

Napa County Transportation and Planning Agency (NCTPA)

Board of Directors

MINUTES

Wednesday, June 17, 2009

1:30 p.m.

ITEMS

1. Call to Order

Chair Jim Krider called the meeting to order at 1:30 p.m.

2. Pledge of Allegiance

Betty Rhodes led the salute to the flag.

3. Roll Call

Members Present:

Leon Garcia	City of American Canyon
Joan Bennett	City of American Canyon
Jack Gingles	City of Calistoga
Jim Krider	City of Napa
Jill Techel	City of Napa
Mark Luce	County of Napa
Keith Caldwell	County of Napa
Del Britton	City of St. Helena
Eric Sklar	City of St. Helena
Lewis Chilton	Town of Yountville
Cynthia Saucerman	Town of Yountville

Members Absent:

Michael Dunsford	City of Calistoga
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Non-Voting Members Present:

JoAnn Busenbark	Paratransit Coordinating Council
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Chair Krider stated as requests were made, he is moving Board Item 10.2 (Mission, Policies, and Revised Bylaws for Napa County Arts and Cultural

***MSC - Motioned, Seconded, and Unanimously Carried**

Commission) after the Consent Items and Board Item 9.2 (ESRC Report for RFP #09-01 Operations, Maintenance of Facilities, and Maintenance of Equipment of the NCTPA) before Board Item 9.1 (Public Hearing on the NCTPA FY 2009-10 Budget and Approval of Resolution No. 09-22 adopting the NCTPA FY 2009-10 Budget)

4. **Public Comment - None**
5. **Chairperson, Board Members' and Metropolitan Transportation Commission (MTC) Update**

No reports given

6. **Directors Update**

Paul W. Price, Executive Director

Introduced Tom Roberts, NCTPA's new Manager of Finance, who began on June 8, 2009 and Tony Onorato, who is currently under contract to assist NCTPA in preparing the FY 09/10 budget.

7. **Caltrans Update**

Kelly Hirschberg, Caltrans, provided an update on the status of various projects located throughout the county.

George Blackstock, requested information on how pedestrian will cross the Rutherford Roundabout.

8. **CONSENT ITEMS (8.1 - 8.7)**

MSC* BRITTON / TECHEL to APPROVE Consent Items 8.1 – 8.7

- 8.1 **Agency Contracts and Projects Lists**

Information Only

Provided for Board review was a list of current and ongoing contracts as well as a list of currently identified NCTPA projects.

- 8.2 **Approval of NCTPA Professional Services Agreement No. 09-07 with Charles Lamoree**

Board action approved Agreement NCTPA 09-07 contracting with Mr. Charles O. Lamoree, esq., for legal services as it pertains to specialized federal, state, and regional transportation law requirements. The contract will run through June 30, 2010 for an amount not to exceed ten thousand dollars (\$10,000).

*MSC - Motioned, Seconded, and Unanimously Carried

8.3 Approval of Resolution 09-25 for NCTPA Credit Card Policy

Board action approved Resolution No. 09-25 establishing a credit card policy for NCTPA transit fleet fuel card operational purposes.

8.4 Approval of FY 09/10 Blanket Purchase Orders (BPO) for NCTPA and Transit Services Program and Services

Board action approved FY 09/10 Blanket Purchase Orders (BPO) for NCTPA and Transit Services programs and services with specific vendors. BPO balances have been programmed in the FY 09/10 Budget

8.5 Brown, Armstrong FY 07/08 Independent Audit Contract Amendment, Contract No. 08-22

Board action approved authorizing the Executive Director to amend Contract Agreement No. 08-22 with Brown Armstrong from a maximum value of \$39,960 to \$60,000 for the performance of audit services for FY 07/08.

8.6 Resolution 09-21 American Recovery and Reinvestment Act Supplemental Transit Funding—Preventive Maintenance for Transit Service

Board action approved Resolution No. 09-23 in support of the Metropolitan Transportation Commission (MTC) filing of an American Recovery and Reinvestment Act (ARRA) Supplemental Transit Funding application for \$157, 658 for preventative maintenance for public transit services and ADA Paratransit operating assistance.

8.7 Approval of Resolution 09-24 Transportation Development Act (TDA), Regional Measure-2 (RM-2), and State Transit Assistance (STA) Fund Request to MTC for FY 2009-10

Board action approve Resolution 09-24 submitting a TDA claim for Article 4 (Vine funds), 4.5 (Vine Go funds) & 8 (Planning funds); a State Transit Assistance (STA) claim; and a Regional Measure (RM-2) claim for funds to support the FY 09/10 Operating, Capital and Administration Budgets.

10. INTERJURISDICTIONAL ISSUES FORUM

10.2 Mission, Policies and revised Bylaws for Napa County Arts and Cultural Commission

Diane Damé Shepp, Commissioner, Napa County Arts and Cultural Commission (NCACC), reviewed the NCACC Mission, Goals and

*MSC - Motioned, Seconded, and Unanimously Carried

Objectives (as provided in Attachment 1, page 136 of the June 17, 2009 NCTPA Board Agenda packet), as well as, the Proposed Bylaws (as provided in Attachment 2, page 138 of the June 17, 2009 NCTPA Board Agenda packet). Ms. Damé Shepp requested the City of American Canyon appoint a new representative to the Commission as theirs recently resigned. Further, Ms. Damé Shepp requested that the NCACC be placed as a regular NCTPA agenda item on at least a quarterly basis so that the NCACC can keep the Board informed of their efforts to date.

MSC* GINGLES / GARCIA to APPROVE the Mission, Goals and Objectives, the Policies and Guidelines, and the Revised Bylaws for Napa County Arts and Cultural Commission. Further, that the Napa County Arts and Cultural Commission be placed on the NCTPA Board agenda as a regular item on a quarterly basis.

9. REGULAR AGENDA ITEMS – TRANSPORTATION

9.2 ESRC Report for RFP #09-01 Operations, Maintenance of Facilities, and Maintenance of Equipment of the NCTPA

Paul W. Price, Executive Director, provided a review of the Request For Proposal (RFP) process for procuring services for the operation and maintenance of facilities and equipment of the NCTPA Transit Services, as well as, the Evaluation Report from the Evaluation and Selection Recommendation Committee (ESRC) (as proved in the staff report on pages 89-93 of the June 17, 2009 NCTPA Board Agenda packet). NCTPA received two proposals, one from MV Transportation and one from Veolia Transportation.

Mr. Price stated that NCTPA received a protest from Veolia Transportation on June 16, 2009 regarding staff's recommendation (to award the contract to MV Transportation). Both proposals (MV Transportation and Veolia Transportation) scored very closely with each other with just a four-point difference between the two proposals. When the ESRC scored the specific area of qualification and experience, the major area in which there was a point difference was the qualification and experience regarding the safety record. Mr. Price stated what drove this was that the NCTPA received its yearly CalTIP (California Transit Insurance Pool) report on April 2, 2009. This report showed NCTPA ranking poorly in terms of accident loss. The ESRC took a look at this (CalTIP report information) in comparisons of other transit properties in the area to determine the average cost per accident rate over a three year period (FY 05/06, 06/07, and 07/08). This information was taken into consideration by the ESRC when scoring the proposals.

Board Member Luce asked for clarification that the numbers he read (in the table provided) are dollar losses and that they don't necessarily

***MSC - Motioned, Seconded, and Unanimously Carried**

reflect number of incidents. Obviously large dollar losses will translate into losses, so as he understands it, (this table) is more of an indication of how costly it is to have an accident in Napa verses other areas. It doesn't really necessarily reflect the safety record of that involved, it is just the cost of resolving those issues. It is a norm against what CalTIP insures and is not a norm against the National Standard of any kind. Further, stated that the report is great for an insurer, but is a financial instrument and not safety instrument and it of concern to him that it is being used to evaluate a company's safety (record).

Paul W. Price, Executive Director, stated Mr. Luce's concern was also a concern shared NCTPA. Therefore, staff not only looked at the CalTIP information but also of NCTPA's experience (loss) ration over the course of the last three (3) fiscal years; comparing severity, frequency, and the average total incurred cost per claim to the CalTIP norm. Staff did review (Veolia's) individual incidents for preventable and non-preventable accidents. In 2008, Veolia had sixteen (16) classified preventable accidents out of a total of twenty-nine (29) incidents that occurred which drove the experience ratio. There was concern among the members at the CalTIP Board meeting in April 2009 that NCTPA's high incident rate would drive the cost of the insurance rates up. Therefore, included this proposal is the requirement that the selected contractor is responsible for covering the insurance and the insurance cost as a part of their contract. The (insurance) requirement doesn't mitigate our (NCTPA) responsibility to ensure a safe transit system as we possibly can. These (safety) reviews weren't taken lightly, they were taken into deep consideration and are where the major differential separated the point spread (of the two proposals) since the costs were so close.

Susan McGuigan, NCTPA Legal Counsel, outlined the options for the Board to proceed awarding the contract for the transit serviced given the protest received by NCTPA from Veolia Transportation. Several options are available to the Board under two different standards. The standards are: (1) NCTPA's 2006 Policy Manual and (2) the actual Request for Proposal (RFP # 09-01). The options are (1) the Board can suspend the contract approval until resolution of the protest. The Board can make a decision to suspend the current process for the contract approval for the transit services until we (NCTPA) resolve this protest (from Veolia) and (2) the Board can proceed and award the contract, it is in the Boards discretion to do this, to either party. The Board has the discretion to award it (the contract) to MV or Veolia. The Board just needs to make a decision to which one (MV or Veolia) is more advantageous to NCTPA and the region. However, if the Board proceeds, they will need to make findings in one of these three different relevant criteria. The criteria are: (1) is it urgently required, (2) the performance would be unduly delayed or other undo harm to NCTPA, or (3) it is in the public interest.

Ms McGuigan summarized that Veolia Transportation raised three issues in their protest. The issues are: (1) NCTPA and the evaluation committee used a geographic preference, (2) improper calculation of cost points, and (3) they (Veolia) don't think the safety record was properly considered.

Ms. McGuigan further continued to explain NCTPA staff response on the protest. As NCTPA just received the protest, a legal brief on the protest has not been developed and the following response is from the NCTPA Executive Director's letter to Veolia Transportation in response to their protest letter. On the first issue, the committee used a geographic preference, NCTPA's Executive Director believes that rather than using a geographic preference, the Evaluation Committee used a differential, which looks at the differences and the components that make up all the criteria for deciding whether or no to approve this particular proposal.

Paul W. Price, NCTPA Executive Director, explained the requirements, which were included in the RFP. When the (Evaluation) Committee reviewed this (proposal), the corporate experience and the nexus of the corporate experience to this particular facility was a little bit better component, and not geographic performance based. There were no points given for being in California or anywhere else. It was the availability of those recourses to be readily available to NCTPA when and if we need them on a specific basis. In reviewing the proposals, the Evaluation Committee felt that MV provided this support in a better fashion.

Mr. Price continued in response to the second protest issue of improper calculation of cost points. This again is an area where proposers supplanting their own evaluation from the committee's evaluation of cost. Veolia did score higher in this area receiving 31 of 35 points. However, there are a number of cost factors that are considered in cost implication not just the total cost of baseline services, there are costs that are looked at in terms of the mobilization costs, where Veolia did better, and the anticipated extra work costs, where Veolia didn't do as well. Their (Veolia's) additional work cost were not concise and basically stated they were subject to change and were an estimate, where as MV provided an extra work cost estimate that was specific, definable, and guaranteed. MV scored better in this particular element.

Public Comment:

The following individuals spoke in support of awarding the Operations, Maintenance of Facilities, and Maintenance of Equipment of the NCTPA to Veolia Transportation.

Beth Kahiga, Napa Valley Support Services (NVSS)

***MSC - Motioned, Seconded, and Unanimously Carried**

Betty Rhodes, Paratransit Coordinating Council (PCC) Member
Charlene Hicks, Veolia Transportation
George Jar, Veolia Transportation
Dennis M. Rawlins, Veolia Transportation
Homer Stiltz, Veolia Transportation
Josette Bunski, Veolia Transportation
Steven Luches, Veolia Transportation
Charmaine Stith, Veolia Transportation
Ernestine Lawson, Veolia Transportation
Paula Darnielle, Veolia Transportation
Mike Griffis, Veolia Transportation
Sandra Showalter, Veolia Transportation
Drew Jones, Veolia Transportation
Reginald Reese, Veolia Transportation
Ed Remly, Veolia Transportation
Ron Bushman, Veolia Transportation
Reno Navarette, Veolia Transportation
Henry, Mohr
Daniel H. Sund of Calistoga (via letter read by Ernestine Lawson)
Jean Vincent Deale
Celine Regalia, Napa Valley Hospice and Adult Day Services
George Blackstock
Joe Hennessey, Napa Resident (via comment card)
Rafael Miraanola, Veolia Transportation (via Comment Card)
Kenneth Schwarzbach, Veolia Transportation (via Comment Card)

The following individuals spoke in support of MV Transportation as the contractor for the Operations, Maintenance of Facilities, and Maintenance of Equipment of the NCTPA.

John Siragusa, MV Transportation
David Smith, MV Transportation
W.C. Pihl, MV Transportation
Kevin Klika, MV Transportation

Member Comment:

Jack Gingles stated the cost to stay with Veolia is less expensive than with MV Transportation, and with today's budget (crisis) seems that we (NCTPA) also need to go through this route. Keeping jobs is another issue that has been brought up today, as well as, customer relations. In his opinion, the point spread basically between the two (Veolia and MV Transportation) is not that much, with only a 4-5 points difference. Member Gingles further stated that he has no problem personally giving Veolia the contract but in view of the protest, he would ask that we (NCTPA) suspend it (award of the contract) and keep it with Veolia until the protest is resolved.

***MSC - Motioned, Seconded, and Unanimously Carried**

Jill Techel, agrees with Member Gingles, she stated that we have a protest and thinks we (NCTPA) has to go through that process and thinks that process will help to answer and define some of the question that have come up during the meeting. It will also give time to think over some of these safety issues and the various different ways in analyzing it. Once we go through the protest hearing, we can either have the Executive Director send the letter and we have the meeting or we can have the meeting. She is fine with staff sending out the letter, after the letter goes out schedule a protest hearing meeting. After the protest hearing, we would then set another meeting agendzing the contract.

Susan McGuigan, NCTPA Legal Counsel, clarified that since the protest (from Veolia) was just received yesterday (June 16, 209), Paul Price, NCTPA Executive Director has prepared a response (to the protest) but has not sent out the letter. Staff is prepared to mail out the response letter (to the protest) today. If the letter is mailed today, they (Veolia) have seven (7) days in which to appeal the decision. This process will satisfy the protest.

Mark Luce, requested for scheduling purposed, that a protest hearing be set.

Susan McGuigan, NCTPA Legal Counsel, stated that first the Board needs to make a motion whether or not the Board intends to suspend the contract approval until a resolution of the protest or whether the Board intends to proceed with the awarding of the contract on the agenda item which is before the Board.

Motion was made by Jack Gingles, seconded by Mark Luce, to suspend the contract award until resolution of the protest and appeal hearing is completed.

MSC* GINGLES / LUCE to APPROVE suspending approval of the contract award (to MV Transportation) until resolution of the protest and appeal hearing is completed.

Mark Luce further stated that he would like to better understand the NTD (National Transit Database) safety data that has been provided and requested setting a date for the appeal hearing.

Susan McGuigan, NCTPA Legal Counsel, stated that the Board has two choices: if the Board goes with the language of the Request for Proposal (RFP), Paul will send the letter decision today (June 17, 2009). They (Veolia) will have seven (7) days in which to protest the decision. Since all parties are here, it is Ms. McGuigan's recommendation that the Board would try to get an agreement with the parties that are present as to

which procedure they could use. Either one is valid, the Board has the discretion to choose which option they would like to use. It is always nice to have the parties in agreement.

Eric Sklar recommended scheduling the appeal hearing rather than create the extra formality of the letter, which takes more time. Feels we (the NCTPA Board) just want this resolved. If the parties are both willing, Member Sklar made the motion to schedule an appeal hearing for next Wednesday June 24, 2009.

Susan McGuigan, NCTPA Legal Counsel, clarified that it is within the Boards discretion (to set the appeal hearing), which she has already discussed, that the NCTPA Procurement and Policies procedures manual provides under Section 20 H2 of that manual gives the right in their sole discretion to schedule a meeting to discuss this (the appeal).

John Hoeft, General Counsel for Veolia, stated that along with the protest, Veolia has filed a Freedom of Information Act request for a great deal of data regarding the process that was followed by the staff and they (Veolia) and would like to have the benefit of that data before the protest hearing.

Eric Sklar stated it seems clear from this (Veolia's request) that the Board should send a letter of denial and made the motion, seconded by Lewis Chilton, to mail out the letter of denial.

MSC* SKLAR / CHILTON to APPROVE sending a letter to Veolia denying their protest.

Jill Techel requested setting a potential date for the appeal hearing.

John Hoeft, General Counsel for Veolia, announced that he has been directed by Veolia to withdrawal to the protest and to allow the Board to vote. Mr. Hayes stated that the Board could consider their (Veolia's) protest withdrawn.

Chair Krider announced that several Board members need to leave the meeting and a quorum will be lost.

Eric Sklar stated that there were several questions that the Board wants answered regardless of whether Veolia removed their appeal so suggested having a meeting on July 1, 2009 first having received those answers and then make a decision.

MSC* GINGLES / LUCE to APPROVE a special NCTPA Board meeting on July 1, 2009.

Chair Krider suggested that any questions the Board would like answered and addressed at the July 1, 2009 meeting be emailed to Paul Price, NCTPA Executive Director as soon as possible.

9.1 Public Hearing on the NCTPA FY 2009-10 Budget, Fare Increase (10¢ Base Fare Increase) for the VINE and VINE Go Transit Services, and Approval of Resolution 09-22 Adopting the NCTPA FY 2009-10 Budget, and (2) Public Hearing on the Napa Downtown Trolley and Route 11

Chair Krider opened the Public Hearing at 4:45 p.m. Being no Public Comment, Chair Krider closed the Public Hearing at 4:45 p.m.

Recommendation was made by Staff that the Board to approve the FY 2009-10 Budget and continue the Public Hearing on the Fare Increase for VINE and VINE Go Transit Services, the Napa Downtown Trolley and Route 11 until the July 1, 2009 special Board meeting.

MS GINGLES / GARCIA to APPROVE with BENNETT, CHILTON, and SAUCERMAN OPPOSING, Resolution 09-22 adopting the FY 2009-10 NCTPA annual budget and to continue the Public Hearing on the Fare Increase for VINE and VINE Go Transit Services, the Napa Downtown Trolley and Route 11 until the July 1, 2009 Special Board meeting.

10. INTERJURISDICTIONAL ISSUES FORUM

10.1 Interjurisdictional Issues Discussion Forum and Information Exchange

This item was postponed until the next regular Board meeting of July 15, 2009.

11. ADJOURNMENT

Approval of Regular Meeting Date of Wednesday July 15, 2009 and Adjournment

A special meeting will held in the NCTPA Conference Room on Wednesday, July 1, 2009. The next regular meeting will be held on Wednesday, July 15, 2009

The meeting was adjourned by Chair Krider at 4:15 p.m.