

Metro Gold Line Foothill Extension Construction Authority SPECIAL Board Meeting
City of Arcadia Police Department, Community Room
250 West Huntington Drive
Arcadia, CA 91006
July 5, 2011
6:00 P.M.

1. Call to Order:

Chairman Tessitor called the meeting to order at approximately 7:09 PM.

2. Roll Call:

Member	Appointing Entity	Present	Absent
Voting Members			
Doug Tessitor, <i>Chair</i>	City of Pasadena	X	
Sam Pedroza, <i>1st Vice Chair</i>	SGVCOG	X	
Ed Reyes, <i>2nd Vice Chair</i>	City of Los Angeles	X	
Keith Hanks	City of South Pasadena	X	
John Fasana	LACMTA	X	
Non-Voting Members			
Lara Larramendi	Governor of California	X	
Bill Bogaard	City of Pasadena	X	
Daniel Evans	City of South Pasadena	X	
Alternate Members			
Michael Cacciotti	City of South Pasadena	—	—
Gerry Miller	City of Los Angeles	—	—
Mary Ann Lutz	SGVCOG	—	—

3. Pledge of Allegiance

Ed Reyes led the Pledge of Allegiance.

4. Public Comments on Items On/Off Agenda

Chairman Tessitor requested any public comments on or off the Agenda.

Mr. Tom Adams, Monrovia resident, addressed the Board with regard to on-going discussions between the City of Monrovia and the Construction Authority with respect to the Maintenance and Operation (M&O) facility real property. Mr. Adams indicated that the two parties should compromise or look at alternative locations for the M&O facility.

Mr. Christopher Sutton, representing George Brokate and Excalibur Properties, provided copies of letter to the California Attorney General for each of the Board members regarding alleged *Quo Warranto*. Mr. Sutton indicated that it was his belief that eight Board Members were in violation of state law due to incompatible offices

issues. Mr. Sutton indicated that state law prohibits people to concurrently service on a regional transportation agency and as a city council person. Mr. Sutton also indicated that various alternates and non-voting members of the Board were not allowed for according to the state legislation creating the Construction Authority. Mr. Sutton citing legal cases regarding these matters.

Mr. Henry Gray, Monrovia resident, addressed the Board regarding the possible sale of real property to the Construction Authority for the M&O facility. Mr. Gray expressed his concern regarding the nature of the ongoing discussions and urged the parties to come to a fair agreement.

Mr. Meaglia, attorney for Randy Linsalato and Michael Hoffman, addressed the Board regarding his clients property which is located in the proposed M&O facility. Mr. Meaglia indicated that until an agreement between the Construction Authority and the City of Monrovia for a large portion of land in the M&O facility is reached that there is no need to cause an eminent domain action against his clients. Mr. Meaglia also indicated that his clients have been in negotiation with the Construction Authority and are willing to continue to do so. Mr. Meaglia indicated that alternative sites for the M&O facility been reviewed and considered. Lastly, Mr. Meaglia requested that no hearing for public necessity be considered at this time.

Chairman Tessitor requested if there were any additional speakers, seeing and hearing none, Chairman Tessitor closed public comment.

Chairman Tessitor indicated that Board was now going to enter Closed Session. Chairman Tessitor adjourned the Board Meeting into Closed Session at approximately 6:12 PM.

Chairman Tessitor called the meeting back to order at 6:23 pm and indicated that on the advice of the General Counsel, Agenda Item 7.d. "Hearings of Public Necessity" would be continued until the August 10, 2011 Board meeting.

General Counsel Estrada indicated that prior to entering Closed Session he should have announced that the Closed Session was for items listed under Item 10 on the Agenda.

5. CEO's Monthly Report

Mr. Balian reviewed various critical path items including various agreements, the acquisition of the M&O properties, upcoming DB2 contact award in July; Master Cooperative Agreement with Caltrans, approvals of grade-crossings with the CPUC, work with the Army Corp of Engineers for the San Gabriel River bridge and as well as the legal challenge to the Phase 2A environmental report. Mr. Balian indicated continued work on the Project Definition Report for the Glendora to Montclair extension. Mr. Balian indicated that progress had been made on beginning work on the alternative analysis for the possible extension to Ontario Airport and that SANBAG was working with stakeholders for a funding commitment.

Mr. Balian present a video which provided and update on the Iconic Freeway Structure.

6. Consent Calendar

- a. Approval of Minutes of Board Meeting held June 8, 2011**
- b. Approval of Minutes of Special Board Meeting held June 20, 2011**

Chairman Tessitor requested a motion to approve the remaining items on the Consent Calendar. Board Member Fasana made a motion to approve the Consent Calendar. Board Member Pedroza seconded the motion which was then approved unanimously.

7. General Board Items

- a. Consideration of a Resolution Approving Certain Refinements to Phase II, Segment 1, and Adopting an Addendum to the Certified Final EIR for Phase II, Segment 1**

Mr. Balian provided the report. Mr. Balian indicated that the EIR was initially certified in 2007 with two addendums prior to the final addendum adopted in January 2011 approving the M&O facility and other ancillary changes. Mr. Balian indicate that since January 2011, minor changes have been identified including the 3M access road, TPSS location, soundwalls, parking facilities and other minor changes. Mr. Balian indicated that Mr. Chris Burner would review the proposed modification in detail.

Mr. Burner indicated that there are a total of five changes that are being proposed. Mr. Balian reviewed the following changes (1) addition of two traction power substations due to a Metro design change in 2010; (2) elimination of approximately 350 feet of soundwall on the south side of the alignment, east of Mountain Ave based upon a sound analysis; (3) relocation of a parking lot for the Duarte station by approximately 500 feet to east to the corner of Highland and Business Center Drive at the request of the City of Duarte; (4) purchase of a residence in Azusa which is 15 feet from the proposed light rail track to create a buffer zone for vibration and noise; and (5) an adjustment to the 3M access road as part of the M&O facility from Shamrock to Evergreen.

Chairman Tessitor opened the item for public Comment. Chairman Tessitor indicated that Mr. Robert Silverstein had submitted a request to speak on items 7.a., 7.b, 7.c, and 7.d. and inquired if he wished to speak on all items now or individually. Mr. Silverstein indicated that since Agenda Item 7.d. was removed from the Agenda, he would be agreeable to speak on the remaining items as long as it was understood that his comments apply separately to each Agenda item in the administrative record.

Mr. Silverstein provided written objections to the Board Secretary with regard to the proposed approval of the CEQA Addendum; Caltrans Agreement and 3M Agreement.

Mr. Silverstein indicated that with regard to the CEQA Addendum, that the proposed changes being proposed were not minor and therefore were not appropriate under CEQA guidelines. Mr. Silverstein indicated that due to the nature of the changes they should be circulated for public comment. Mr. Silverstein reviewed his various

objections to the CEQA Addendum which related to noise impact and historic resources impact. Mr. Silverstein indicated that the noise data used in the Addendum were out of date and an incorrect baseline was used. Mr. Silverstein indicated that Gonzalez house in Azusa is of significant historical cultural resources and was not properly analyzed. Mr. Silverstein indicated that the CEQA Addendum as presented was flawed and should not be approved.

Mr. Silverstein indicated with regard to the 3M Agreement that significant traffic and safety impacts would be created as well as the installation of quad parking gates and no PUC approval has been obtained. Mr. Silverstein indicated that the access road as discussed with take property from his client's property and that this would need his clients approval which he has not provided and will challenge. Mr. Silverstein indicated that if the item were approved, it would create a cloud over his client's property and additional liability issues.

Mr. Silverstein indicated with regard to the Caltrans Agreement that to the extent that it is based upon CEQA approval which since January 2011 are inadequate and are currently being challenged in court.

Chairman Tessitor requested if there were any additional speakers, seeing and hearing none, Chairman Tessitor closed public comment.

Chairman Tessitor requested a motion to approve Consideration of a Resolution Approving Certain Refinements to Phase II, Segment 1, and Adopting an Addendum to the Certified Final EIR for Phase II, Segment 1. Board Member Fasana made a motion to approve the item. Board Member Reyes seconded the motion which was then approved unanimously

b. Approval of Use and Improvement Agreement with 3M Company

Mr. Balian provided the report. Mr. Balian indicated that the proposed 3M Agreement would allow for certain use and alternations to the 3M site which have been discussed by both parties. Mr. Balian indicated that the modifications were necessary due to Metro operational needs for the M&O facility.

Chairman Tessitor requested if there were any additional speakers noting that Mr. Silverstein previously spoke on this item, seeing and hearing none, Chairman Tessitor closed public comment.

Chairman Tessitor requested a motion to approve Approval of Use and Improvement Agreement with 3M Company. Board Member Hanks made a motion to approve the item. Board Member Pedroza seconded the motion which was then approved unanimously

c. Approval of Master Cooperative Agreement with Caltrans and Approval of Caltrans Work Authorization to Phase 2A Alignment Project

Chairman Tessitor requested if there were any additional speakers noting that Mr.

Silverstein previously spoke on this item, seeing and hearing none, Chairman Tessitor closed public comment.

Chairman Tessitor requested a motion for Approval of the Master Cooperative Agreement with Caltrans and Approval of Caltrans Work Authorization to Phase 2A Alignment Project. Board Member Fasana made a motion to approve the item. Board Member Reyes seconded the motion which was then approved unanimously

General Counsel Estrada requested a two minute recess. Chairman Tessitor recessed the meeting

Chairman Tessitor called the meeting back to order at 6:55 pm. General Counsel Estrada indicated that in light of comments received by Mr. Silverstein, staff is recommended that the Board reconsider its approval of Agenda Item 7.a. Consideration of a Resolution Approving Certain Refinements to Phase II, Segment 1, and Adopting an Addendum to the Certified Final EIR for Phase II, Segment 1, to allow staff to review the information provided by Mr. Silverstein and prepare an appropriate response or recommend an alternate action. General Counsel Estrada indicated that since Agenda Item 7.b. Approval of Use and Improvement Agreement with 3M Company is dependent upon Agenda Item 7.a that the Board also reconsider its motion.

General Counsel Estrada indicated that a motion was needed to reconsider the Motion to Reconsider Agenda Items 7.a. and 7.b. Board Member Fasana made a motion to reconsider Agenda Items 7.a. and 7.b. and Board Member Reyes seconded the motion which was then approved unanimously.

General Counsel Estrada indicated that a motion was needed to defer Agenda Items 7.a. and 7.b. until the July 13, 2011 Board Meeting. Board Member Pedroza made a motion to defer Agenda Items 7.a. and 7.b. until July 13 and Board Member Reyes seconded the motion which was then approved unanimously.

General Counsel Estrada indicated that the Clerk of the Board does not have a clear record of the motion to continue Agenda Item 7.d. Hearing on Resolutions of Necessity until August 10, 2011 and requested that that the motion be reconsidered for the record. Board Member Reyes made a motion to continue Agenda Item 7.d. Hearing on Resolutions of Necessity until August 10, 2011, which was seconded by Board Member Pedroza and then approved unanimously.

d. Hearing on Resolutions of Necessity

- i. Consideration of Adoption of a Resolution of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests located at 525 E. Duarte Road in the City of Monrovia, and further Identified as Los Angeles County Tax Assessor's Parcel Number 8513-012-040, for Public Purposes, Namely for Public Transit Purposes.**

- ii. **Consideration of Adoption of a Resolution of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests located at 520 – 622 E. Evergreen Avenue in the City of Monrovia, and further Identified as Los Angeles County Tax Assessor’s Parcel Numbers 8513-012-032 to 036, for Public Purposes, Namely for Public Transit Purposes.**
- iii. **Consideration of Adoption of a Resolution of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests located at 1630 S. California Avenue in the City of Monrovia, and further Identified as Los Angeles County Tax Assessor’s Parcel Number 8513-012-043, for Public Purposes, Namely for Public Transit Purposes.**
- iv. **Consideration of Adoption of a Resolution of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests located at 1532 S. California Avenue in the City of Monrovia, and further Identified as Los Angeles County Tax Assessor’s Parcel Number 8513-012-054, for Public Purposes, Namely for Public Transit Purposes.**
- v. **Consideration of Adoption of a Resolution of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests located at 510 E. Evergreen Avenue in the City of Monrovia, and further Identified as Los Angeles County Tax Assessor’s Parcel Number 8513-012-055, for Public Purposes, Namely for Public Transit Purposes.**

Item was continued until August 10, 2011.

d. Monthly Project Status Report

Mr. Balian introduced Mr. Burner to provide the Monthly Update. Mr. Burner indicated that since the last Board meeting all the remaining grade-crossing applications have been submitted to the CPUC with 31 approved and six pending CPUC approval. Mr. Burner indicated that the final addendum to the DB2 contract had been issued and that final proposals were received on June 13th and are currently undergoing evaluation. Mr. Burner indicated that work continues on the parking facilities conceptual design and final negotiation with IBI to develop advanced conceptual engineering for the parking facilities. Mr. Burner indicated that an agreement with the City of Arcadia has been completed with regard to the Colorado St. bridge and station betterments. Mr. Burner indicated that over the next several months staff would be working to finalize station parking conceptual plans, final CPUC approvals and continued work on the IFS structure.

Chairman Tessitor requested if there were any additional speakers, seeing and hearing none, Chairman Tessitor closed public comment.

Chairman Tessitor requested a motion to receive and file the Monthly Project Status Report. Board Member Fasana made a motion to receive and file the item and Board Member Reyes seconded the motion which was then approved unanimously

8. General Counsel's Report

None.

9. Board Member Comments

None.

General Counsel Estrada reviewed the various items that would be considered in Closed Session and indicated that there will be no announcements.

10. Closed Session

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR G.C. 54956.8

- (a) Property: (1) 8513-012-804; (2) 8513-012-908I; (3) 8513-012-909;
(4) 8513-012-910; (5) 8513-012-911; (6) 8513-012-912

Agency Negotiator: Habib F. Balian and Wes Beverlin, Esq.
Negotiating Parties: Monrovia Redevelopment Agency
Under Negotiation: Price and terms

- (b) Property: 8513-012-043

Agency Negotiator: Habib F. Balian and Regina Danner, Esq.
Negotiating Parties: Hoffman Family Trust/Linsalato
Under Negotiation: Price and terms

- (c) Property: 8513-012-040

Agency Negotiator: Habib F. Balian and Regina Danner, Esq.
Negotiating Parties: Walter Cleveland
Under Negotiation: Price and terms

- (d) Property: 8531-017-022

Agency Negotiator: Habib F. Balian and Regina Danner, Esq.
Negotiating Parties: Peter & Yolanda Gutierrez
Under Negotiation: Price and terms

- (e) Property: 8531-017-021

Agency Negotiator: Habib F. Balian and Regina Danner, Esq.
Negotiating Parties: Javier & Micaela Sanchez
Under Negotiation: Price and terms

- (f) Property: 8528-015-051
Agency Negotiator: Habib F. Balian and Regina Danner, Esq.
Negotiating Parties: Cal-Am Water
Under Negotiation: Price and terms
- (g) Property: 8625-005-041
Agency Negotiator: Habib F. Balian and Regina Danner, Esq.
Negotiating Parties: Rosedale Land Partners LLC
Under Negotiation: Price and terms
- 2. CONFERENCE WITH LEGAL COUNSEL:G.C. 54956.9(a)
Pending Litigation
 - (1) Excalibur Property Holdings, LLC and George Brokate v.
Pasadena Metro Blue Line Construction Authority
Case No. BS130732
 - (2) Excalibur Property Holdings, LLC and George Brokate v.
City of Monrovia et. al.
Case No. BS129985
- 3. CONFERENCE WITH LEGAL COUNSEL(G.C. 54956.9(b))
Anticipated Litigation:

A point has been reached where, in the opinion of the Authority Board on the advice of its legal counsel, based on facts and circumstances that might result in litigation but which the Authority believes are not yet known to potential plaintiff or plaintiffs, there is a significant exposure to litigation against the Authority.

11. Adjournment

There were no other reportable actions as a result of closed session and the meeting was adjourned at 7:20 pm.