

LONE STAR RAIL DISTRICT

Board Meeting Summary Friday, September 7, 2012

10:00 a.m.

Hill Country Event Center
107 Centerpoint Road
San Marcos, Texas

1. Call to Order

Notice was duly posted and a meeting of the Lone Star Rail District Board was held on Friday, September 7, 2012. Board Chairman Sid Covington presided, noted a quorum was present, and called the meeting to order at 10:14 a.m.

Participants:

Sid Covington, Chairman

Tullos Wells, Vice Chairman

Tommy Adkisson

George Antuna, Jr.

Mariano Camarillo

Sheryl Cole

Will Conley

Dean Danos

Sarah Eckhardt

Karen Huber

Debbie Ingalsbe

Sandy Nolte

Kim Porterfield

Other participants included Ross Milloy, Joe Black, Alison Schulze (Rail District), Bill Bingham (Rail District General Counsel), Jennifer Moczygamba (TxDOT Rail Division), and Scott Trommer (Public Financial Management).

2. Chairman and Member Comments

Chairman Covington announced that San Antonio appointed Council Member Carlton Soules to represent the city on the Rail District Board. The Chairman also announced that he made assignments to the Board's four standing committees in July, and directed the members' attention to the list of assignments included in the agenda packet. Members who would like to volunteer on other committees or change their committee assignments should contact Chairman Covington. There were no additional comments.

3. Items for Consent

A. Consider Approval of June 1, 2012 Board Meeting Summary

B. Consider Approval of Contract Amendment for A3 Design

C. Consider Acceptance of FY11 Audit of Lone Star Rail District

D. Consider Acceptance of Risk Assessment and Monitoring Policy for Financial Functions

E. Consider Approval of Financial Statement

Chairman Covington noted the five consent items would be considered for approval by one motion, and any item could be removed from the consent agenda upon a Board member's request. There was no discussion. Upon a motion by Vice Chairman Tullos Wells and second by Commissioner Karen Huber, the Board unanimously approved the consent agenda items.

4. **Committee Report: Finance Committee Meeting August 24, 2012**

Council Member Kim Porterfield, Chair of the Finance Committee, directed the Board's attention to the meeting summary included in the agenda packet and noted there was a great turnout by Committee members to fully vet the agenda items. Council Member Porterfield briefed the Board on the items considered on August 24:

- The Committee reviewed and discussed the proposed Fiscal Year 2013 reimbursement agreement between the Rail District and the Austin-San Antonio Corridor Council. The Committee voted unanimously to approve the FY13 reimbursement policy and to forward the Committee's recommendation for approval to the Board for action on Sept. 7. The Board will consider the reimbursement agreement under Agenda Item 7.
- The Committee reviewed and discussed the proposed Fiscal Year 2013 budget and voted unanimously to recommend the Board approve the budget. The Board will consider the FY13 budget under Agenda Item 7.
- The Rail District received a clean audit for FY11. The Committee heard a staff presentation on the audit and, after discussion, voted unanimously to accept the audit and recommend the Board accept the audit. The Board took action under the consent agenda, Agenda Item 3C.
- Staff presented a proposed policy on risk assessment and monitoring of finance functions. Upon discussion the Committee voted unanimously to approve the policy and to forward the Committee's recommendation to the Board for action on Sept. 7. The Board took action on the policy under the consent agenda, Agenda Item 3D.

There was no discussion. Board Chairman Covington thanked Council Member Porterfield for her leadership and for ensuring the Committee fully discussed and made recommendations to the Board on all the items, which are necessary to continuing the Rail District's operations in the coming year.

5. **Consider Executive Director's Report**

Ross Milloy briefed the Board on several items of interest:

- Staff is working in Travis and Hays counties to secure agreements on local operations and maintenance funding. Staff made a presentation to Austin's City Manager on August 14; a presentation to the City's Audit and Finance Committee is scheduled for Sept. 26. In Hays County, the Rail District team is meeting with city staffs and making presentations to city councils throughout the county; the last meeting was in Kyle on August 15. Rail District staff and leadership also met with the City Manager and staff in San Antonio on June 26 to begin laying out a tax increment financing plan. The team will be setting up meetings with staff from Bexar County and VIA to involve them in development of the TIF plan. Further meetings will likely be delayed until after the November elections.
- The Rail District's financial consultants are working on the finance plan. Scott Trommer with Public Financial Management (PFM) will brief the Board under Agenda Item 13. Staff has also been meeting with Alstom, Balfour Beatty, Parsons Brinckerhoff, AECOM, Argenta group and others to discuss public-private partnership financing and opportunities. Staff also met with Michael Morris of the North Central Council of Governments to discuss potential joint analyses of development opportunities between Dallas and the Austin-San Antonio corridor.
- In late July the Texas Transportation Commission awarded the Rail District \$2.5 million—\$2 million for the local match on the \$10 million CAMPO STP-MM funds awarded for the freight bypass, and \$500,000 for financial and business planning activities. The Board will consider funding for financial planning activities under Agenda Item 8.
- Public engagement activities and presentations in August included the New Braunfels Chamber of Commerce Transportation Committee, August 7; a Project Connect update to representatives of the Federal Transit Administration in Austin, August 13; a panel discussion for the Project Connect North Corridor study in Round Rock, August 16; TxDOT's IH-35

Planning and Environmental Linakges Study in San Antonio, August 16; and the San Antonio chapter of the Certified Residential Specialists, August 21.

- On July 30 staff conducted an orientation work session for new Board members George Antuna, Jr., Schertz Mayor Pro Tem; Sandy Nolte, New Braunfels Council Member; and Carlton Soules, San Antonio Council Member.

Mr. Milloy noted that other activities would be reported under the project-specific agenda items

6. Consider and Take Appropriate Action on Letter of Appreciation for Senator Kay Bailey Hutchison

Ross Milloy reported that Board members recommended the Rail District send a letter to Senator Kay Bailey Hutchison thanking her for her years of service, her efforts on improving transportation in the state, and her assistance on behalf of the Rail District. He directed the Board's attention to a letter included in the agenda packet, which would go out over the Board Chairman's and Vice Chairman's signatures. Upon a motion by Mayor Pro Tem George Antuna, Jr., and second by Board Vice Chairman Tullos Wells, the Board unanimously approved the letter of appreciation.

7. Consider and Take Appropriate Action on FY13 Austin-San Antonio Corridor Council-Lone Star District Reimbursement Agreement and FY13 Budget

Ross Milloy reported the Corridor Council provides administrative staff and offices for the Rail District, and the terms for reimbursement are outlined in the reimbursement agreement. As part of the annual budget process, staff presents the agreement to the Finance Committee to review and approve the apportionment of expenses. The Fiscal Year 2013 reimbursement agreement is included in the agenda packet and the Corridor Council's costs are reflected in the Rail District's FY13 budget under locally funded expenses, line items 4-28.

Board Chairman Covington noted the Board decided early on to use the Corridor Council for administrative functions instead of leasing stand-alone office space and hiring a large staff. The agreement with the Corridor Council reduces the administrative costs of the Rail District and is reviewed and updated each year as costs change.

Alison Schulze briefed the Board on the state and federal sections of the FY13 budget. State funds are shown in line items 29-44 and the sources include the 2009/2011 appropriation from the state legislature as well as the \$500,000 in State Mobility Funds awarded by the Transportation Commission in July. State funded expenses for FY13 reflect some new projects the Board will consider later in the agenda—for example, real estate/value capture consultants and financial planning, but for the most part the expenditures are focused on continuing current contracts. State funds also pay for the Rail District's two permanent, full-time staff positions.

Federal funds are shown in line items 45-60. Federal income includes two federal grants received by the Rail District in FY01 and FY06; of the original \$7.7 million, \$885,000 remains, and all proposed FY13 expenditures are to continue work on existing contracts. The federal STP-MM funds received from the Capital Area Metropolitan Planning Organization (CAMPO) are shown in a separate category, line items 54-60, because the MPO funds are earmarked for specific purposes—environmental studies on the passenger rail project and environmental studies on the freight rail bypass—and can't be comingled with the Rail District's grant funds.

Ms. Schulze reported the proposed FY13 budget was presented to the Finance Committee on August 24, and the Committee unanimously recommended that the Board approve the FY13 reimbursement policy between the Austin-San Antonio Corridor Council and the Rail District, and approve the FY13 budget.

Board discussion followed on the staff expenses shown under state funds, which include salaries as well as benefits, health insurance, taxes, and reimbursable expenses paid by the employees. Chairman Covington noted that a motion or recommendation from a committee doesn't require a second, and the Board unanimously approved the FY13 reimbursement agreement and the FY13 Rail District budget.

8. Consider and Take Appropriate Action on Amendments to Jacobs Contract for Environmental Studies on Passenger Rail

Alison Schulze directed the Board's attention to the back-up material in the agenda packet, which includes a memo that summarizes the amendments. The two amendments to be considered—financial planning tasks and coordination with Union Pacific—are unrelated except that they both fall under the Jacobs Engineering contract on passenger rail studies. The first amendment would authorize the expenditure of \$500,000 in state funds for financial planning tasks. The second amendment would add \$100,000 to the contract so that Jacobs could continue their technical support services regarding coordination with Union Pacific.

Ms. Schulze noted the Rail District was awarded \$500,000 by the Transportation Commission in July specifically for financial and business planning activities. Three preliminary scopes of work are included in the agenda packet that would advance the finance plan: continuing Knudson LP's work with local governments to secure agreements on local operations and maintenance (O&M) funding, authorizing R.L. Banks & Associates to calculate the benefits of the new freight rail bypass, and continuing Jacobs' project management and technical (e.g., GIS and mapping) services in support of the financial team. The preliminary scopes and fee estimates exceed the \$500,000 award by \$15,000. Staff recommended the Board approve the \$500,000 expenditure on financial planning tasks and authorize the Executive Committee to oversee and approve the final scopes of work and the allocation of funds among the three firms.

The second contract amendment would continue Jacobs existing work authorization for technical support and coordination with UP. The Rail District continues to make progress with UP, but staff relies on Jacobs' technical support to continue moving the projects forward. Staff recommended the Board authorize an amendment to add up to \$100,000 to continue Jacobs' services to support Rail District's work with UP.

Ms. Schulze summarized the staff recommendation:

- That the Board approve the expenditure of \$500,000 for financial planning tasks, and authorize the Executive Committee to approve the final scopes of work and oversee the allocation of the funds among the firms, and
- That the Board approve adding up to \$100,000 to Jacobs' contract to continue technical support and coordination with Union Pacific, and
- That the Board authorize the Board Chairman to execute the amendments including the associated interlocal agreements with TxDOT since the funding source is state funds.

Board discussion followed on reducing the fee estimates on financial planning tasks to stay within the \$500,000, the potential impact of the Census Bureau's new urbanized area designations on local funding, the importance of funding the state Rail Relocation and Improvement Fund, and asking the Austin and San Antonio MPOs to pass a joint resolution of support for rail relocation funding when the two MPOs meet together on November 9.

Upon a motion by Commissioner Karen Huber and second by Council Member Sandy Nolte, the Board unanimously approved the staff recommendation.

9. Consider and Take Appropriate Action on Authorizing Staff to Proceed with Procurement of Real Estate/Value Capture Consultant Services

Ross Milloy reported the Board authorized staff earlier in the year to begin the procurement process for a real estate/value capture strategy team. The value of the land along the existing freight line will increase when through freight is relocated and replaced with passenger service, so the consultant team would look at the potential for capturing the increased real estate value—that is, how the land might be developed and what the total value of the real estate might be. The calculations for developing a pro forma are linked to the analyses currently being performed by Capital Market Research and Knudson LP on the TIF financing element of the financial plan, and the information from the value capture analysis would get funneled back into the financial plan. Staff initially envisioned issuing an RFP/RFQ for the services, but it would be more efficient to use the Rail District's existing consultants who are already analyzing real estate issues rather than hiring a new team which would be delayed by a learning curve. Mr. Milloy recommended that the Board authorize up to \$250,000 for the additional services to be provided by existing consultants and authorize the Board Chairman to execute an interlocal agreement with TxDOT since the funding source would be state funds.

Board discussion followed on whether the consultants would analyze every station. Mr. Milloy noted the consultants would pick one station for the detailed analysis and make assumptions for the other stations. Upon a motion by Vice Chairman Tullos Wells and second by Mayor Pro Tem George Antuna, Jr., the Board voted unanimously to authorize \$250,000 for real estate/value capture services to be provided by existing consultants as outlined by staff.

10. Consider and Take Appropriate Action on Authorizing Procurement Process for Environmental Studies on Freight Rail Bypass and Authorizing TxDOT Administrative Fee

Alison Schulze briefed the Board on the status of securing the funding on the freight bypass environmental studies, and directed the Board's attention to the memo in the agenda packet that outlines the issues. On December 2, 2011, the Board authorized the Board Chairman to enter into an Advance Funding Agreement (AFA) with TxDOT to access the \$10 million in CAMPO STP-MM funds awarded for environmental studies on the freight bypass. In February 2012 Federal Highway Administration (FHWA) staff questioned the eligibility of the freight project for STP-MM funding. Since then the Rail District's leadership and staff have been working with FHWA, TxDOT, and CAMPO on the eligibility issue. In August 2012 FHWA agreed the freight project is eligible since passenger service can't be implemented until the through freight is moved; but, the Rail District must combine the passenger and freight projects in one environmental approval process, one environmental document, and one federal action.

The Rail District and TxDOT will terminate the existing AFA on the passenger project and replace it with a new AFA that includes both passenger and freight funding awards. The new approach does not affect the existing contract between the Rail District and Jacobs Engineering for environmental studies on the passenger rail project. Rail District staff is working with FHWA, TxDOT and CAMPO staff to develop the final AFA. The Board's approval in December 2011 to enter into an AFA is sufficient for the new AFA. However, the new AFA will include an administrative fee of up to \$200,000 to "cover the State's oversight activities for all off-system, federally funded projects." Staff recommended that the Board authorize the Board Chairman to execute the necessary AFA with TxDOT, which includes payment of an administrative fee up to \$200,000, and authorize staff to begin the procurement process for environmental studies on freight bypass.

Board discussion followed on the purpose of TxDOT's administrative fee; the schedule for the procurement process, which staff hopes to begin by the end of the year with consultant selection and contract negotiations anticipated in spring 2013; the status of Jacobs' work on the passenger rail studies, and how the two environmental efforts by two different teams will be coordinated without impacting the work done to date on the passenger component.

Upon a motion by Commissioner Debbie Ingalsbe and second by Board Member Dean Danos, the Board unanimously approved authorizing the Board Chairman to execute the AFA with TxDOT including payment of an administrative fee up to \$200,000, and authorizing staff to begin the procurement process for environmental studies on freight bypass.

11. Consider and Take Appropriate Action on Authorizing Procurement Process for Program Management Team

Ross Milloy reported that the magnitude of the combined environmental studies leads staff to recommend hiring a program management team to serve as an extension of staff to help manage the two environmental contracts and coordinate the two documents, and identify grant opportunities. Alison Schulze added that staff is managing a lot of projects, including projects with engineering cost estimates and plans, and it's important the Rail District have an independent, objective third party to assist staff not only with the engineering components of the environmental studies but also with overseeing the federal environmental process and taking advantage of grant opportunities by developing applications for funding. A high-end estimate for the contract could be as much as \$1 million over three years; the FY13 budget includes \$333,000 in state funds for a program management contract pending Board approval and authorization to begin the procurement process. Joe Black noted that the contract would not be a traditional program management contract but would be an on-call type contract so that when staff needs assistance, whether it's on engineering tasks or on grant applications, the program management team would be called on to address a specific need or task.

Staff recommended the Board authorize staff to begin the procurement process for a program management team or general engineering consultant, and authorize the Board Chairman to execute the necessary interlocal agreement (IA) with TxDOT to use state funds on the contract.

Board discussion followed on the type of individual or firm staff envisions for the contract; staff responded that due to the range of expertise required on the various tasks, it's more likely that a team would be selected rather than an individual. Upon a motion by Commissioner Karen Huber and second by Mayor Pro Tem George Antuna, Jr., the Board unanimously approved the staff recommendation.

12. Consider and Take Appropriate Action on Freight Planning Issues

Joe Black briefed the Board on the various elements of freight planning currently underway. On the Local Government and Stakeholder Engagement services contract, staff continues to meet bi-weekly with the Hahn, Texas team, Rail District staff, consultants, and Union Pacific representatives to coordinate messaging and to report on on-going outreach efforts. Staff has ramped up stakeholder engagement activities in San Antonio and Bexar County, developed messaging documents, and created a specific presentation for the Bexar County-San Antonio region with the cooperation of Board members from the area. Staff has met with nearly all the Tier 1 stakeholders—that is, elected officials and staff, priority stakeholders, and utility and electric suppliers in the areas most likely to be affected by the freight bypass. Staff is now beginning to meet with Tier 2 stakeholders, which include chambers of commerce and business organizations in the affected areas and elected officials and staff in the peripheral areas. Staff is also beginning outreach in

Williamson County based on feedback received in stakeholder meetings. Finally, staff has received a preliminary draft study on the economic benefits of the freight relocation.

On the alternatives analysis study of the freight bypass, the draft report is still under review. Bill Bingham is doing the initial review, then Mr. Black will conduct his review. Jacobs Engineering will address and incorporate the review comments in a final draft, and following a final review, staff will issue the final document that identifies viable alternatives to be taken into the environmental process.

Board discussion followed on the pending meeting with officials in Guadalupe County and several Board members asked to be notified when the meeting logistics are set. Commissioner Will Conley also directed staff to meet with the farming and ranching communities in the affected counties. Mr. Black encouraged all Board members to notify staff of stakeholders who should be on the meeting list so that staff can follow up.

13. Consider and Take Appropriate Action on Report on Status of Environmental and Engineering Studies on Passenger Rail Project

Joe Black reiterated that most tasks in the environmental contract are temporarily on hold pending the resolution of lead agency issues and combining the passenger and freight efforts into one environmental process; but a few tasks are on-going. One is joint operations planning with Union Pacific. Rail District staff and consultants and high-ranking officials from UP conducted a joint inspection and operations planning trip in June. As a follow up, Rail District staff and consultants met with UP engineering and network planning officials in Omaha on July 24 to debrief on the June joint inspection trip. Joint operations planning continues—UP is currently developing a network simulation model using RTC software to determine capacity and infrastructure needs to support reliable, on-time service for passenger trains while also allowing UP to continue local freight service. Rail District and Jacobs staff provided service plan and rail equipment performance planning data to UP in August to inform the rail network simulation modeling effort. The modeling will take three to four months to complete.

The other on-going task is local financial planning work by Joe Lessard, Knudson LP. Work continues to secure agreements for annual local operations and maintenance (O&M) funding. The team made a joint presentation on TIFs to Austin City Manager Marc Ott on August 14, and a presentation to the Council's Audit and Finance Committee is scheduled for September 26. In Hays County the team is beginning to meet with city staffs and making presentations to city councils; the last meeting was with Kyle city staff on August 15 to discuss alternative financial strategies for local funding.

Public Financial Management (PFM), a consultant on the finance team, is working out the details of the financial and P3 strategy the Rail District will follow in coming months to begin securing capital funds for the project. Mr. Black introduced Scott Trommer, PFM, for a brief update on the status of the financial plan.

Scott Trommer briefed the Board on the finance plan approach. The key objective of the effort is to develop a comprehensive funding and financing strategy for both the construction of the freight bypass as well as the construction and operation of passenger rail service. PFM, working in concert with all members of the finance team, is looking at the annual expenditures required for constructing both projects, the operating plan and operating needs for passenger service, and identifying a variety of funding sources both public and private. PFM met with the Project Connect finance team to integrate their strategy in the Rail District's financial plan, and is also working with Joe Lessard on the evaluation of alternative operating funding strategies using TIF revenues. PFM will develop a

detailed year-by-year cash flow analysis that takes a comprehensive look at each source of funds, identifies gaps, and identifies funding sources to close the gaps. At this point in the process PFM is developing a financial planning model that will be used to craft planning scenarios in an iterative process. PFM will present a conceptual level baseline financial plan by the end of the year, and then continually update the plan as new data becomes available. Once the model is constructed, PFM will rank alternative scenarios for the Rail District to consider and establish a blueprint for a financing strategy. Once a preferred baseline financial strategy is identified, PFM will begin informal discussions with the private sector on the elements that could be potential public-private partnership opportunities.

Board discussion followed on the viability of the federal TIFIA program, which was expanded with the adoption of MAP-21, the reauthorized federal surface transportation program. TIFIA loans can now fund up to 49% of project costs; it previously was capped at 33%.

14. Consider Status Report by TxDOT Rail Division

Jennifer Moczygemba, TxDOT Rail Division, briefed the Board on the Rail Division's on-going projects:

- The Rail Division is making presentations on the Oklahoma City-South Texas Corridor Study to the MPOs in the I-35 corridor as well as the My 35 Committee and the affected I-69 Committees. Ms. Moczygemba stated she would like to give the same presentation to the Rail District Board in December. The contract with CH2MHill should be signed within the month and the project should be underway shortly thereafter.
- The Rail District is using state funds on several contracts. The funds are contingent on rolling over the state appropriation to the next biennium. If legislature doesn't roll over the funds, the money won't be available to the Rail District.
- Ms. Moczygemba said she would look into the TxDOT administrative fee on the CAMPO funds. To date, the Rail Division has waived the administrative fee on previous Rail District AFAs.
- The statewide ridership analysis is moving forward. The model should be done in November. TxDOT will meet with corridor planners before the end of the year to discuss the methodologies used and how the statewide analysis can be used at the corridor level.
- The Dallas/Ft. Worth – Houston project is moving forward. TxDOT met with the Federal Railroad Administration on the scope of work and contract issues.
- TxDOT has an interagency contract with the Texas Transportation Institute to provide support in various areas such as surveys, general outreach, and website development.

Board Chairman Covington asked if TxDOT had included funding for the Rail Relocation and Improvement Fund in its legislative appropriations request (LAR). Ms. Moczygemba stated funding for rail relocation was in the original LAR, but it has been through several iterations and she didn't know if it was still in the LAR. She encouraged Board members to contact TxDOT's administration to ensure the funding request remains in the LAR. The original request was either \$50 million or \$100 million per year. TxDOT is developing the project prioritization process, which has to be in place before rail relocation funds can be distributed.

15. Consider Report on Legislative Issues,

Ross Milloy reported he developed a legislative agenda for the Rail District for the upcoming session. There's not enough money in the budget for all the legislative work that needs to be done, and he will try to raise the additional funds through other avenues. Mr. Milloy also encouraged all Board members and member jurisdictions to support the Rail District's priorities in their own legislative programs: The Rail District's 4-part agenda includes: 1) funding for the Texas Rail Relocation and Improvement Fund, 2) protect and extend any unspent funds from the \$8.7 million appropriation, and protect and extend the existing \$50 million appropriation to be used as state

matching funds for federal dollars, 3) get a \$2 million appropriation to replace the toll credit match with cash on the passenger rail environmental studies, and 4) \$46 million for preliminary engineering and final design on freight bypass project. Commissioner Adkisson urged Mr. Milloy to share his list of priorities with all elected officials in the Austin-San Antonio Corridor.

16. Concluding Board Member Comments (no action taken)

Chairman Covington announced the next meeting would be a meeting of the Executive Committee on October 5. The meeting will either be at the San Marcos Activity Center or by conference call, depending on the nature of the agenda items. The next Board meeting will be December 7 at the San Marcos Activity Center. There were no additional comments.

17. Public Comment

There were no public comments.

18. Adjourn

Chairman Covington adjourned the meeting at 11:56 a.m.