

NORTH TEXAS TOLLWAY AUTHORITY  
Minutes of the Board of Directors Meeting  
March 17, 2011

A public notice of this meeting containing all items was posted at a place convenient to the public in the administrative offices of the North Texas Tollway Authority, provided to the Secretary of State, and provided to the County Clerk of Collin County, as required by Chapter 551 of the Texas Government Code, referred to as "The Open Meetings Act."

Minutes of the North Texas Tollway Authority Board of Directors meeting held at the North Texas Tollway Authority, 5900 West Plano Parkway, Plano, Texas, at 9:00 a.m. on March 17, 2011.

**CALL TO ORDER**

Chairman Vandergriff called the meeting to order at 9:14 a.m.

1. Establishment of Quorum

Chairman Vandergriff established a quorum by calling the roll.

The following Board members were present in the meeting:

Victor Vandergriff	Chairman
*Dave Denison	Vice Chairman
Kenneth Barr	Director
Kent Cagle	Director
Bob Day	Director
Bill Moore	Director
Michael Nowels	Director
Bob Shepard	Director
Jane Willard	Director

\*Vice Chairman Denison participated telephonically.

NTTA employees attending the meeting were: Allen Clemson, Executive Director; Ruby Franklin, Secretary; Lorelei Griffith, Assistant Secretary; Janice Davis, CFO; Bob Schell, Assistant Director of General Counsel; Clayton Howe, Assistant Executive Director Operations; Gerry Carrigan, Assistant Executive Director Project Delivery; Kim Tolbert, Assistant Executive Director Administrative Services; Ray Zies, Controller; Kiven Williams, Director of Customer Service Center; Elizabeth Mow, Director of Project Delivery; Nina Arias, Director of Human Resources; Dave Pounds, Director of Information Technology; Magdalena Kovats, Director of Internal Audit; Marty Legè, Director of System Incident Management; Carrie Rogers, Director of Government Affairs; Kim Jackson, Director of Communications.

Also present at the meeting representing the Authority were: Frank Stevenson, Locke Lord, Bissell & Liddell (LLBL), Outside Counsel to the Authority; Doug Mann, HNTB, General Engineering Consultant to the Authority; Ron Morrison, RBC Capital Markets, Financial Advisor to the Authority; Greg Schaecher, McCall Parkhurst & Horton (MPH), Bond Counsel to the Authority; Michael Copeland, Wilbur Smith Associates (WSA), Traffic & Revenue Consultant to the Authority.

2. Public Comments

No comments were made under this item.

3. Chairman update

A. Texas Legislature Update

Chairman Vandergriff briefed the Board on his testimony in Austin related to SB 363 and SB 19, and expressed appreciation to Director Day and Director Nowels for being present in Austin during his testimony.

**BRIEFINGS AND ITEMS FOR INDIVIDUAL CONSIDERATION**

4. Briefing and possible action regarding the financing for development of the President George Bush Turnpike – Western Extension, including approval of a loan agreement under the Transportation Infrastructure Finance and Innovation Act, a Master Custodial Account Agreement, a Trust Agreement, Tiger Grant Agreement, the issuance of PGBT-WE bonds and bond anticipation notes, a toll rate resolution, and related documents

Janice Davis, CFO, stated that progress was continuing on the TIFIA, and that she anticipated a successful completion soon. Ms. Davis called on Dan Heimowitz, RBC Capital Markets, to provide a presentation, and stated that the financial team was available for questions.

Mr. Heimowitz provided a briefing on PGBT-WE financing, including financing structure, parties and documents, limited financial recourse to the NTTA System, open TIFIA issues, and a preliminary schedule to financial close. He also briefed the Board on SWP/CT financing, and provided an interest rate sensitivity analysis for SH 161 and SWP/CT with and without TIFIA. Mr. Heimowitz, Ms. Davis, Greg Schaecher, McCall Parkhurst and Horton, and Michael Copeland, Wilbur Smith Associates, addressed questions of the Board.

After some discussion, Director Day made a motion to approve three resolutions related to item 4. The resolutions included a bond anticipation note resolution, a bond resolution, and a PGBT WE toll rate resolution. Director Moore seconded the motion. After further discussion and questions were addressed, the Board approved all three solutions unanimously. (Resolutions No. 11- 35A, 11-35B, 11-35C)

Chairman Vandergriff stated that items 5 and 10 were being pulled, and that item 12 would be moved to follow the Executive Session.

5. Briefing on the analysis and proposed approach for the staff augmentation portion of the NTTA business model (This item was pulled)
6. Briefing and possible action on a supplement to 2008 work authorization with McCall, Parkhurst & Horton L.L.P. for bond counsel services for PGBT WE project financing

Ms. Davis provided an overview of a supplement to the 2008 work authorization with MPH, including the financial impact, and addressed questions of the Board.

Director Barr made a motion to approve a supplement to 2008 work authorization with McCall, Parkhurst & Horton L.L.P. Director Nowels seconded the motion and it was approved unanimously. (Resolution No. 11- 36)

7. Briefing and possible action on selection of outside counsel to provide legal services in the acquisition of right-of-way for Chisholm Trail Sections 5 and 6

Director Day stated that the Legal Services Committee met earlier in the day and made a recommendation that the firm of Newby-Davis, in conjunction with Cantey Hanger, be selected as outside counsel to provide legal services in the acquisition of right-of-way for Chisholm Trail Sections 5 and 6.

Director Barr stated that Newby-Davis had been involved in acquisition of right-of-way for the Southwest Parkway on behalf of the City of Fort Worth, and were familiar with the project.

Director Day made a motion to approve the hiring of Newby-Davis, in conjunction with Cantey Hanger, and Director Barr seconded the motion. The motion was approved unanimously. (Resolution No. 11-37)

8. Briefing and possible action on selection of outside counsel to provide legal services for the legal sufficiency review of the environmental document for the DNT 4B/5A project

Director Day stated that the Legal Services Committee decided at its meeting earlier in the day that Locke Lord Bissell and Liddell should continue to serve as outside counsel for the remainder of the environmental document, and made a motion to approve. Director Barr seconded the motion and the motion was approved 8-1, with Director Cagle voting nay. (Resolution No. 11-38)

9. Briefing and possible action on retaining a law firm to provide legal services regarding the Texas Lawyer TPIA request

Director Day stated that the Legal Services Committee recommended retaining the firm of Nesbitt Vassar McCown and Roden for legal services regarding the Texas Lawyer

TPIA request, and made a motion to approve. Director Barr seconded the motion and it was approved unanimously. (Resolution No. 11-39)

10. Briefing and possible action on engagement of Korn/Ferry International to conduct an executive search for the NTTA position of General Counsel (This item was pulled)
11. Briefing and possible action of a two year renewal on a contract with eVerge Group of Texas, Ltd. for PeopleSoft maintenance and support services

Clayton Howe, Assistant Executive Director Operations, stated that after negotiations, eVerge reduced the cost by \$10,000 per year if a two-year extension was approved instead of a one-year extension.

Director Nowels made a motion to approve and Director Cagle seconded the motion. The motion was approved unanimously. (Resolution No. 11-41)

12. Briefing and possible action of a stipend to the two unsuccessful proposers for the design and construction of Section 6 of the Southwest Parkway/Chisholm Trail Project (This item was considered following the Executive Session)

Director Day made a motion to approve a stipend and Director Nowels seconded the motion. The motion was approved unanimously. (Vice Chairman Denison was not participating when vote taken) (Resolution No. 11- 42)

13. Briefing and possible action on outside legal services protocols for the Legal Services Committee (This item was moved to follow the Executive Session)

#### **CONSENT AGENDA (ITEMS 14-30)**

Chairman Vandergriff stated that item 14, and items 22 through 29 would be removed from the Consent Agenda.

Chairman Vandergriff entertained a motion for approval of items 15 through 21, and item 30 of the Consent Agenda.

Director Moore made a motion to approve items 15 through 21, and item 30 of the Consent Agenda and Director Shepard seconded the motion. The motion was approved unanimously. (Resolutions 11-45 through 11-51, and Resolution No. 11-60)

14. Resolution approving the minutes of the February 16, 2011 Board of Directors meeting

Director Day made a motion to approve the minutes with a revision on page 5 changing the wording from "the legal services plan created by the Legal Services Committee" to "the legal services plan created by the ad hoc committee on legal services". Director Barr seconded the motion and it was approved unanimously. (Resolution No. 11- 44)

15. Approval of a procurement of Oracle PeopleSoft and Hyperion annual software maintenance and support for 2011
16. Approval of the purchase of Idris software license upgrades
17. Approval of an extension of a contract with SecureNet for security systems integration services through December 31, 2011
18. Approval of the extension of contract with Zenisys Corporation for support and maintenance of SCIP and ARM applications through December 31, 2011
19. Approval of a construction contract with Craig Olden, Inc. for the stabilization of Walls 3L, 3R, 4L, 4R on the President George Bush Turnpike at State Highway 114 in an amount not to exceed \$1,188,341.00
20. Approval of the Utility Adjustment Agreement reimbursement to City of Grand Prairie, City of Irving, AT&T, Verizon, Atmos Energy, Oncor Electric and Time Warner Cable for the PGBT-Western Extension (SH 161) Corridor
21. Approval of the 2012 budget calendar/5 year capital plan calendar

After some discussion of items 22 through 29, Chairman Vandergriff entertained a motion for approval. Director Moore made a motion to approve the items and Director Barr seconded the motion. The motion was approved unanimously. (Resolutions No. 11-52 through 11-59)

22. Approval of a contract with SEMA Construction, Inc. for construction of Section 4 of Southwest Parkway in an amount not to exceed \$59,959,713.43
23. Approval of a contract and work authorization with Brown & Gay Engineers, Inc. for construction management services on Southwest Parkway Section 4 in an amount not to exceed \$4,416,000.00
24. Approval of a contract and work authorization with MACTEC Engineering and Consulting, Inc. for construction materials testing services on Southwest Parkway Section 4 in an amount not to exceed \$972,811.00
25. Approval of a supplemental agreement with Kennedy Consulting, Ltd. for design services during construction on Southwest Parkway Section 4 in an amount not to exceed \$300,000.00
26. Approval of a contract with Granite Construction Company for the design and construction of Southwest Parkway/Chisholm Trail Section 6 in an amount not to exceed \$167,755,000.00

27. Approval of a contract and work authorization with HDR Engineering, Inc. for construction management services on Southwest Parkway/Chisholm Trail Section 6 in an amount not to exceed \$5,475,500.00
28. Approval of the purchase of mitigation banking credits for impacts to jurisdictional waters and wetlands resulting from the construction of Southwest Parkway/Chisholm Trail in an amount not to exceed \$2,026,780.00
29. Approval of the acquisition of certain properties as necessary for the construction, operation and maintenance of Southwest Parkway/Chisholm Trail sections 5 and 6
30. Approval of the 2011 M/WBE industry-specific goals for construction and professional services

### **Briefing**

31. Briefing on SH 170 Section 2 environmental process with RTC

Elizabeth Mow, Director of Project Delivery, briefed the Board on the SH 179 Section 2 environmental process with RTC, and provided options for the Board to consider. Ms. Mow and Michael Copeland, Wilbur Smith Associates, addressed questions of the Board. After some discussion, Ms. Mow indicated that staff would meet with Tarrant County and work with NCTCOG staff on an overall schedule and update the Board.

### **Reports**

32. Business Diversity Activity Report March 2011

A report was provided in the agenda packet.

33. RTC briefing

Mr. Clemson stated that the RTC approved the extension of the SH 161 concession payment to May 13, 2011 at its meeting on March 16<sup>th</sup>.

34. Executive Director Report

No comments were made under this item.

### **35. EXECUTIVE SESSION**

Chairman Vandergriff called the Board into Executive Session at 11:05 a.m. and reconvened the meeting into open session at 12:45 p.m. No final action, decision nor vote with regard to any matter was taken during the Executive Session.

- A. Subsection 551.071, to receive advice from legal counsel about pending or contemplated litigation and/or settlement offers or other legal matters

1. Collin County ILA
  2. James Construction Group, LLC. V. NTTA, Case No 366-00928-2011
  3. Proposed settlement of condemnation litigation against Trent Family, L.P., Parcel 30-02
- B. Section 551.072, to deliberate the purchase, exchange, lease, or value of real property
- C. Section 551.073, to deliberate regarding gifts and donations
- D. Section 551.074(a) (1), to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee
1. General Counsel
- E. Section 551.076, to deliberate regarding security devices

### 36. CONSIDERATION OF ITEMS FROM EXECUTIVE SESSION

- A. 1 Director Moore made a motion to approve the interlocal agreement draft as presented by counsel with Collin County and North Texas Tollway Authority. Director Willard seconded the motion and it was approved unanimously. (Vice Chairman Denison was not participating when vote taken) (Resolution No. 11- 62)

Item 12 was considered at this time.

- A. 3 Director Moore made a motion to approve a settlement of condemnation litigation against Trent Family, L.P., Parcel 30-02. Director Barr seconded the motion and it was approved unanimously. (Vice Chairman Denison was not participating when vote taken) (Resolution No. 11-61)

### ADJOURNMENT

Director Moore made a motion to adjourn and Director Nowels seconded the motion. The meeting adjourned at 12:48 p.m.

  
Victor T. Vandergriff, Chairman

  
Ruby Franklin, Secretary