

2012 SOUND TRANSIT BOARD MEETING
Summary Minutes
July 26, 2012

CALL TO ORDER

The meeting was called to order at 1:43 p.m. by Chair Pat McCarthy, in the Ruth Fisher Boardroom, 401 South Jackson Street, Seattle, Washington.

ROLL CALL

Chair

(P) Pat McCarthy, Pierce County Executive

Vice Chairs

(P) Julia Patterson, King County Councilmember

(P) Aaron Reardon, Snohomish County Executive

Boardmembers

(P) Claudia Balducci, Bellevue Councilmember

(P) Fred Butler, Issaquah Deputy Council President

(A) Richard Conlin, Seattle Councilmember

(P) Dow Constantine, King County Executive

(P) Dave Earling, City of Edmonds Mayor

(P) David Enslow, City of Sumner Mayor

(A) Paula Hammond, WSDOT Secretary

(A) John Marchione, City of Redmond Mayor

(P) Joe McDermott, King County Councilmember

(A) Mike McGinn, City of Seattle Mayor

(P) Mary Moss, Lakewood Councilmember

(A) Larry Phillips, King County Councilmember

(A) Paul Roberts, Everett Councilmember

(P) Marilyn Strickland, City of Tacoma Mayor

(P) Peter von Reichbauer, King County Councilmember

Ms. Marcia Walker, Board Administrator announced that a quorum of the Board was present at roll call.

REPORT OF THE CHAIR

Chair McCarthy announced that a public hearing is scheduled for August 2, 2012 at 12:30 on Sound Transit's Transit Development Plan 2012-2017 and 2011 Annual Report. The plan includes accomplishments in 2011 and proposed action strategies for 2012 through 2017.

Ms. McCarthy reported that she was interviewed by KOMO News about charging for parking at park and ride facilities. The Executive Committee, and Operations and Administration Committee discussed Parking and System Access Improvements earlier this month and Sound Transit staff is currently undertaking additional work to inform future Board discussion on the topic.

CHIEF EXECUTIVE OFFICER'S REPORT

Joni Earl, CEO, announced that today is Deputy CEO Celia Kupersmith's last Board meeting. Ms. Kupersmith is retiring on August 3, 2012. During her tenure with Sound Transit, she used her considerable operations experience to increase the efficiency and quality of our service. She also improved the budget process and led the agency during the CEO's medical leave last year. Prior to joining Sound Transit, Ms. Kupersmith was the General Manager/CEO of the Golden Gate Bridge, Highway, and Transportation District for 11 years. Ms. Earl thanked Ms. Kupersmith for her contributions to the Agency.

The Puget Sound Regional Council (PSRC) Executive Board approved the funding recommendations for the federal grant funding the agency manages. The funding recommendations included \$14.4 million of Congestion Mitigation and Air Quality Improvement Program funding for the North Link project. Of the \$14.4 million, \$13 million is for construction of North Link stations, \$900,000 is for King County to redesign the Northgate Transit Center and design non-motorized access improvements, including the pedestrian bridge over I-5, and \$500,000 is for the City of Seattle to design a cycle track on 1st Avenue connecting to Northgate Station.

Sound Transit also received \$14.2 million of Federal Transit Administration (FTA) competitive funding including \$9 million for final design and construction of the East Link project along with a recommendation to

receive another \$5 million during the next competitive process. The Federal Way Transit Extension/South Corridor project received \$1 million to complete the NEPA environmental phase. Sound Transit received \$4.2 million in "State of Good Repair" funding for the Sounder locomotive/engine overhaul project and \$5 million to buy hybrid replacement buses. ST also will receive an estimated \$51.5 million in FTA funds earned by the transit agency due to service operated. All of these funds help meet the grant assumptions in our financial plan.

The National Institute of Governmental Purchasing (NIGP) has awarded Sound Transit its Pareto Award of Excellence in Public Procurement—the eighth public agency in the nation to receive the honor. The award recognizes the agency's Procurements and Contracts Division for distinguished best practices in six areas of procurement: leadership, strategic planning, customer service, process management, technology, and performance improvement. Sound Transit will officially receive its Pareto Award during the 67th Annual NIGP Forum and Products Exposition on Monday, August 20, 2012 in Seattle.

Ms. Earl commended Sound Transit Security Officer Thaddeus Morris and Sound Transit Police Officer Lee Adams who were involved in identifying and assisting in the apprehension of a suspect in an assault at a Seattle bank. At the time of the arrest, the suspect was armed with a knife believed to be used in the attack on a security guard. The suspect was turned over to Seattle Police Department investigators and the victim is expected to recover.

2011 Fare Revenue Report

Ms. Earl presented the 2011 Sound Transit Fare Revenue Report. The report provides detailed breakdowns of fare revenues received by Sound Transit in 2011 and projected fare revenues through 2013. The Sound Transit fare policy adopted by the Board in 2010 requires that fare revenues be reported on an annual basis once the final numbers are known. Total fare revenues received by ST in 2011 were \$46 million (\$25.7 million on ST Express, \$8.3 million on Sounder, and \$12.0 million on Central Link).

The report also compares projected fare revenues to projected operating costs for each mode, and assesses whether or not fare adjustments are likely to be needed to maintain farebox recovery targets previously established by the Board. Based on these projections, ST Express is tracking well above its target farebox recovery of 20% through 2013. Sounder's farebox recovery will be monitored closely against the 23% policy target; projections indicate Sounder may fall short. 2012 actuals to date are exceeding projections. The Link farebox recovery target of 40% was established for service that includes University Link. Goals will apply once ridership on that extension has developed. The total value of all discounts and free service provided under Board policy for various purposes in 2011 was about \$2 million.

U220 Investigation Report

Chair McCarthy announced that public comment on the U220 investigation report would be taken after the presentation on the report. The Board will discuss the investigation report after hearing public comment.

Ms. Earl noted that on July 23, 2012 Sound Transit released the findings of the investigation conducted on behalf of Sound Transit. She reported that meetings have taken place with contractor representatives, building trade representatives, the FAST jobs coalition and impacted workers. Earlier this week meetings with Traylor Frontier Kemper Joint Venture (TFK) management also took place.

University Link is being delivered with two heavy civil underground construction contracts. The U220 contract includes station box excavation, construction of two 1.1-mile long tunnels and tunnel cross passages. TFK had the lowest responsive and responsible bid. Notice to proceed was given on January 24, 2010. The contract is worth \$309 million. The contract is approximately 90% complete; substantial completion should be achieved in July 2013. The contract has accumulated 780,000 craft hours to date.

The contract has disadvantaged business enterprise (DBE) and small business goals. The Project Labor Agreement (PLA) also includes equal employment opportunity goals for people of color and women, and apprenticeship goals. TFK's performance to date for DBE is 9.5% versus a goal of 3%. The performance to date for small business is 3.3% versus a goal of 6%. Within the PLA, the goal for the overall University Link

project is 21% for people of color; TFK's performance to date is 28%. The goal for women is 12%; TFK's performance to date is 6%. The goal for apprentice utilization is 15%, TFK's performance to date is 10%.

In December 2010, Sound Transit heard of two complaints, and eight more complaints were filed in January 2011. Sound Transit began reviewing the complaints and determined that an investigation was warranted. Leslie Jones, Director of Diversity Program, Desmond Brown, General Counsel, and Marcella Fleming Reed reviewed the investigation that was conducted.

Mr. Brown reported that because the University Link project receives federal funding, it is subject to Title VI of the Civil Rights act of 1964. That act prohibits discrimination on any federally funded contract. Sound Transit's grant agreement obligates Sound Transit to include an agreement that the contractor will engage in no discrimination. Under the act, Sound Transit is obligated to ensure no discrimination occurs and to investigate and take remedial actions if necessary. The failure to comply with these requirements can result in a loss of federal funding for the project.

Ms. Reed was hired in September 2011 to conduct the investigation into the complaints. Ms. Reed owns an employment law and human resources consulting firm and has conducted over 200 investigations alleging discrimination or harassment. Ms. Reed reviewed how the investigation was conducted. During the investigation interviews were conducted with members of the NAACP, trade unions, Sound Transit personnel, management of the U220 project; a total of 45 witnesses. There were eight complaints received by African-American men, and no official complaints by women.

Key findings included issues with hiring and termination practices at TFK that had an adverse impact on African-American employees. There were complaints that African-Americans were disrespected during the interviews and felt the discipline on the site was harsher for African-Americans. The investigation found a lack of documentation around hiring and termination decisions. Prior to work on the cross passages in the tunnel, the investigation found that women were not involved in work in the tunnel. The investigation also found that there was an agreement between the laborers and TFK that they would be allowed to bring in 24 workers without going through the normal dispatch process. There was also another agreement that TFK would not provide information on why employees were terminated, at the union's request.

Ms. Earl reported that in January 2012, Sound Transit made modifications to standard contract language for future contracts. The new contract language will require the contractor to pay for the cost of Sound Transit's discrimination investigation if one is required and a prima facie case of discrimination is found as well as additional documentation. The action plan also includes remedial measures to be implemented by TFK immediately. They include measures related to the hiring and termination process. Changes can be implemented by a negotiated change order or by Sound Transit doing a unilateral change order.

TFK's rebuttal has included claims that the union hall did not provide workers needed for the specialized work and safety requirements of the job. The investigation found that the hiring process implemented by TFK to address their concerns lead to disparate treatment for African-Americans. Under the remedial measures, supplemental processes would be documented and approved, and Sound Transit and workers must be notified. If a supplemental process for hiring is used, provisions must be used to remove subjectivity and provide documentation. Sound Transit would be informed within 48 hours of any non-hire or terminations and given documentation on the reason. A Sound Transit civil rights inspector will be assigned to the TFK job site and all future job sites with the right to observe all work activities. Sound Transit is asking TFK increase the presence and train African-American and women in mining, along with providing access to apprentices. Sound Transit also plans to pursue options with the Associated General Contractors and the PLA for additional tunnel training. The remedial measures also include requirements for notifying workers on the jobsite that retaliation or harassment will result in immediate dismissal.

The investigation found that six African-American workers were, or may have been discriminated against on the basis of race. Sound Transit recommends a three-day arbitration or some other method to provide due process to these workers.

Public Comment on the U220 Investigation Report
(Comments on file with the Board Administrator)

James Bible, NAACP
Sean Bagsby, FAST Jobs Coalition
Diane Davies, FAST Jobs Coalition
Andra Kranzler, FAST Jobs Coalition
Leonard Rollins
Rashad Pearson
Anthony Campbell
Harvey R. Johnson
Patricia Paschal, Community Coalition for Contracts and Jobs
Michael Krule, Traylor Frontier Kemper Joint Venture
Anthony Smith

In response to Boardmember questions, Mr. Brown noted that under the PLA, if the union hall is not able to supply qualified workers, 48-hours' notice must be given before bringing in outside workers. There is no evidence that this notification occurred. Boardmembers also asked that options be reviewed for compliance with and enforcement of PLA and contract provisions. Ms. Earl noted that additional conversations will take place with the Union to review the findings of the investigation.

REPORTS TO THE BOARD

None.

PUBLIC COMMENT

There was no additional public comment.

CONSENT AGENDA

Voucher Certification for June 1, 2012 through June 15, 2012

Voucher Certification for June 16, 2012 through June 30, 2012

Motion No. M2012-45: Approving Phase 1 of the ST2 Research and Technology Program to implement improved transit customer rider technologies.

Motion No. M2012-48: Authorizing the chief executive officer to execute a contract with LTK Engineering Services, LLC to provide systems engineering final design services for East Link for a total authorized contract amount not to exceed \$17,707,707.

Motion No. M2012-49: Authorizing the chief executive officer to execute a contract amendment with Jacobs Associates to provide additional final design services, additional bid support, and design services during construction for the Northgate Link Extension in the amount of \$21,842,165, with a 10% contingency of \$2,184,217 totaling \$24,026,382, for a new total authorized contract amount not to exceed \$85,558,106.

Resolution No. R2012-18: Authorizing the chief executive officer to acquire, dispose, or lease certain real property interests, including acquisition by condemnation to the extent permitted by law, and pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the Northgate Link Extension located along Interstate 5 near NE 94th Street and Northgate in the City of Seattle.

It was moved by Boardmember Balducci, seconded by Boardmember Butler, and carried by the unanimous vote of all members present that the consent agenda be approved as presented.

ACTION ITEMS

Chair McCarthy announced that Resolution No. R2012-17 would be held to the next Board meeting because it requires a two-thirds affirmative vote by the Board, 12 members. Attendance was less than twelve members.

EXECUTIVE SESSION

None.

OTHER BUSINESS

None.

NEXT MEETING

Thursday, August 23, 2012
1:30 to 4:00 p.m.
Ruth Fisher Boardroom


ADJOURN

The meeting was adjourned at 3:34 p.m.



Julia Patterson
Board Vice Chair

ATTEST:



Marcia Walker
Board Administrator

APPROVED on August 23, 2012, MW