

MINUTES OF DIRECTORS MEETING

LANE TRANSIT DISTRICT

REGULAR MEETING

Tuesday, June 24, 1997

Pursuant to notice given to *The Register-Guard* for publication on June 23, 1997, and distributed to persons on the mailing list of the District, a special meeting of the Board of Directors of the Lane Transit District was held on Tuesday, June 24, 1997, at 5:30 p.m. in the LTD Board Room at 3500 East 17th Avenue, Eugene.

Present: Rob Bennett  
Patricia Hocken, President, presiding  
Dave Kleger, Treasurer  
Mary Murphy, Secretary  
Roger Saydack  
Phyllis Loobey, General Manager  
Jo Sullivan, Recording Secretary

Absent: Kirk Bailey, Vice President  
(One vacancy, Subdistrict 1)

**CALL TO ORDER:** The meeting was called to order at 5:35 p.m. by Board President Pat Hocken.

**SIGNAL PRIORITIZATION:** Ms. Hocken asked Planning & Development Manager Stefano Viggiano to update the Board about a proposed signal prioritization project. Mr. Viggiano explained that LTD had applied for a loan for a signal prioritization project. The loan was approved dependent on Senate Bill 150, which had gone through the House and Senate, but was not yet signed by the governor. One requirement of the loan was that LTD have an agreement with the Cities of Eugene and Springfield for cooperation on the implementation of signal prioritization. Mr. Viggiano said that the previous evening he had attended the Springfield City Council meeting, and the Council had reviewed and endorsed the agreement. He handed out copies of the draft agreement to the Board. He said that the agreement with the City of Eugene was being handled at the staff level, and added that although it was not required, staff also were working on an agreement with the Oregon Department of Transportation (ODOT).

Mr. Viggiano stated that the agreement essentially committed LTD to pay for the cost of installing the signal priority system. LTD has conceptually agreed to pay for the added cost of maintenance as part of a future agreement.

Ms. Murphy said that the agreement stated that if the system were found not to work, at some time the system could be stopped. Mr. Viggiano said that basically staff believed they could not implement without the cooperation of the City. The agreement would give the City

the right to back out at any time; realistically, local jurisdictions were the owners of their signals and they would control them. Prior to implementation, there would be a separate agreement that would follow the study and would outline what would happen with the hardware and software if the system did not work.

In response to a question from Ms. Murphy, Mr. Viggiano replied that both cities were purchasing new signal software. LTD had been working with them to be sure that their software had the capability to manage the transit priority system.

Mr. Saydack asked if there was any benefit to having one agreement with all parties. Mr. Viggiano said staff were trying to make all agreements as similar as possible. They were separate mostly because staff were trying to accomplish them all by June 30. Mr. Saydack commented that the agreement did not identify the pilot corridor. Mr. Viggiano explained that it would be part of the follow-up agreement; all would be agreed upon prior to implementation.

Mr. Bennett was concerned about the terms "sole discretion of the City" and "at any point during implementation of the pilot project." Mr. Viggiano reiterated that this was a reflection that the City controlled the signals and LTD was implementing signal priority at their pleasure.

Mr. Bennett said that normally, even if operating in someone else's foxhole, you give them the opportunity to say no up until implementation. He thought that if the cities committed to a test, they should commit to a full test. Mr. Viggiano said that staff could negotiate a minimum implementation period in the second agreement.

Ms. Murphy commented that the system took a few seconds to recycle back into the regular cycle. She wondered if LTD could receive complaints for that. Mr. Viggiano explained that emergency vehicles threw the signals off and it could take four to five minutes to get the traffic flow back to normal. LTD would not preempt the signal; rather, prioritization might, as an example, allow an additional 15 seconds on a green light. He said that those issues would be determined by a study, and that, ideally, people would not even realize that the system was in place.

Ms. Hocken said that, at that point, it was enough to have the grant process going forward, but when LTD actually spent the money, it should have a better commitment that it would have a significant trial period or would be reimbursed for its costs. Mr. Viggiano stated that after the study and traffic analysis, staff's intent was to negotiate an implementation agreement, and then they could add the clauses the Board was suggesting.

Mr. Saydack said that one of the things an agreement could do was to emphasize the intentions of the parties. He suggested more detail in section G, regarding why that was a worthy goal and why it was important to Springfield and LTD (to reduce traffic congestion, etc.).

Ms. Loobey wondered if this was in the Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP). Transit Planner Lisa Gardner said that it was included under bus rapid transit (BRT) in future years, as a sub-component. It was not in the TIP or STIP by itself.

Ms. Loobey mentioned a seed money project from the federal government to fund projects. If LTD treated this project as if it were for TIP/STIP, it would go through the Metropolitan Policy Committee (MPC) and have more cachet. She said that Highway 126 on both sides was a state highway, but the City took care of the capital improvements. She thought that ODOT endorsement might put a little more muscle on the project in the STIP/TIP, as well as the infrastructure bank. Board members agreed that this was a good suggestion, and Mr. Viggiano said he would check on it.

**SUPPORT FOR TRANSPORTATION GROWTH MANAGEMENT (TGM) GRANT APPLICATION:** Mr. Viggiano explained that the Lane Council of Governments (LCOG) was requesting a TGM grant to prepare coordination agreements for the provision of urban services. A requirement that came out of the last legislative session was that cities that were updating their transportation plans or doing periodic reviews had to have coordination agreements with local service providers. One of those agreements would be with transit. The application for the grant suggested that support from the various agencies that might be participating in agreements might help solidify the grant request.

Mr. Viggiano explained that LTD's legal costs would be reimbursed by the grant. Staff time would be in-kind maintenance. He added that LTD already had one of these agreements with Springfield. He stated that the intention of the agreements was to make sure that the provision of urban services was well planned, with cooperation between the agencies. Agencies would review each other's plans for facilities and services to be sure they fit.

MOTION Mr. Kleger moved that the Board adopt the following resolution: "It is hereby resolved that the LTD Board supports the Lane Council of Governments' grant application for TGM funding to complete coordination agreements with urban service providers." Ms. Murphy  
VOTE seconded, and the motion carried by unanimous vote, 5 to 0, with Bennett, Hocken, Kleger, Murphy, and Saydack voting in favor; none opposed.

**THURSTON STATION CONSTRUCTION:** Mr. Viggiano stated that staff had discussed this project with the Board the previous week. Key issues, conclusions, and options were outlined in the packet. He reviewed some of the issues, stating that staff saw the Thurston Station as a key facility for LTD. It would act as a Park & Ride, a transfer point for future feeder service, and as the eastern end of the line for BRT. There were more people in the catchment area for Thurston Station than for the River Road Station, because of new development in the area. The station would immediately function as a Park & Ride, but there would be no feeder service at this time. Mr. Viggiano thought it was a question of when LTD would build the station, not if it would.

Mr. Viggiano said staff needed a decision about what to put in the Rider's Digest soon. The Digest could include generic information. He stated that it did not make sense to provide some of the express service unless the facility had been built, so the service could start mid-year. However, if the Board wanted a station ready for fall, it would need to decide very soon in order to begin construction and have the project completed in time.

Mr. Viggiano said that staff had taken a closer look at the bids LTD received, and Purchasing Administrator Jeanette Bailor had talked to three of the bidders. The bidders all believed that the District had received competitive bids and that the trade/subcontractor bids were competitive, as well.

Mr. Viggiano said that staff believed that the estimate was not a realistic estimate, and explained how it was prepared. The architects had hired a local estimator to prepare the estimate at the schematic design phase, before the materials and construction details were done. Typically, he said, there would be a follow-up estimate afterward, but that did not happen. The architects kept ongoing estimates by looking at unit costs, which can vary greatly. He said that staff should have questioned the estimate more because it seemed optimistic to them.

Mr. Viggiano said that staff recently had checked the cost of the facility against other LTD facility costs. He handed out a summary of construction inflation for the area. The local estimator had looked at national and regional statistics and used his experience to make adjustments based on what happened locally during the same period. The Thurston Station, as bid, actually would cost less per stall than this review would suggest.

Mr. Viggiano stated that there were about \$200,000 in discretionary costs, in terms of shelters, driver restrooms, bike parking etc., which amounted to approximately one-fourth the cost of the station. He showed the progression of the design and how it had been scaled back over several months.

Mr. Kleger asked if the Board would save money or just postpone the expenses by deciding not to build the structures and just doing the surface work. He said he did not think the station would work well without the structures, and he thought there would be an increase in costs if the District waited. Mr. Viggiano stated that the driver restrooms would be especially important when feeder service was implemented. The shelter would be a convenience for riders. He said that Park & Ride users were discretionary riders, so if they were not comfortable, they had the option to use their cars.

Mr. Viggiano stated that if LTD were to award the bid, federal purchasing regulations would allow only a certain level of deductive change orders to be made. The structure could be simplified, but it could not be eliminated, or the project would be significantly different than the bid.

Mr. Saydack asked about the role of the original estimate in the funding for the project. Mr. Viggiano said that the District usually had to determine the budget of a project before any design work could be done. For this project, a funding request was made four years ago in the last STIP, which was like putting a placeholder in for the project before knowing the details. The original Surface Transportation Program (STP) fund amount included in the STIP was \$515,000.

Ms. Murphy asked if Lane County was a partner at that time. Mr. Viggiano explained that it was before LTD had selected a site for the project and knew that the Jasper Road

connection would be needed. Ms. Murphy then asked how delaying the project or taking new bids would stand with Lane County. Mr. Viggiano said it probably would not be a problem. The County would want the improvements ready when the rest of the road was built in a couple of years. A year's delay probably would be okay.

Mr. Bennett asked to see the site plans for the storm sewer and road improvements. Mr. Viggiano showed them, and explained that access had to be off the side of the site because the District could not have access from Main Street. Jasper Road would become more important in the future because 58th and Main was congested. Rather than building the road just for LTD's use now and then rebuilding it in a couple of years, the plan was to build the road now the way it should be done for future use. Mr. Bennett asked if LTD could have access to the Park & Ride if the County built the road in two years. Mr. Viggiano said that it probably could.

Mr. Saydack asked about LTD's share of the road. Mr. Viggiano said LTD's share would be half, up to \$236,000. Mr. Saydack said that if LTD waited a couple of years, Lane County would build it at its own cost, so he wondered if LTD could build the station in a couple of years without building the road.

Mr. Viggiano said that the County had appropriated \$2 million for the Jasper Road extension project, including crossing a railroad track. He said it was not a done deal, and it would be at least three years, and maybe longer, before the road was completed. Staff discussed the County's standards and requirements for the Jasper Road extension, and there was some discussion about where people would exit the station.

Mr. Viggiano said that the Springfield Planning Commission had to approve a discretionary use for the station. Mr. Viggiano said he had attended the meeting, and the minutes did not reflect the enthusiastic discussion about the project. The discretionary use permit had been awarded.

Mr. Saydack asked how long the District could use that site for that purpose. Mr. Viggiano said LTD could use it indefinitely; it would become an approved use, and there would be no further review. The lease with ODOT would be a 20-year lease.

Mr. Saydack also asked what action the Board had taken on this project so far. Mr. Viggiano said it had approved the grant application and site selection. The project had gone through the Metropolitan Policy Committee (MPC) in the STIP. It also had been presented to the Springfield City Council as an information item, where there were several positive comments from the mayor and council members, and to the County Board of Commissioners, where Commissioner Cornacchia was supportive as long as things that were being constructed would not have to be torn out later. Ms. Hocken noted that the commercial development adjacent to the project was supportive of LTD's access to its property.

Mr. Viggiano discussed three options for completing the project. The first option, mentioned the previous week, was to complete the project using surface transportation fund money programmed for the West 11th Park & Ride, and use deductive changes to decrease

costs. A second option was to reject the bids and still try to get something on the ground during the current construction season by rebidding the project as soon as possible. In order to get close to the original budget, it would mean eliminating the amenities. By code, the bicycle parking would be required, but it did not have to be covered. Mr. Bennett asked about the second low bid. Mr. Viggiano said that it was \$60,000 higher. The third option discussed was to reject all bids, rethink the design of the project, and plan to construct the station a year from now. This option would allow LTD to look at the design of the facility more closely. One drawback would be another year of inflation.

Mr. Saydack asked, assuming the Board selected the third option and reevaluated the design, how much already was known about passenger preferences for shelter designs. He said the District might determine that what the passengers wanted was even more expensive. He asked how much analysis went into this project and whether it would meet the needs of the passengers as well as LTD understood them. Mr. Viggiano said that staff had learned a lot from the facilities it had built. For instance, the shelter should help keep people dry on rainy, windy days; the River Road Transit Station's roof was too high. Staff also had a sense of how large the shelter needed to be for certain sizes of facilities. That type of information had been provided to the architects. The District also had experience with what could happen with vandalism, so staff were careful to select materials that were vandal resistant. Because glass got scratched or broken, staff were trying to design as many facilities as possible without glass at a level where people could reach it. From a functional standpoint, staff believed that this station met the customers' needs, and staff liked the appearance, as well.

Mr. Kleger said he was reluctant to take the second option, not because it might not work in the short term, but he did not think it would save LTD money. He was not sure those other features in any other design could cost much less money. Also, he was reluctant to delay something that he thought was an important facility and not save any money. On the other hand, he said, if there were to be any redesigning, he would rather do it without raising expectations and then not doing something about them. He thought that a parking lot without facilities would delay the station's utilization. He said LTD was trying to attract the people who were building more expensive homes on the south side of East Main, and he did not think they would use the station without a shelter. He said he was more interested in the first or third options, but did not like a halfway approach.

Mr. Viggiano said that there were options for temporary shelters, though staff had some concerns about those shelters not being vandal resistant.

Ms. Hocken said she agreed with Mr. Kleger. Her preference would be to award the contract. She did not think the delay would save money because of inflation, and now all permits and approvals were in place to move ahead. She did not think the District should drastically reduce the project.

Ms. Hocken said she had talked with Mr. Bailey on the telephone, and he seemed to be leaning toward going ahead with the project.

Ms. Murphy said that LTD had set a standard in the community, and projected an image with that standard. She said she was leaning toward the first option, and the Thurston Station should not be in great contrast to the new Eugene Station. The District had a vision for BRT and Park & Ride, and the new station should demonstrate that vision to the City Council. She thought the project already appeared to be streamlined a great deal. She said there were new schools in Springfield, other new construction, and students coming along as future riders. Also, more use of the station would help eliminate the problem of vandalism.

Mr. Bennett said that he had learned more about the specifics of the site decisions and buildings that evening. He agreed with Ms. Murphy that LTD wanted to have a strong presence in Springfield on a quality basis, and a commitment to be there. He said he appreciated the design; it was not ostentatious, and appeared to be fairly well thought out. However, he said, he thought the way this project was laid out or had evolved made the District look terrible. He said that on the one hand, government in general was more under the microscope these days, and governments were more carefully monitoring costs, such as contracting out, public/private partnerships, or doing less. Therefore, the timing of how this played out could not have been worse. He said that when everything was sorted out, and he looked at the bids and the degree of competition, he agreed that LTD had received a lousy estimate. However, he said, LTD needed to take some responsibility for the fact that it did not update its cost estimate, so it would have had time to do a careful review in terms of public perception of how LTD made decisions. He said it was important that the record showed that the Board was shocked and this was not how they thought business should be done. If they were in the private sector, he said, they would not be there very long.

Having said that, Mr. Bennett said, he was inclined to build the project. He said that if he thought there was a chance to review this project and accomplish LTD's objectives, he would, but he did not see how that would help. So, for all those reasons, he was inclined to support the first option, to use available funding and build the station.

Mr. Saydack said he agreed with what each had said, and he would articulate the situation much as Mr. Bennett did. He said the staff did a good job that evening of offering the analysis of the project and justifying all aspects of the design, etc., except for the original budget, which was hard to justify. He said that 41.6 percent took the cake in cost overruns. He stated that it was important to analyze the project as they had, because some people would think that LTD would complete the project without regard for the cost. He stated that the Board was concerned about those things. The Board had made the determination about the need for the project, had reviewed the design carefully, and had a group of bids that showed what it would cost to build the project at that time.

Mr. Saydack stated that the District could not afford to be in this position with future bids. LTD needed to know what a project would cost before committing to doing it and as financing was lined up. He said that this was the way business was done, even if it caused delays.

Ms. Hocken said that also spoke to refining the process. She suggested using value engineering, even though it could cause delays. She said that maybe the Thurston Station was not a big enough project for such a formal process, but there should be a dollar amount

where that would be appropriate. She said she would like staff to put some thought into an overall process as part of the Park & Ride plan. Even if LTD saved only \$20,00 to \$30,000 with deductive change orders, she thought it was appropriate to go ahead and look at ways to do that, while keeping the facility attractive to the District's customers.

Ms. Murphy commented on an earlier suggestion to use custom colors for District facilities. She said she did not want an orange roof, for instance, in the Thurston area. Ms. Hocken said that any standard colors should be decent colors.

**MOTION** Mr. Kleger moved that the District award the contract and that the Board instruct staff to make whatever deductive change orders could reasonably be made. Mr. Bennett seconded the motion.

Mr. Bennett said he was not interested in any deductive change orders without getting a chance to look at them, and asked Mr. Kleger if they could amend the motion to say that. Mr. Kleger accepted the amendment.

Mr. Bennett asked if there could be another review by the Board if staff recommended changes. Mr. Viggiano said that staff could provide information by mail and the Board could call if they had comments. He said that the changes that had been recommended would not affect the appearance of the station. Those recommendations included curb construction, a standard color of roof, a standard skylight, modified methods and materials in curbs and gutters, and concrete slab/scoring. The Board instructed staff not to make changes to use a standard skylight.

Mr. Bennett said he would like to withdraw his amendment. Mr. Kleger agreed.

Transit Planner Will Muller said that staff could recommend \$35,000 to \$40,000 in changes. Those savings could become the contingency for the project and cover any additive change orders that typically happen in a construction project.

Mr. Saydack said that what he would like to see coming out of this process was an internal procedure for construction budget development, to check off and follow procedures no matter what the time line. Ms. Hocken added that the District may have to have placeholders in the STIP/TIP, but then could get better numbers.

Mr. Bennett asked if the suggestion to take money away from the West 11th Park & Ride project was because that was the only project LTD had identified in a certain category of projects, and whether the District had to be that specific. Mr. Viggiano said that LTD could use local capital funds, but those were the most flexible for other uses, so staff had considered available grant funds. Two major sources were available at the moment. Those were Section 9, for ongoing capital, and STP, which were federal funds allocated through the state. The only STP project large enough to fund the balance of the Thurston Station project would be the West 11th project.



Mr. Bennett asked if those funds could be replaced. Mr. Viggiano said he thought LTD had maxed out its current STIP funds, but the program would be updated in two years.

Mr. Bennett said he wanted to make the point that LTD knew it had to get the money, and using grant money was better than local. However, he did not know that it was helpful to identify the specific funds if they didn't have to. Mr. Viggiano explained that LTD had to actually show a decrease in one project in order to increase this one.

Ms. Hocken asked if it had to go through MPC. Mr. Viggiano said staff would try to make a change in the draft TIP before adoption. MPC eventually would take action, but not as a separate item.

Mr. Kleger asked if the Board's motion should specify where the money would come from. Ms. Loobey replied that it did not have to. Mr. Kleger and Mr. Bennett suggested leaving that to staff to figure out.

VOTE

There was no further discussion. The motion to award the bid and consider deductive change orders carried by unanimous vote, 5 to 0, with Bennett, Hocken, Kleger, Murphy, and Saydack voting in favor and none opposed.

**JOINT MEETING WITH LANE COUNTY BOARD OF COMMISSIONERS:** Ms. Hocken said that the dates of September 9 and September 16 had been suggested for a joint meeting with the Lane County Board of Commissioners. Board members preferred September 9.

**VACANCY IN SUBDISTRICT 1:** Ms. Hocken asked about the Senate confirmation of Hillary Wylie, who had been appointed by the governor to fill the Board's vacant position. Ms. Loobey replied that a recommendation from the Senate Confirmation Committee to confirm was expected to go to the full Senate sometime that week.

**ADJOURNMENT:** There was no further discussion, and the meeting was unanimously adjourned at 7:15 p.m.

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Board Secretary

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MINUTES OF DIRECTORS MEETING

LANE TRANSIT DISTRICT

SPECIAL MEETING

Monday, July 14, 1997

Pursuant to notice given to *The Register-Guard* for publication on July 13, 1997, and distributed to persons on the mailing list of the District, a special meeting of the Board of Directors of the Lane Transit District was held on Monday, July 14, 1997, at 6:00 p.m. in the LTD Board Room at 3500 East 17th Avenue, Eugene.

Present: Kirk Bailey, Vice President  
Patricia Hocken, President, presiding  
Dave Kleger, Treasurer  
Hillary Wylie  
Phyllis Loobey, General Manager  
Jo Sullivan, Recording Secretary

Absent: Rob Bennett  
Mary Murphy, Secretary  
Roger Saydack

**CALL TO ORDER:** The meeting was called to order at 6:04 p.m. by Board President Pat Hocken.

MOTION **EXECUTIVE SESSION:** Mr. Bailey moved that the Board meet in Executive Session pursuant to ORS 192.660(1)(h), to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and concerning written legal advice under ORS 40.225, ORS 192.502(8), and ORS 192.660(1). Mr. Kleger  
VOTE seconded, and the motion carried unanimously. The Board entered Executive Session at 6:05 p.m. District counsel Bob Fraser, Greg Skillman, and Joe Richards were present for this discussion with the Board.

MOTION **RETURN TO REGULAR SESSION:** Upon motion by Mr. Kleger and seconding by  
VOTE Mr. Bailey, the Board unanimously returned to regular session at 7:15 p.m.

**CONSIDERATION OF RULES RELATED TO CONTESTED CASES:** Mr. Richards explained that the District had received a letter with a fairly serious complaint from another attorney. In the course of review by District counsel, it occurred to them that this was the kind of complaint that many agencies would look at in a contested case procedure. That is, there should be some step-by-step process for when the general manager or Board considered a complaint to be something serious that could affect the interests of the District or its patrons, to establish a time and place to have a hearing. He said that the District should establish ground rules for what the notice of a hearing should contain, a process by which evidence is heard,

rules of evidence, and how a decision would be made. It also should determine standards for review and how evidence would be reviewed. The proposed resolution written by counsel would let a court know what LTD's standards were for reviewing these claims.

Mr. Richards explained that there was a process called a Writ of Review. If the District made a decision on one of these claims, then there were five reasons by which the court might overturn a complaint—if the District exceeded its jurisdiction, if there was no substantial evidence to support the decision, if LTD did not follow its own procedure, if the District misconstrued the law, or if the decision was unconstitutional. However, if the District made findings of fact, the court would give deference if there were any substantial evidence to support those findings. He said it was important that sometimes in this process there were other proceedings down the road, and there were times when the court may give legal effect to the findings of this body that could affect precedence in this case or other cases.

Mr. Richards explained that as written in paragraph A, the general manager would make the determination about which cases would go through these procedures. The Board had the option to hear the case, have the presiding officer hear it, or use an outside hearings officer, but the final decision would always be the Board's. He explained the contents of the resolution and added that all the rules in some ways paraphrased or outlined what Oregon law set up in the administrative procedures act that applied to all state government agencies.

Mr. Richards explained alternatives in sections K and L. He said the attorneys were not recommending L because it was another step that may be more procedure than the Board really wanted. It meant that instead of the Board having a hearing and issuing a final order, it could issue a proposed order and wait 30 days to see what comments or complaints were heard before issuing a final order. However, he thought that was more process than was due under the circumstances. The Board still had the authority to do that if it wanted to; it did not have to be spelled out in the procedures.

Mr. Richards stated that general contested case hearings would be public sessions, but executive sessions could be used for discussions for which the law allowed executive sessions.

If a union employee complained about the District, that would be a grievance process as outlined in the labor contract, not the contested case hearing process. If a non-union employee had a complaint against the District, the general manager would consider whether the complaint could materially affect the interest of the District or its patrons; if so, the Board could hold a contested case hearing. He added that the District would want to consider whether to do that very carefully. Ms. Loobey stated that there was a due process in the employee handbook for resolving complaints from non-union employees.

Mr. Bailey asked about an appeal process. Mr. Richards said there were some requirements by law. If someone were not satisfied with the results, he or she could file for a Writ of Review in the Circuit Court. The Board could add the menu of those types of procedures to this document, but it was not required; it was a legal requirement whether it was included or not.

Mr. Bailey wondered of Tri-Met or other transportation agencies like LTD used contested case hearings. Mr. Richards said he did not know, but some school districts had contested case procedures similar to these.

Ms. Hocken said that she did not want the Board to get bogged down in having formal quasi-judicial hearings on everything that came along. She asked if, since it would be at the general manager's discretion, these might not occur more than once or twice a year. Mr. Richards said this was correct. Without being arbitrary, the general manager could decide what complaints affected the District in some material way. Just because the Board adopted procedures, it shouldn't presume that it suddenly would begin having contested cases. In any event, the Board could hold the hearings, or could tell the general manager to conduct the hearings and issue the orders.

Mr. Bailey asked if there was anything in the resolution that would limit the scope of the topics that could conceivably be contested. Mr. Richards said there was not, as long as they met the threshold test, according to the manager, of materially affecting the interests of the District.

Mr. Hocken asked if the Board needed help with the large administrative burden of drawing up findings of fact. Mr. Richards said that the first time would be awkward, but then others would be similar in terms of format. Counsel probably would give a general outline and could tailor that if the Board wished.

Ms. Hocken asked if Board members would know enough about standards of evidence in order to determine whether someone had complied. Mr. Richards said that in the school districts, for example, counsel probably assisted as hearings officers for contested case hearings only a couple of times a year for ten to twelve districts. He said that the lawyer could run the meeting, or a hearings officer could, and have the lawyers there to make those decisions.

Mr. Kleger asked if it would be the Board's option as a body to hire someone to act as a hearings officer, and the general manager's, primarily. Mr. Richards said that the Board could hire a hearings officer for the process, but the decisions would be by the Board, based on recommended findings of fact and conclusions of law. Ms. Hocken said that was what the Board had done with formal hearings on the downtown station. Ms. Loobey added that there were similar procedures with unemployment claims, grievances, etc.

In response to a question, Mr. Richards said that the complainant would make statements and present evidence, and so would LTD.

MOTION  
VOTE

Mr. Bailey moved that the Board adopt the Resolution Adopting Contested Case Hearing Procedures as presented. Ms. Wylie seconded the motion, and the resolution was adopted by unanimous vote.

**ADJOURNMENT:** There was no further discussion, and the meeting was unanimously adjourned at 7:35 p.m.



Mary A. Murphy  
Board Secretary

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