

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

MINUTES/PROCEEDINGS

Regular Meeting
Board of Directors
Thursday, September 27, 1984
District Board Room
425 South Main Street
Los Angeles

Called to order at 1:03 p.m.

DIRECTORS PRESENT:

Nick Patsaouras, President	Marvin L. Holen
Gordana Swanson, Vice-President	Michael W. Lewis
John F. Day	Jay B. Price
Carmen A. Estrada	Charles H. Storing

DIRECTORS ABSENT

Norman H. Emerson
Jan Hall
Nate Holden

1. Presentation of Certificates of Merit to:
 - a. Andrea Smith, Information Operator-of-the-Month;
 - b. James A. Badgett, Maintenance Employee-of-the-Month;
 - c. Josef V. Reichert, Operator-of-the-Month;and presentation of plaques by Director Holen.

2. Report of the President

President Patsaouras commented about the recent earthquake in the San Francisco area and the fact that BART was closed for a brief period because of the earthquake. He asked that a copy of the District's earthquake report, when it is available, be made available to the Board members.

2. Report of the President (Cont'd.)

President Patsaouras also commented that the District and the entire Los Angeles community is awaiting Governor Deukmejian's decision on Senate Bill 1463. The Governor must take some action prior to September 30, or allow the bill to become law.

President Patsaouras then requested the Board's concurrence to take Agenda Item No. 20C out of order. The Board concurred and a report on this item is listed in these minutes.

3. Report of the General Manager

General Manager Dyer spoke concerning matters happening at the federal level that affect public transportation. He mentioned the appropriations measure and the possibility of no appropriations and a continuing resolution. He also mentioned the authorization bill, and commented that there may be an additional authorization bill through 1987. He said that the Senate will be voting on the full authorization bill within a week, and he suggested that the Directors call on their representatives while in Washington for the APTA Annual Meeting.

Mr. Dyer concluded by requesting Board concurrence to add Item No. 20D to the agenda. This concurrence was granted.

4. Director Special Items

None

FACILITIES & CONSTRUCTION COMMITTEE REPORT (Items 5-6)

5. Authorized the General Manager to increase the Construction Contract Change Order authorization for the construction of offsite street improvements at Division 18 (Carson) to \$106,000, to allow construction of Broadway Street widening in accordance with the City of Carson's request; form of documents subject to approval of the General Counsel.

UNANIMOUS

6. Withdrawn from agenda by staff.

ADVANCE PLANNING COMMITTEE REPORT (Items 7-13)

7. Authorized the General Manager to enter into a Contractual Agreement with CalTrans for use of terminal facilities at LAX Transit Center; form of agreement subject to approval of the General Counsel.

UNANIMOUS

8. Approved minor route modification to Line 125 (Rosecrans Ave.) in the City of Norwalk.

UNANIMOUS

9. Approved minor route modification to Line 150 (Ventura Blvd.) in the Hollywood area of the City of Los Angeles.

UNANIMOUS

ADVANCE PLANNING COMMITTEE REPORT (Cont'd.)

10. Approved minor route modification to Line 206 (Normandie Ave.) in the Hollymont area of the City of Los Angeles.

UNANIMOUS

11. Approved alternate route of Lines 482 and 490 serving Lanterman State Hospital in the City of Pomona.

UNANIMOUS

12. Approved route modification to Lines affected by construction of the Civic Center Metro Rail Station.

UNANIMOUS

13. Authorized the General Manager to enter into an interagency transfer agreement with the City of Los Angeles for shuttle service in the San Pedro Terminal Island area; form of agreement subject to approval of the General Counsel.

UNANIMOUS

PERSONNEL COMMITTEE REPORT

14. Approved Side Letter of Agreement No. XXVI between the District and the Brotherhood of Railway, Airline and Steamship Clerks (BRAC) providing for a new starting rate of pay for future employees entering the Photolithographic Process Operator classification in the Print Shop.

UNANIMOUS

CONSENT CALENDAR (Items 15-19)

15. Authorized the General Manager to execute a contract with California Newspaper Service Bureau, Los Angeles, under RFP No. 078427 covering newspaper advertising service for a one-year period at a cost not to exceed \$105,000; with four one-year option periods at the election of the District; form of contract subject to approval of the General Counsel.

This project is partially funded under UMTA Grant No. CA-03-0130.

UNANIMOUS

16. Authorized the General Manager to execute a contract with AM Varityper, Burbank, the only bidder responding under Bid No. CA-03-0259-T covering a Phototypesetter System for a total bid price of \$69,990; subject to the concurrence of UMTA, with form of contract subject to approval of the General Counsel.

This procurement is funded under UMTA Grant No. CA-03-0259.

UNANIMOUS

17. Rejected non-responsive bid submitted by Taylor-Dunn and authorized the General Manager to execute a contract with Toro Pacific Distributing Company, City of Industry, the lowest responsible bidder under Bid No. 8-8423 covering procurement of four gas-powered yard carts for a total bid of \$28,500; form of contract subject to approval of the General Counsel.

UNANIMOUS

18. "Received and Filed" Report Calendar - September 6 - September 19, 1984.

UNANIMOUS

CONSENT CALENDAR (Cont'd.)

- 19 a. Approved Minutes of regular meetings held August 30, and September 13, 1984;
- b. Ratified bus stop zone changes as filed with the Secretary;
- c. Ratified temporary route diversions as filed with the Secretary.

UNANIMOUS

GENERAL ITEMS

20. New Business

A & B - Hearing of Protests Regarding Workers' Compensation Administration Contract Award

Mr. Dean Stern, an attorney representing EBI Services, Inc. appeared before the Board protesting the award of contract covering workers' compensation claims administration services. He spoke concerning the issue of considering this matter in a Closed Session Personnel Committee meeting and the fact that the original recommendation made by staff was 'knocked out of consideration' in that meeting. Following Mr. Stern's presentation, Director Holen commented that one of the documents referred to by Mr. Stern in his protest was the April 12 procedures. These procedures are applicable to the Metro Rail project. Mr. Stern responded that as a member of the public reads these procedures, it appears to apply to all contracts. Mr. Stern also stated that apparently this particular RFP 'fell through the cracks' and did not appear on the Report Calendar.

Mr. Richard Richards, an attorney representing Fleming & Associates also appeared before the Board. He stated that his client also joins in the protest filed by EBI. He stated that he is seeking a reconsideration, and a

New Business (Cont'd.)

fair reconsideration, of the award of contract by the Board. Mr. Richards stated that the remedy is to do the bid and selection process over again. He also claimed that bias and prejudice favoring Russo was clearly shown in the report. The Insurance Manager intended, at all stages of the process, to have Russo get the contract, and this effort was sufficient to damage the selection process. Mr. Richards also spoke to the response to the protest that was prepared by staff. He commented that this action by staff, to respond and recommend that the protest be rejected as being without merit, is a customary action by staff, but it does not solve the problem before the Board. The response admits the bias. The prejudice of the Insurance Manager worked and warped the selection process. Mr. Richards asked that the bid selection process be reopened.

General Manager Dyer outlined the options before the Board and summarized the protests. EBI is protesting because the Board did not follow staff recommendation. The objection by Fleming is that staff did not act properly in the recommendation because of prejudice against Fleming. In the responses, staff attempted to respond in great detail to each of the allegations. Mr. Dyer said that the Board has three options: (1) Stay with the present action. The contract with Russo becomes effective October 1, 1984. (2) The Board can terminate the contract award to Russo, reject the entire RFP process and start over with new proposals. The effect would be a 120-day delay in the selection of a new contractor. (3) Reopen negotiations. Direct staff to go back to the point in the procurement process where the negotiating committee would be reconstituted with new members. This new negotiating committee would go through the negotiating process and attempt to arrive at the best contract possible based on the proposals submitted.

Mr. Dyer went on to explain that the RFP process is a two-step process. First step is the formation of a Technical Evaluation Committee who evaluates the quality of the proposals. Following this process, the Negotiation Committee is responsible for negotiating with each of the firms, and all firms who have been judged by the Technical Evaluation Committee are considered equal by the Negotiation Committee.

New Business (Cont.d)

Mr. Dyer also stated that if the Board pursues Option 3, it will be necessary to cancel the contract with Russo and extend the contract with Fleming & Associates. Director Estrada asked how long it would take to complete the process in Option 3. Mr. Dyer stated it would take approximately 30 days.

Director Holen said that he would be more comfortable with Option 3, and he moved approval of this option. This motion was seconded by Director Swanson. At the request of Director Lewis, General Manager Dyer spoke to the difference between a lowest responsible bidder and a negotiation process. He said that a bid is when the lowest price wins. An RFP is another procedure and it does not consider price as the only item. In this particular contract, it was a competitive negotiation process.

Mr. Dyer also said that staff did recommend EBI on a very close call. The staff felt the proposals were very close and recommended EBI on the basis of being a bit lower in price than Russo.

Director Lewis made a substitute motion to stand by the staff recommendation to reject the protests as being without merit. Director Storing seconded this motion. Before the vote, Director Swanson asked the General Counsel to comment on the fact that the Personnel Committee meets in Closed Session. Mr. Powers stated that the Personnel Committee, which constitutes less than a quorum or majority of the Board, may meet in Closed Session and it is not a violation of the Brown Act.

Director Holen again stated his preference for Option 3, and he commented that it would be better for decisions such as these to be made in public. He is uncomfortable that the matter was decided contrary to staff recommendation without a fair chance for the proponents to be heard. Director Storing reminded everyone that no committee makes any decision. The Personnel Committee merely made a recommendation to the full Board and the Board took the action. Director Lewis also commented that the Board decided recently that they wanted options, not just a recommendation from staff.

New Business (Cont'd.)

On a call for the question on the substitute motion by Director Lewis, the motion failed on a Roll Call vote as noted below:

Ayes:	Lewis, Price, Storing, Patsaouras
Noes:	Day, Estrada, Holen, Swanson
Abstain:	None
Absent:	Emerson, Hall, Holden

On a call for the question on the motion by Director Holen, the motion failed on a Roll Call vote as noted below:

Ayes:	Day, Estrada, Holen, Swanson
Noes:	Lewis, Price, Storing, Patsaouras
Abstain:	None
Absent:	Emerson, Hall, Holden

Mr. Richard Hughes, attorney for Leonard J. Russo, appeared before the Board and upon question, was advised that the District has a contract with Leonard J. Russo. The effect of the above votes was that the Board does not recognize the validity of the protests and the original action of the Board regarding the award of contract to Leonard J. Russo stands.

C. Considered financial report on the Olympics Transit Service.

General Manager Dyer commented on the report on Olympic Transit Service. There is a \$5.1 million deficit, caused primarily by ridership levels at only 37% of estimated numbers. The expense side of providing the

New Business (Cont.d)

service was within the projected range. Mr. Dyer stated that there was a substantial amount of effort made during the Games to reduce costs. He continued that there are several reasons why, in the District's judgment, that the deficit occurred. During the planning process, the managers of all transit related agencies and the LAOOC agreed that a mode split of 40% of attendees at the Games would be served by public transit; it was assumed that all venue sites would be filled to capacity; many tickets were sold but not used; and there was a much larger audience of local people than had been projected. The boycott of the Games by the Soviet bloc also contributed to the difference between projections and reality, and the fact that the major contractor for the sale of the District's tokens defaulted on the contract also was a contributing factor. No one had anticipated the overall reduction of traffic in Los Angeles; CalTrans had estimated a 7% increase, but in reality, the traffic was 2-3% below the norm. In conclusion, the District had an expense total which was slightly under budget, but the deficit in the revenue projections resulted in a net operating deficit.

President Patsaouras asked what the options were. Director Holen asked for an estimate of the portion of the deficit that would not normally have been included in the District's regular budget. Mr. Scatchard responded that the total Olympic budget deficit would be \$4.5 in incremental costs, if these charges were excluded.

President Patsaouras commented that the District and the LAOOC were partners, albeit without a contract. He suggested that the District consult an outside attorney to discuss any legal obligation on the part of LAOOC.

General Manager Dyer recommended that a Committee of the Board meet with Mr. Uberroth and Mr. Usher of the LAOOC. Mr. Dyer also stated that the District planned the service against the worst case presented. It was necessary to plan this way because no one knew what was going to happen.

Director Price made a motion to authorize the President to appoint a committee to meet with the LAOOC, which motion was seconded and carried.

New Business (Cont.d)

Director Holen commented that the District actually had an out-of-pocket deficit of \$4.5 million. He suggested that if the District were to market the surplus token sets, it could generate approximately \$1.5 million. He also suggested that a discussion should be held with the Chairman of the LAOOC Executive Committee, and he recommended that the General Manager and the President schedule a meeting with him.

Director Swanson, after discussion, made a motion reaffirming the District's intent not to increase the regular fares nor reduce service to offset the Olympic Transit Service deficit, which motion was seconded and unanimously carried on a Roll Call vote.

Director Day then made a motion to hire outside counsel to advise the District on legal aspects regarding the relationship with the LAOOC, which motion was later amended to include 'at an appropriate time as determined by the Executive Committee of the Board'. This motion was seconded.

Director Storing spoke against the motion, indicating that if a Committee is going to meet with LAOOC, then it should be a 'peace mission'. Director Lewis stated that the District does not have any formal or informal agreement with the LAOOC. He believes that the District would have done what was necessary to provide transportation without any concession by the LAOOC. He further commented that the District is the only public agency that did not demand payment up front before delivering the service. The District has been lauded for the service that has been provided. As a gesture of good will, the LAOOC should be asked to, and they probably will, participate in the deficit that the District has to bear. Director Day commented that the suggestion that the District make up the projected shortfall from the sale of tokens came from the LAOOC.

On a call for the question regarding the retention of outside counsel, the motion failed on a Roll Call vote as noted below:

Ayes:	Day, Swanson, Patsaouras
Noes:	Estrada, Holen, Lewis, Price Storing
Abstain:	None
Absent:	Emerson, Hall, Holden

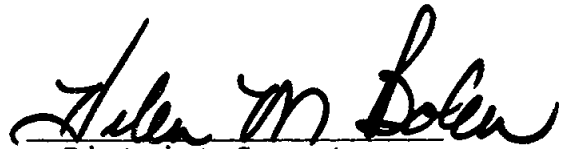
New Business (Cont.d)

- 20D. Authorized the General Manager and the Treasurer to execute documents related to the sale and leaseback of 59 buses with Johnson Controls Inc., of Milwaukee; form of documents subject to approval of the General Manager.

UNANIMOUS

- 20E. Mr. Greg Roberts appeared before the Board speaking on transit related matters.

The meeting adjourned at 2:57 p.m.


District Secretary