

DULUTH TRANSIT AUTHORITY

2402 West Michigan Street * Duluth, MN * (218) 722-4426

Board of Directors Meeting

Wednesday, May 27, 2015

DTA Board Room

Approximately 5:30 p.m.

Committee Present: John Brostrom, President Don Simons, Vice President Dave Schaeffer Wayne Nelson	Deb Putney Anthony Orman Leslie Evans Thomas Griffin	Committee Excused: Walter Kramer, Secretary/Treasurer	Committee Absent:
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DTA Staff Present: Dennis Jensen – General Manager Carla Montgomery – Director of Finance Jim Heilig – Director of Administration & Planning	Heath Hickok – Director of Marketing Lisa Paczynski – Administrative Secretary Nancy Brown – Procurement Manager
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Others Present:
Jim Lasher, LSA/SRF Consulting
Glen VanHeel, Mortenson Construction
Scott McLean, Mortenson Construction

Call to Order: President Brostrom called the meeting to order at 5:00 p.m.

Approval of Minutes

- * April 23, 2015 Board of Directors & Committee Meetings Minutes: A motion was made by Director Nelson and seconded by Director Orman to approve the April Board of Directors & Committee Meeting minutes. Motion approved.

Action Items

- * Resolution No. 80 – CTE Agreement for Proterra: A motion was made by Vice President Simons and seconded by Director Orman to approve the Board of Directors May 27, 2015 Resolution No. 80 concerning the approval of the Center for Transportation & Environment (CTE) Agreement for 6 Proterra electric buses. DTA staff, Jim Heilig, noted that CTE is opening a branch office in St. Paul. Manager Jensen added that Metro Transit is interested in purchasing an electric bus and are testing Proterra, New Flyer and Gillig buses; however, they did not participate in the LoNo grant so they have to purchase them through their regular capital program. Resolution carries.

MAY 2015 - RESOLUTION NO. 80

Concerning approval of a contract with Center for Transportation and the Environment (CTE).

Whereas; the DTA is required to work with an independent research and study group as part of the Federal Lo-No grant, and

Whereas; CTE was submitted as the study group for this project, and

Whereas, the DTA and CTE have agreed to work items and payment consistent with the grant application, and

Now, Therefore, Be it Resolved, that the DTA Board of Directors approves the contract with CTE of Atlanta, GA for a cost of \$600,400.00.

PASSED AND ADOPTED THIS 27TH DAY OF MAY 2015 BY THE BOARD OF DIRECTORS OF THE DULUTH TRANSIT AUTHORITY.

- * Resolution No. 81– City of Duluth Agreement for Community Based Police Officer Services: A motion was made by Director Nelson and seconded by Director Evans to approve the Board of Directors May 27, 2015 Resolution No. 81 concerning the approval of the City of Duluth Agreement for an on-site Police Officer. Director Orman abstained from voting. Resolution carries.

MAY 2015 - RESOLUTION NO. 81

Concerning approval of a 5-year contract with City of Duluth for a Community Based Police Officer. Whereas; the DTA and the Duluth Police Department have worked together to establish a Community Based Police Officer for the DTA, and
Whereas; the Duluth City Council has approved this action and the contract with the DTA, and
Now, Therefore, Be it Resolved, that the DTA Board of Directors approves the 5-year contract with the City of Duluth and authorizes Dennis E. Jensen to enter into the contract on behalf of the DTA.

PASSED AND ADOPTED THIS 27TH DAY OF MAY 2015 BY THE BOARD OF DIRECTORS OF THE DULUTH TRANSIT AUTHORITY.

- * Resolution No. 82 – Amendment to Contract for Owner’s Agent: A motion was made by Vice President Simons and seconded by Director Griffin to approve the Board of Directors May 27, 2015 Resolution No. 82 concerning the approval of the amendment to the Owner’s Agent contract. Resolution carries.

MAY 2015 - RESOLUTION NO. 82

Concerning an amendment to the Owner’s Agent Contract. Whereas; the Owner’s Agent Contract with LSA Design, now known as LSA/SRF, is set to expire in June of 2015 when the Multimodal Center was to be completed before that time; and
Whereas; the completion date of the Multimodal Center is now projected to be December 2015, and
Whereas; the State has required additional inspections for the Northwest Passage.
Now, Therefore, Be it Resolved; that the DTA Board hereby approves the contract amendment with LSA/SRF as per the detailed letter, not to exceed \$215,000.00.

PASSED AND ADOPTED THIS 27TH DAY OF MAY 2015 BY THE BOARD OF DIRECTORS OF THE DULUTH TRANSIT AUTHORITY.

- * Resolution No. 83– Sole Source Provider IBP Industries: A motion was made by Vice President Simons and seconded by Director Nelson to approve the Board of Directors May 27, 2015 Resolution No. 83 concerning the approval of the independent sole source provider, IBP Industries. Resolution carries.

MAY 2015 - RESOLUTION NO. 83

Concerning approval of a sole source provider for repair parts. Whereas; IBP Industries, Inc. makes the side and front body panels for Gillig buses; and
Whereas; under the “Unique or Innovative Concept” and the “Patents or Restricted Data Rights” clauses, they qualify as a Sole Source Provider for the DTA.
Now, Therefore, Be it Resolved; that the DTA Board hereby approves IBP Industries, Inc. as a Sole Source Provider for the procurement of Gillig bus body panels.

PASSED AND ADOPTED THIS 27TH DAY OF May 2015 BY THE BOARD OF DIRECTORS OF THE DULUTH TRANSIT AUTHORITY.

- * Resolution No. 84– Contingency for Skywalk Roofing: A motion was made by Vice President Simons and seconded by Director Griffin to approve the Board of Directors May 27, 2015 Resolution No. 84 concerning the approval of the contingency change with Mortenson Construction for skywalk roofing. Resolution carries.

MAY 2015 - RESOLUTION NO. 84

Concerning approval of a contingency change with Mortenson Construction.

Whereas; the Design Build Contract that DTA has with Mortenson requires Board approval of any expenditures from contingencies of \$50,000 or more; and

Whereas; the low bid for skywalk roofing received by Mortenson is in excess of the GMP price.

Now, Therefore, Be it Resolved; that the DTA Board hereby approves the contingency change from Mortenson Construction for skywalk roofing at \$64,147.00.

PASSED AND ADOPTED THIS 27TH DAY OF May 2015 BY THE BOARD OF DIRECTORS OF THE DULUTH TRANSIT AUTHORITY.

Old Business

- None

New Business

- * Route 13 Detour During 4th Street Construction: Director Nelson asked how the detour will be set up during the road construction. Staff member Heilig replied that the detour has not been finalized at this time, but it is not possible to have detour for the entire project; the detour will change as the construction project moves along. Manager Jensen stated that the road construction on Highway 23/Grand Avenue will be interesting, because there will only be one lane of traffic open each way. This means that when buses stop for passengers, traffic behind the bus will have to stop as well. This year, the road construction starts underneath I35 and continues to the Spirit Mountain entrance, and then next year it will continue to Morgan Park.
- * Multimodal Discussion: Director Orman thinks it's a conflict of interest when Mortenson Construction (General Contractor) is allowed to bid on certain phases of the construction project because they determine the bid estimate. Manager Jensen stated that the DTA Board of Directors decides whether or not to allow Mortenson to self-perform on any work. Staff member Heilig explained that Mortenson is required to submit a request to self-perform prior to the bidding process, and they also have to receive a minimum of 2 other responsive and responsible bids. Mortenson did not meet either of these requirements when bidding on the traffic control bid package; therefore, they would be considered a non-responsive and responsible bidder. Mr. Lasher added that Mortenson has not been allowed to self-perform on any phase of the project thus far. It is getting to a point in the project where it's possible to receive 0 bids because the construction market is flooded with work. This could mean that at times Mortenson may be the only entity that bids. Staff person Brown stated that this particular traffic control work is the exception, and Director Orman's concern is warranted, but that's why Staff member Heilig requested additional information. The other bids that Mr. Lasher referred to are all under the umbrella of the GMP which means Mortenson is still held to the GMP no matter their bid estimate. In regard to allowances, DTA staff and Mr. Lasher are monitoring them closely and have asked for additional details on the remaining allowances that haven't been bid yet. Manager Jensen reported that the DTA staff may take over certain elements of the project because they feel they can extract a better price than Mortenson. One of these projects is the south elevation lighting allowance that is estimated at \$80,000.

- * Mortenson still has not submitted the estimate for interior way finding signage, and there are some funds remaining from the contaminated soil allowance which could be used in other areas of the project. Director Orman stated that there must be a way to push Mortenson to submitting their estimates earlier. Director Orman heard that local contractors are tired of waiting for bid packages to be released and go find work elsewhere. Manager Jensen agreed that this has been the problem since the project began. Staff person Heilig announced that DTA staff are meeting with MnDOT and will ask them how to reduce costs in regard to the traffic control work. President Brostrom reminded everyone that three years ago when the Multimodal Facility project was discussed, the economy was not as robust like it is now. Back then there were plenty of contractors looking for work; now everyone is working, so naturally bids are coming in higher compared to three years ago.

Public Comment

- * None

Announcements

- * May Employee of the Month – The Employee of the Month Committee have selected Tom LaBorde as the Employee of the Month for May of 2015. Tom began his career at the DTA in January of 2014 as a Service Worker and was promoted to Junior Technician in January of 2015. Tom currently holds the position of Junior Tech/Facility Maintenance. He is in charge of all DTA property facility maintenance. Tom was born and raised in Crosby, Minnesota. He graduated from Crosby-Ironton High School in 1989. After graduation, he attended Mesabi Community College in Virginia, Minnesota for two years where he played as a forward on the basketball team. In 1992, Tom moved to Duluth and worked at the Northern Drug Company for 4 years until the company closed. Then, he worked at the Franklin Foods milk plant in Lincoln Park for 14 years where he was eventually promoted to the Head of Maintenance position. Tom's father, Clarence, retired in 2000 from a career working for the Teamsters Local 346. He held both the Secretary-Treasurer positions. The family moved to Duluth in 1989 to follow this career path. His mother Laurel was a stay-at-home-mom who took care of the four children. Tom's oldest brother, Michael, works on the gas pipeline and lives in Crosby. His sister, Nancy, lives in Monticello where she works in office administration and David works in Washington D.C. as the Pipeline Director for the International Teamsters. Tom has been married to his wife, Jessica, for 20 years and they have three children. Jessica has been the Administrative Assistant at the Teamsters Local 346 office since 1995. Their oldest son, Timothy, is 21 and a shop worker at Zenith Springs. Daniel who is 17 goes to school at Esko High School and works at Sears. Their youngest, Dale, is 10 and is in the 5th grade at Esko Elementary School. The family enjoys going to their RV on Sturgeon Lake in the summer and bow and rifle hunting for deer in the autumn. When asked about working at the DTA compared to his previous employers, Tom stated that it is a different pace then what he was used to at Franklin Foods. "People are very good here and it's been an easy transition. I just come to work every day and do my best," Tom said. The DTA commends Tom LaBorde for his dedicated professionalism and congratulates him on being selected Employee of the Month for May of 2015!
- * June Employee of the Month – The Employee of the Month Committee has selected Tom Szukis as the Employee of the Month for June of 2015. He began his career at the DTA in May of 1981 as the Director of Specialized Transportation and was promoted to Director of Safety in 1983. He was previously Employee of the Month in December of 1994. Tom was born in Cambridge Springs, Pennsylvania and then his family moved to Louisville, Kentucky when he was only two years old. He graduated from Southern High School in 1970 and attended Eastern Kentucky University from 1970 to 1974. Tom has been married to his wife, Sharon, for 42 years. She owns "The Essence of Health" retail store in the Stone Ridge Shopping Center. Tom and Sharon have two children. Kerry is 37 years old and works as a Registered Nurse (RN) in San Francisco, California. Kirk, their 33 year old son works for Minnesota

Energy. His twin daughters, Clara and Ellie, are 12 years old. Tom's first job out of college was at General Electric where he was an Assembly Line Worker. He then worked at the Career Education and Training Association (CETA). His first transit-related position was in 1975 at the American Red Cross where he worked as a Dispatcher for the paratransit "Wheels Program." He was promoted to Operations Manager in 1979 and held that position until 1981 when he began his career at the DTA. Tom received a call from Dennis Jensen in February of 1981 and visited Duluth for an interview in March. He was hired as the Director of Specialized Transportation in May and helped develop the Specialized Transportation Ride program at the DTA which is now known as STRIDE. After working for two years in that position, he was promoted to the Director of Safety and began developing a formal 28-day training program for new bus operators. To this day, the program is still in place with more than 250 graduates. The DTA won a number of American Public Transit Association (APTA) safety awards, due in part to these new programs. In 1980, the DTA averaged 230 accidents a year. In contrast, by the year 1990 that number had dropped to only 40 accidents a year. A new insurance program through the MN Insurance Pool and Self-Insured Retention Program likely has saved the DTA several millions of dollars over the years, due largely to Tom's efforts. In his spare time, Tom is an avid outdoorsman who loves to fish and enjoys traveling. He has visited Alaska eight times and Hawaii five times. Upon retirement, Tom's goal is to purchase a modest-sized travel trailer and visit all 50 states. When asked about working at the DTA for nearly 35 years, Tom mentioned how things have evolved over time. "When I came to work here, I came to a dysfunctional and somewhat toxic environment," Tom said. "30 years later, management and labor have a great relationship and the entire staff professionally serves the Twin Ports community well." The DTA commends Tom Szukis for his dedicated professionalism and congratulates him on being selected Employee of the Month for June of 2015!

- * Closed Executive Board Meeting: Due to attorney-client privilege reasons, President Brostrom announced that at this time (5:30 p.m.), the DTA Board of Directors will convene in an executive session and asked certain DTA staff and any public members to leave the conference room. The purpose of this meeting is to discuss with the DTA's attorney the bus accident that occurred this past April. The grounds for closing this meeting is that closing the meeting is permitted by the attorney-client privilege, as allowed by Section 13D.05, subdivision 3(b), of the Open Meeting Law. It is anticipated that the closed Executive Board Meeting will be adjourned in one hour, and at that time the open portion of the DTA Board of Directors Meeting will be reconvened. Those DTA Board members present during the closed Executive Meeting were John Brostrom, Don Simons, Wayne Nelson, Leslie Evans, Dave Schaeffer, Tom Griffin, Deb Putney and Tony Orman. DTA staff present were Dennis Jensen, Jim Heilig, Carla Montgomery and Rod Fournier. Vice President Simons made a motion to discuss the next topic in an executive closed session rather than in an open meeting, and Director Orman seconded the motion. Motion passed.

DTA General Manager Dennis Jensen stated that on April 14, 2015, there was an accident in downtown Duluth involving two DTA buses. As a result of the accident, a number of claims have been made against the DTA for injuries, no-fault benefits, and property damage. More claims are anticipated in the future. The DTA has notified its insurer, Travelers, about the accident, and Travelers is actively involved in investigating the accident, the claims, and potential claims that may be made. The DTA requested, and Travelers has agreed, that attorney Tim Strom should be retained to represent and defend the DTA as to the current claims and potential future claims. Mr. Strom is present at today's closed executive session because the DTA Board wants to learn its attorney's assessment of the facts of the accident, the claims that have been made, the potential claims that may be made, the availability and strength of defenses against those claims, the nature or degree of the DTA's potential exposure, the recommended plan or strategy for dealing with those claims, and the status of the present investigation of the accident.

Mr. Strom has advised the DTA that this discussion should take place in a closed meeting to preserve the attorney-client privilege. He has advised that if those matters were discussed in an open meeting, he believes the DTA's litigation position, defenses, and ability to protect its interests—as well as the interests of its insurer—would likely be compromised. Mr. Strom also believes that, in order to have a free and candid discussion about these topics and preserve the attorney client privilege, the discussion must be held in a setting where claimants and potential litigants will not be privy to the discussion. His opinion is the need for absolute confidentiality outweighs the purposes of the Open Meeting Law, and justifies closing the meeting in order to preserve the attorney-client privilege. The Open Meeting Law allows public bodies to close meetings under certain circumstances. One of those circumstances is that a meeting may be closed if permitted by the attorney-client privilege.

After discussing the bus accident events with DTA Attorney, Tim Strom, Vice President Simons made a motion to close the closed Executive Board Meeting and reopen the regular Board of Directors meeting, and Director Schaeffer seconded this motion. Motion passed. Meeting adjourned at 6:30 p.m.

Adjournment

With there being no further business, a motion was made by Vice President Simons and seconded by Director Griffin to adjourn the May 27, 2015 regular Board of Directors and Committee Meetings. The motion was unanimously carried – meeting adjourned at 6:30 p.m.

Respectfully submitted,
Lisa Paczynski

John Brostrom, President

Date