terminating the swap agreement would call for the Authority to come out of pocket with a significant amount of cash.

David will return to the APC meeting in December to present the final audit and any management letter comments and findings.

Commissioner Arnerich asked what if any pronouncements we might implement early. Mr. Bullock cautioned that the information may not be available to the Authority from CalPERS in time.

Mr. Arnerich asked about how deeply the audit delves into reimbursables to contractors. Mr. Carlton responded that every invoice that comes through is looked at from an operational standpoint. Mr. Arnerich stated that this might be something to review periodically.

Mr. Chittenden explained that the most difficult aspect of testing these costs is labor, and the idea of 'best practice' might be preferable to an audit.

Chair Taylor asked for assurance that our information systems are secure. Mr. Bullock stated that all findings from 2011 have been addressed or are still being addressed.

Randell Iwasaki emphasized Mr. Arnerich's point regarding review of construction contract reimbursables and assured him that the Authority gets what it pays for.

**15.0 2014 State Transportation Improvement Program (STIP) Candidate Projects.**

*ACTION: This item was approved by the Committee 3-0, moved by Commissioner Arnerich and seconded by Commissioner Pierce.*

*DISCUSSION:*

Amin AbuAmara, Senior Engineer, announced that we received 7 applications for the 2014 STIP cycle, totaling \$33.47 million in requested funding. The total available for new programming in FY 17-18 and FY 18-19 is approximately \$19 million. TCC met in August and recommended the following projects for STIP funding:

- \$8.3 million for the I680/SR4 interchange Phase 3 construction, sponsored by the Authority
- \$9.2 million for the I80/San Pablo Dam Road interchange Phase 2, sponsored by the Authority
- \$1.51 million for the Appian Way Complete Streets Project, sponsored by the County

Mr. AbuAmara stated that staff requests approval of programming of new funding for the projects mentioned and the reprogramming of 1.3 million in STIP funds in FY 14-15 for the I680/SR4 interchange from Phase 1 design to Phase 3 construction.

Mr. Arnerich asked why Appian Way was awarded over others. Mr. AbuAmara responded that this was an opportunity to fully fund that project, while there was not sufficient funding for the two before it on the list. The TCC approved that recommendation in August.

Hisham Noemi, Engineering Manager, explained that East County was precluded from competing for three STIP cycles in return for allocating Measure J funding and bond proceeds to the eBART project, in response to Mr. Arnerich's question about I680/SR4 being included.

**16.0 State Route 4/State Route 160 Connector Ramps (Project 5001).**

*ACTION: Item 16.2 was approved by the Committee, 3-0, moved by Commissioner Pierce and seconded by Commissioner Arnerich.*

*DISCUSSION:*

Jack Hall, Associate Transportation Engineer, introduced the first item, requesting approval of the Cooperative Agreement with Caltrans. He stated that the Agreement is necessary to specify roles and responsibilities during construction and to obtain reimbursement costs. This project is being advertised, awarded and administered by the Authority.

The Authority approved a Caltrans-provided Cooperative Agreement for the project in July; however, Caltrans is asking for Independent Quality Assurance (IQA) reimbursement through a revised Cooperative Agreement. The local agency has not traditionally paid for Caltrans IQA oversight.

Mr. Hall requested that the APC take no action at this time as Ross Chittenden is working on this matter with Caltrans Headquarters. Resolution is expected by September 18, with either an already-signed version of the previously-approved Cooperative Agreement, or staff will seek approval for a revised Agreement that includes payment to Caltrans for IQA oversight. This resolution could set a precedent for other Bridge Toll-funded projects. (\$400,000).

The second item requests approval of the Plans, Specifications, and Estimate. This is necessary to provide the Authority design immunity. By approving the plans, Government Code 830.6 provides the public entity with complete immunity against any type of claim arising out of a road design defect.

Resolution 13-40-P approves the design, authorizes the Executive Director to advertise the project, issue addenda, and open bids.

Chair Taylor asked for clarification on the Cooperative Agreement with Caltrans. Mr. Chittenden explained that for locally-funded projects, independent quality assurance costs are traditionally borne by the State, with oversight for privately-funded projects being the responsibility of the developer. There is an existing agreement between BATA and Caltrans, so BATA is paying for the cost of Caltrans oversight, which is a first. This is the first locally-funded project where cost of oversight is included. When revenue is generated off a state facility, that revenue should recover full costs, including oversight. The potential for our being affected is with express lanes, which generate a toll. We could possibly start paying oversight for that.

Mr. Chittenden recommends that we wait until a resolution is reached. If it is resolved that the Authority has to pay, we will decide whether to advertise with the Authority paying or continue to contest it.

**16.1 Authorization to Execute Cooperative Agreement 04-2495 with the California Department of Transportation (Caltrans) to Perform Oversight of the Construction Project.**

**16.2 Approval of the Plans, Specifications, and Estimate (PS&E) for Construction, and Authorization for the Executive Director to Advertise for Bids.**

**17.0 Correspondence and News Clippings.**

**18.0 Commissioner and Staff Comments:**

**18.1** Chair's Comments and Reports

**18.2** Commissioners' Comments and Reports on Activities and Meetings

**18.3** Executive Staff Comments

**19.0 Other Business.**

**20.0 Adjournment to Next Meeting.** The meeting was adjourned at 9:28 a.m. The next regular meeting is proposed for Thursday, October 3, 2013 at 8:30 am.

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