

# **CITIZEN'S TRANSPORTATION OVERSIGHT COMMITTEE**

## **Arizona Department of Transportation**

### **Draft Minutes** **July 28, 2009**

A Citizen's Transportation Oversight Committee (CTOC) meeting was held at the Arizona Department of Transportation, 206 South 17<sup>th</sup> Avenue, Phoenix, Arizona 85007 on July 28, 2009, with Leyton Woolf presiding.

#### **Members Present:**

Roc Arnett, Chairman  
Jeffrey Schwartz, Maricopa County District 2  
Nelson Ladd, Maricopa County District 3  
Leyton Woolf, Maricopa County District 4  
Peggy Jones, Maricopa County District 5

#### **Members Absent:**

#### **Others Present:**

Craig Rudolphy, ADOT	Joe Ryan, Citizen
Karl Obergh, Citizen	Brock Barnhart, CCP
Timothy Tait, CCP/ADOT	Kwi Kang, RFS
Greg Haggerty, Citizen	Adrienne Weinkamer, A. G's Office
Julian Avila, CCP	Michelle Manley, ADOT
Steve Hull, RFS	Bill Cowdrey, HDR Engineering
Bryan Jungwirth, Valley Metro	Dianne Barker, Citizen
Rosa Olivas, Ritoch-Powell & Associates	Frank Henderson, Ritoch-Powell & Associates
Elizabeth Neville, RFS	

#### **1. Call to Order:**

Leyton Woolf Acting Chair, Called to Order the Citizen's Transportation Oversight Committee meeting at 4:00 p.m.

#### **2. Pledge of Allegiance:**

Chair Woolf asked Steve Hull to lead the Committee and the public in the Pledge of Allegiance.

#### **3. Welcome and Opening Comments:**

Chair Woolf welcomed the public, public officials, members of CTOC and staff to the meeting. Roc Arnett was introduced as the new chairman of CTOC but asked to sit in his first meeting to familiarize himself with the proceedings.

**4. Call to the Public:**

Leyton Woolf read the Call to the Public policy, reminding the public of their three minute limit.

Joe Ryan, citizen, stated that he would like to speak about oversights, bonding oversights, forecasts. He submitted the following statement, "I am speaking under the authority of Federal Law, Title 23, Section 450. No state law and certainly neither an association nor a committee, such as the CTOC, has the legal ability to overrule a federal law. The subject of my important presentation is corruption and the role of auditors in detecting and reporting violations of not only the law but also the intent of legislation that authorizes and allocates public funds to specific uses, and the generally accepted accounting practices as promulgated by the American Institute of Certified Public Accountants (AICPA). I was employed by Touche, Ross, Bailey and Smart, a predecessor of Deloitte and Touche. Stockholders of a corporation are comparable to the taxpayers of Phoenix, Arizona. Part of an audit is called the management audit, conducted to see that corporation's management carried out the stockholders' desires, as instructed by the elected Board of Directors. As part of a management audit, I briefed the minutes of Chrysler Corporation's Board Meetings. To discover any violation of accounting principles or the law, I performed the part of an audit called "tests of transactions" on the financial and statistical records of the Rose Lawn Cemetery in Detroit, so I know what I am talking about. For reasons repeatedly pointed out to the CTOC, there have been serious oversights, illegalities, related to the marketing, planning, justification and authorization of federal funds for both the Central Phoenix/East Valley Light Rail Project and the Loop 303/US 60 Interchange project. The flow of funds from the federal treasury to the vendors and their vendors, via one or more government agencies must remain within the intent of the federal appropriation. It is illegal to use funds for aviation purposes in planning for a light rail operation that does not touch an airport. It is illegal to transfer aviation funds that have nothing to do with the work of a transit authority to the RPTA. It is illegal to use a firm based in London, England to create a direct-mail advertising document, asking voters to vote for Prop 2000, have the vendor batch the various invoices from firms such as Kinko's, hold them until after the March 14, 2000 election, submit an invoice for the total to the City of Phoenix and for the City of Phoenix to pay the bus driver management company in June 2000, coding the payment for Professional Services Purchased. Furthermore, the out-of-period accounting and the failure to charge the cost of materials, printing, postage, et cetera to professional services instead of to the specific work done by firms such as Kinko's (who split their invoice over three days) violates the standards of the AICPA. Furthermore, in the Friends of Transit presentations, in posters at the RPTA's open houses in public libraries (headed by Steve Beard who later became a sub-contractor of Booz Allen, contracted by the Governor's Vision 21 Transportation Task Force on which sat a VP of Parson's Brinckerhoff), and even in the Prop 2000 ballot for the light rail project were the words "RAPID TRANSIT". After Prop 2000 received less than the required two-thirds "yes" votes on March 14, 2000, the sales tax was implemented and both S.R. Beard & Associates and Parsons Brinckerhoff were hired for the light rail project. When I visited the offices of Valley Metro Rail, Inc. (VMRI) at 411 North Central, on the second floor, to find drawings of the Parsons' engineers, on the counter of the document repository were two sets of business cards of the lady behind the counter. One business card indicated she was an employee of VMRI, the other indicated she was an employee of S.R. Beard & Associates. That gave me the impression that Valley Metro was using its technical consulting organization as one would use Kelly Services or Manpower. The accounting for that clerical worker's pay must have been novel. What VMRI, Parsons, the other consultants and contractors produced is not what the stockholders authorized in Prop 2000, for the average speed of the light rail schedules for the commuters that they were supposed to pull out of the area's traffic is less than 20 MPH. Furthermore, many pictures of light rail stations in Portland and Salt Lake City, procured by unnamed parties, depicted stations that are not in the middle of the streets. The copy referring to the Oregon and Utah operations never mentioned long stretches of those LRT routes are in abandoned railroad right of ways, whereas all of the Maricopa County route is in the middle of busy streets. This region's LRT infrastructure causes thousands of drivers, every day, to drive farther beside the tracks for three reasons: (1) they cannot make a left turn to local streets and other entrances on the other side of the street; (2) their street is blocked off by the tracks; (3) "no left turn" signs where there is an available route to the left. In addition to those added vehicle miles driven, other drivers who had benefited by an ITS system, are slowed and stopped by Valley Metro's system that overrides the ITS to give the streetcar drivers

green lights. None of the above were mentioned in the projects FEIS and the Record of Decision forecast travel time savings from using the LRT system that are ridiculous. Where are the auditors?"

After three minutes Mr. Ryan was reminded by Chair Woolf of the three minute limit however, Mr. Ryan continued to speak.

Adrienne Weinkamer, CTOC legal counsel reminded everyone that the Call to the Public timeline per citizen is three minutes. However, due to the fact that Mr. Ryan was allowed to continue to speaking for six minutes our next citizen Dianne Barker would be allowed equal the time utilized by Joe Ryan.

Dianne Barker, citizen, talked about audits stating that finally with the last couple of years 2007 and 2008 for the highways and transit. We missed the audit in 2006. That one was picked up by the state auditors in the 2007 report for the sun setting of ADOT. I have never heard this body talk about the Arizona Auditors so that is significant. It had 12 different areas they covered and Mr. Mendez did answer in a letter, he said ok, we'll start complying with Statute. And we'll do some maintenance. They talked about how but we're really under funded for maintenance. We haven't spent anything from Prop 300 from 1985 we didn't put enough maintenance in. Today we're going out and building and developing different highways and we wouldn't even need all of these roads. Even people here, last time I came, the chairman said that with the Arizona economy he's never even been on the light rail. We didn't even have the acting chairman go to vote and to go to the MAG managers meeting because apparently this is not of interest. The audit that is proposed today is to cover not only four freeways but also for our transportation future which is necessary for transit. This is the new book - a Metro bus schedule book was held up. ADOT has a directive for years to incorporate public transit to the freeways. We better look to see how come last year both of these firms said they would do this audit for \$10,000 and now one of them is up to \$37,000. Maybe the work to be done is worth that but its highway user money. We're looking at the County money and you are to look at the expenditures. That is your directive. The thing is that the Senate came up with a report with the \$8 million that they got \$6 million from the Federal in 2008. That means that every single agenda item, we should be part of the discussion. I think its being run backwards here. If you had gone to MAG, MAG took years for them to finally come around to; I think they are growing to have decent public input. And it's taken them a long time to recognize that. I think this body would be good to go to MAG to see what is happening and even if you hate transit, maybe you don't, I think it would be good to go around and try the buses and light rail. And look at that sun set for 2007. It should have been in the CTOC 2008 report but I see that it's not. I think what's happened, and Mayor Scruggs said this, we can't get people on committees that don't have self interests. All these things were needed and that is self interest. Mr. Martin came here in 2008. The 2004 tax referendum and also the TIME that never went through and he and Mr. Lunsford, as far as I can see, ADOT is running this thing. They are supposed to. The Legislature started out with the parameters but ADOT is running the show. And it shouldn't be that way. I think that you should disband. Why spend \$83,000 in a budget crisis when we haven't done the audit and its run by who you are supposed to oversee.

Comments:

Chair Woolf noted that both speakers' spoke about federal funds.

Nelson Ladd, Member said, it is suspected that any funds that ADOT has, that CTOC has the ability to have a link to Federal funds. It is convoluted the way it is tied up and restricted in the rules and regulations; it makes it difficult to be specific.

**5. Review and approval of the May 19, 2009, meeting minutes:**

Chair Woolf called for a motion to approve the minutes of the May 19, 2009, meeting.

**Board Action:** Jeff Schwartz, Member moved to approve the May 19, 2009, minutes. The motion was seconded by Nelson Ladd and carried unanimously.

**6. Finance Compliance Audits for FY 07 and FY 08:**

Steve Hull, Special Assistant for the Regional Freeway System, presented an update and overview of the audit proposals received from Heinfeld, Meech & Co., and Henry & Horn, LLP. Proposals are being reviewed for a financial compliance audit for 2007 and 2008. Several meetings have been held to discuss the scope of the audit and how to proceed to satisfy the Statutes. With regard to Prop 300, those audits were done when ADOT had an audit each year and still does; however, the CTOC audit became one of many tasks done as part of the annual ADOT audit. Discussions over the last year led to a decision that CTOC's audit should be separated from the ADOT audit to make it clear that there are two distinct things and a clear line of authority separating the two. A copy of the two proposals was shared with CTOC members. Highlights were shared and distributed comparing the two proposals. The audit is required by Statute and the scope of work was stated as written in the handout. ADOT is required by Statute to pay for the audit and uses money from the Regional Area Road Fund. For ADOT to do an audit, the firm has to be acceptable to the Arizona Department of Administration and pre-qualified under the terms of the master agreement that allow us to proceed with audits for all state agencies. Proposals were solicited from four ADOA approved auditing firms. Two firms submitted proposals. CTOC was concerned with some of the language that was in the request for proposals and rejected both of the earlier proposals. A second letter was drafted to request proposals for the audit. In that second solicitation, there was a request to four firms and two responded. The four firms solicited included Deloitte & Touche, LLP, Heinfeld, Meech & Co., P.C., Henry & Horne, LLP and RSM McGladrey, Inc. Two proposals were received and they were the same two firms that submitted last November. The costs submitted by the firms are \$37,749 from Heinfeld, Meech, and \$10,500 by Henry & Horne. They were submitted in May and there were still questions about the proposal. Henry and Horne's price of \$10,500 submitted was their discount from \$18,410 due to their slow season. Even though it is no longer their slow season, they are still willing to give an audit for the price of \$10,500. Heinfeld, Meech is willing to do the same work for \$37,749. Heinfeld, Meech estimated a total of 339 man-hours and Henry & Horne estimated 146 for the work. An updated schedule for the work is August – November 2009 for Heinfeld, Meech and August-October 2009 for Henry & Horne. Both have offices in Phoenix or close proximity. Both firms are pre-qualified by the Arizona Department of Administration. Being that both firms are well-qualified, and considering the budget situation ADOT is in along with the Regional Area Road Fund, staff recommends CTOC consider a motion to adopt the lower price proposal from Henry & Horne.

**Questions Asked:**

Jeff Schwartz, Member asked if the scope stayed the same.  
In reply, Steve Hull stated that is correct.

Joe Ryan, citizen made several comments.  
Chair Woolf asked that it been noted that Mr. Ryan was disrupting the meeting.

Chair Woolf asked if there was a motion to select and approve Heinfeld, Meech & Co., or Henry & Horn, LLC to perform the Financial Compliance Audit for 2007 and 2008.

**Board Action:** Nelson Ladd motioned to accept the bid from Henry & Horne for the FY 2007 and FY 2008 Finance Compliance Audit. The motion was seconded by Jeff Schwartz and carried unanimously.

**7. Recommendation of Future Agenda Items:**

Chair Woolf stated that at the last meeting two future agenda items were approved for our next meeting which was: an update on safety issues with Light Rail and review of CTOC's Call to the Public policy.

Roc Arnett suggested that we have a review of the Proposition 400 money and the estimated short fall and the proposed action to be taken regarding that short fall.

Peggy Jones, Member asked if it was appropriate to ask staff to administer a survey of other agencies to see what their policy is in regard to Call to the Public.

Chair Woolf answered and stated that it's appropriate and asked that the staff researches that and report on there findings.

Roc Arnett asked if the Committee could have an update on current construction projects underway in the valley.

Steve Hull, RFS asked for clarification regarding which projects to include, freeway, arterial street and/or transit.

Roc Arnett replied that we do not need a long report, but to include all of the above in 8-10 minutes.

Chair Woolf asked for a motion on all of the above suggestions.

**Board Action:** Roc Arnett moved to add to the next meeting's agenda, a report on Proposition 400 money. The motion was seconded by Jeff Schwartz and carried unanimously.

**Board Action:** Roc Arnett moved to add to the next meeting's agenda, an update on current construction projects. The motion was seconded by Jeff Schwartz and carried unanimously.

**8. Next Scheduled Meeting:**

Steve Hull suggested that the next scheduled meeting for August 25<sup>th</sup> be moved to September 29<sup>th</sup>, to balance out the remaining meetings for the year.

Chair Woolf asked for a motion to change the meeting date.

**Board Action:** Jeff Schwartz moved that the scheduled August 25 meeting be moved to September 29, 2009, at 4:00 p.m. in the ADOT Auditorium. The motion was seconded by Peggy Jones and carried unanimously.

**9. Adjournment:**

Chair Woolf asked for a motion to adjourn.

**Board Action:** Roc Arnett moved to adjourn. The motion was seconded by Nelson Ladd and carried unanimously.