



## MEETING NOTICE

TO: North East Texas Regional Mobility Authority Members  
FROM: Jeff Austin III, Chairman  
DATE: August 17, 2011  
**SUBJECT: NET RMA REGULAR BOARD MEETING**

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The next meeting of the NET RMA is scheduled as follows:

**DATE: Wednesday August 17, 2011**  
**TIME: 1:30 PM**  
**PLACE: Texas A&M University – Texarkana Main Campus in Eagle Hall**

Enclosed are the agenda and other pertinent information for your review prior to the meeting. Should you have any questions, please call me at 903.561.6547.

**NORTH EAST TEXAS REGIONAL MOBILITY AUTHORITY (NET RMA)  
BOARD OF DIRECTORS REGULAR MEETING  
1:30 PM Wednesday, August 17, 2011  
Texas A&M University – Texarkana Main Campus in Eagle Hall  
7101 University Avenue  
Texarkana, Texas 75503  
PRESIDING: JEFF AUSTIN III, CHAIRMAN**

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**1. CALL TO ORDER AND DECLARATION OF QUORUM**

Chairman Austin called the meeting to order at 1:39 PM and declared a quorum present. Notice of this meeting was posted with the Secretary of State's Office, with the County Clerk in Bowie and Smith Counties, on the NET RMA website, and in the offices of Atkins on August 12, 2011.

**2. INVOCATION**

Chairman Austin asked local NET RMA board member Robert Murray to give the invocation.

**3. WELCOME & INTRODUCTION OF BOARD MEMBERS**

Board Members

The Board Members present introduced themselves after the Chairman gave his welcome speech saying, "I am really excited to be here and I'm always amazed when here at what all is going on in Texarkana." Local Board member Jeff Sandford said "I'm with the Texarkana Chamber of Commerce so we're glad that you're here and encourage you to stick around a little bit longer and spend some money while you are here!"

**4. REMARKS BY PUBLIC OFFICIALS**

Newly elected Bowie County Judge Sterling Lacy gave a welcome to Texarkana and Bowie County speech stating some fun facts about Bowie County such as being named after the famous frontiersman Jim Bowie and having one of the only courthouses in Texas that is located directly on an interstate highway (in New Boston). He also said, "Trails, roads and highways have always been the source of our prosperity and have always been important to Bowie County so what you're doing here today is very important to us. So, thank you for coming and welcome to Bowie County."

Chairman Austin introduced and thanked the former Bowie County Judge James Carlow for attending. "We miss working with you but we know you are still actively involved in transportation venues and work on the I-69 project being a true road economic development advocate. I'm glad to see you here" Chairman Austin said.

Board member Robert Murray introduced Bix Rathburn, President of Texas A&M University – Texarkana who gave a short welcome to campus speech stating they were glad to be host for the NET RMA's board meeting. President Rathburn commented on how this campus was the second fastest growing campus in the state, second only to the campus in San Antonio. The Texarkana campus has only been open for a little over one year and already has plans for major expansion including adding on to their University Center, building dorms and new educational buildings.

## 5. OPEN PUBLIC FORUM / COMMENT PERIOD

Texarkana city manager, Dr. Larry Sullivan, was introduced by board member Jeff Sandford. Mr. Sandford said that Dr. Sullivan is very instrumental in everything that is going on in the community showing the drawing of the newest "coming attraction", a convention center that is going to be built. Dr. Sullivan stated, "Welcome and we are glad you guys are here." Chairman Austin explained that the NET RMA services three Metropolitan Planning Organizations (MPOs); the Tyler MPO, Longview MPO and the Texarkana MPO in which the NET RMA partners with the MPO's to optimize future transportation project needs. "Don't forget about us, we wanna help however we can." commented Chairman Austin. Board member Jeff Sandford also introduced Brad McCaleb, Texarkana's MPO that was present at the meeting. Robert Murray, board member, pointed out that there were Texarkana comment cards in a packet that he provided to each board member and asked them to fill it out. "If you'd like to make any comments, now's your chance" Mr. Murray said.

## 6. APPROVAL OF MINUTES

- A. Discussion, Consideration and Approval of Minutes for  
- May 18, 2011 NET RMA Regular Board Meeting

**Action Item**

Chairman Austin stated, "You'll see under tab 6 the set of minutes dated May 18<sup>th</sup> from the regular board meeting." The Chairman entertained a motion to approve these minutes.

Board member Barry Hughes moved the approval. Board member Jeff Sandford seconded the motion. The motion carried and the minutes for the May18th meeting were approved.

## 7. CHAIRMAN'S REPORT

Chairman

Austin

- A. Update on MOU with DART

Chairman Austin recapped the DART / NET RMA MOU signing that took place back in May explaining that the reasoning behind the ILA was to begin thinking of extending the high speed passenger rail system beyond Mesquite all the way to Shreveport. It would then run from the DFW area east to Shreveport. The anticipated date for this would be 2035 because that is when DART's capital budgeting period is up. The Chairman stated that there will be a meeting in September to discuss and form the purpose and need for this project. They will also be figuring out who the main constituents would be along the proposed line of the rail or perhaps a different corridor would be proposed. A feasibility study will be necessary, if funding is available for it, since this is an alternative means of transportation. This must be supported from the ground up and not be a 'cram down' approach Chairman Austin said.

- B. Update on June 23, 2011 DETCOG Meeting

Chairman Austin commented that he, board member Dave Spurrier and Mike Battles attended the Deep East Texas Council of Governments (DETCOG) meeting that was held in Nacogdoches back on June 23<sup>rd</sup>. The DETCOG had asked the NET RMA to come and give a presentation to them regarding how the NET RMA could potentially partner with the DETCOG. Gaining access to the funding mechanism that the NET RMA possesses is one of the DETCOG's goals in with the potential partnership. The joint partnership would also allow an ILA for a specific project to be entered into between the two entities. Chairman Austin mentioned Walter Diggles, Director of the DETCOG, as expressing an interest in coming into the RMA. Chairman Austin did bring up the point that the NET RMA does have the ability of invoke

primacy if needed. Primacy would not be utilized if it were not fully supported locally up and down the corridor or if the project isn't going to pay for itself.

#### C. Meetings of Interest

- Texas Transportation Commission Meetings: August 25, September 29 and October 27, 2011  
in Austin, Texas [www.dot.state.tx.us](http://www.dot.state.tx.us)
- TeamTX – Date Pending [www.team-tx.org](http://www.team-tx.org)

TxDOT will be setting a public hearing regarding the Lindale Relief Route, Segment 4, posting it soon. It is most likely the next segment of Toll 49 that will be under construction. The Chairman said they were waiting on the final word from the FHWA before the meeting can officially be posted. Chairman Austin asked that board members come out, if possible, in support for the public hearing on the Lindale Relief Route when it takes place.

Do to all of the future changes within TxDOT, the Chairman encouraged board members to attend any meetings of the TTC or Team Texas when possible as well. Chairman Austin commented that a lot of changes are happening within TxDOT stating, that he "is not sure what is going to happen and that it is not all good." Chairman Austin expressed his concern about the redistricting of TxDOT due to the population changes within the state. Some areas are growing in population therefore needing more representation. Other areas are decreasing in their population equaling a lack in their representation. This redistricting will have an effect on the East Texas and North East Texas region Chairman Austin said. There have also been changes in the elected officials and their represented areas in the last election cycles affecting the House, the Senate and Congress on the state and federal levels. This could potentially decrease the influences that the now lesser populated areas have since they will not be represented as well due to the spreading out of the districts.

The Chairman suggested that all board members stay informed and listen to the elected officials needs. He asked for the board members to come up with their counties priority projects and to work with their cities, counties and government. This is now the time to be innovative and work together the Chairman said. The NET RMA is entering into a different phase; there are contracts with money attached to them that the NET RMA will be responsible for and Chairman Austin says that we still need to take time to study and ask the right questions and understand the terminology in the contracts that are now in place.

## 8. PRESENTATION AND DISCUSSION OF FY 2012 BUDGET

Everett Owen

Mr. Everett Owen passed out the budget worksheet in a summary format of the NET RMA operating revenues/expenses and the four projects that are currently underway. This helped explain to the board how the budget was drafted. A draft of has to be submitted to TxDOT and approved prior to the board adopting it, so that was why they are just looking at it. The budget will be adopted at the next NET RMA meeting in September or October. Chairman Austin asked if the invoices that have already been submitted are getting paid now or will they be paid out of FY 2012's budget. Everett Owen answered that the expenses are accruing through the end of the fiscal year and that the draw we get will come in September's (draw) budget and then paid out of October's. The NET RMA's income is \$36,000 and the goal is to only spend \$15,000. Chairman Austin brought new board member Jeff Sandford up to speed on what funds are getting spent on what projects; the Loop 571 project in Rusk County, the ETHG and the Smith County Multimodal Facility. For the record, Chairman Austin stated, "we were awarded a \$120,000.00 grant from TxDOT and that Smith County would match that by \$10,000.00 for the Smith County multimodal facility."

Treasurer and board member Andy Vinson asked what were the unfunded expenses (\$15,750.00) as listed on the budget sheet? Tom Fitzgerald, the Board's CPA, answered that they were the general and miscellaneous expenses that were not denoted by the asterisk on the budget sheet.

Board member Walta Cooke asked what the public information expenses were. Tom Fitzgerald answered that it was a GEC expense. Chairman Austin asked that the correct budget get sent out to the full board. The Chairman then thanked Tom Fitzgerald for his very good explanation of the draft budget and said, "We really appreciate that."

**9. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON FORMATION OF A NET RMA BICYCLE COMMITTEE**

Halbrooks

Gary

**(Resolution 11-18)**

**Action Item**

**TABLED / DEFERRED**

"Dr. Sullivan, you may want to take back your statement to assist the RMA because we are going to need your input on this item as we begin looking around within our corridors to find the right-of-way to implement bike corridors" Chairman Austin stated. Dedicated bike paths and lanes always take money and right of way Chairman Austin said. Chairman Austin continued that Board member Gary Halbrooks has done a lot of work with the Tyler Bike Club. Chairman Austin talked about the current issue of cyclists on Toll 49 and the fact that once the traffic counts rise to a certain level, it will become a safety concern. At that point in time, the NET RMA will have to consider prohibiting them. No cyclists are allowed on any other toll road in the state since toll roads are controlled access roadways and have been formally prohibited. The Tyler and Longview MPO's have been contacted already regarding this issue and an outreach has been made to Texarkana as well since they are already working with bike lanes/trails/paths.

Board member Gary Halbrooks then talked briefly about the meeting that the Tyler Bike Club had with him awhile back. Mr. Halbrooks then spoke about the purpose of the Bike Charter and why it should be implemented.

Board member and Secretary Dave Spurrier wanted the verbiage changed in the sixth "WHEREAS" section of Resolution 11-18 to broaden the scope of the Resolution to include all projects related to the bike community needs and the studies for additional bike paths/lanes/trails rather than just NET RMA projects as the current state of the Resolution reads. The board decided to table/defer the resolution in order to change the wording in the Resolution and to give the Tyler Bike Club an opportunity to attend a meeting.

Mr. Everett Owen said that the intention really wasn't to pass the Resolution today but to just discuss the Bike Charter and to get the board familiar with what the intent of the Resolution was.

Board member and Secretary Dave Spurrier moved to table Resolution 11-18. Board member Andy Vinson seconded the motion. The motion carried and the Resolution was tabled / deferred.

**10. EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE, CHAPTER 551:**

An Executive Session was scheduled for this time slot for the purpose of:

- A. Section 551.071. Consultation with Attorney—Consultation with, and advice from legal counsel concerning contract negotiations, pending / contemplated litigation, settlement offers and negotiations, and other legal issues.

- B. Section 551.072. Deliberation Regarding Real Property—Discussion of real property purchase, exchange, lease, and donation, including property to be acquired for Toll 49 Segment 3B right-of-way.
- C. Section 551.074. Personnel Matters—Deliberation concerning the designation, reassignment, evaluation, compensation, and duties of personnel.

The Executive Session was called to order at 2:48 PM. When the Executive Session was over Vice Chairman Linda Thomas stated that there was no action taken in the session. The second half of the open board meeting was reconvened at 3:18 PM.

**11. PROJECT DIRECTOR'S REPORT**

Everett Owen

Mr. Everett Owen gave a brief overview of the construction pictures of Segment 3B of Toll 49 that were included in the board books. He commented that the construction has come a long way and the pictures showed the progress.

Mr. Owen then introduced Mr. Forrest Fischer, Project Manager for CH2M Hill to explain one of the photos that showed an installation of a wick drain operation at one of the build sites. Mr. Fischer gave a quick explanation of what a wick drain was and how it was an integral part of the build specific to that area of Segment 3B's construction.

Mr. Owen then pointed out as he was going through the summary sheets included in the board books that Segment 3A and Segment 3B would be finished at the same time even though Segment 3A was started back in 2009. Segment 3B's construction was started in April of 2011.

**12. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON CHANGE ORDER NO. 1 TO COMPREHENSIVE DEVELOPMENT AGREEMENT WITH CH2M HILL REGARDING FENCING FOR TOLL 49 SEGMENT 3B  
(Resolution 11-19)**

**Action Item**

Mr. Everett Owen explained the Resolution as that TxDOT purchased the right of way from the land owners for their parcels of land that were needed for construction and that the NET RMA would pay the costs of fencing property along the right of way of the Toll 49 Segment 3B Project not to exceed \$100,000.00.

Board member Gary Halbrooks made a motion to pass Resolution 11-19. Board member Andy Vinson seconded the motion. The motion carried.

**13. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON GEC WORK AUTHORIZATION FOR ARCHEOLOGY MITIGATION FOR TOLL 49, SEGMENT 3B  
(Resolution 11-20)**

**Action Item**

Mr. Everett Owen says there are three possible sites that may need to have archeology mitigation done on the on the Segment 3B Project for an additionally proposed amount of \$726,500.00. This would provide a scope of services for additional GEC support services related to archeological mitigation for the Toll 49 Segment 3B Project.

Board member Andy Vinson made a motion to pass Resolution 11-20. Board member Jeff Sandford seconded the motion. The motion carried.

**14. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION TO AUTHORIZE APPROVAL OF CHANGE ORDERS UP TO \$50,000 BY MEMBERS OF THE EXECUTIVE COMMITTEE  
(Resolution 11-21)**

**Action Item**

**TABLED / DEFERRED**

Vice Chairman, Linda Thomas, said that during the Executive Session that it was decided that the wording of the Resolution was going to be changed to say "the majority of..." rather than "any two members of..." so the board decided to table/defer the Resolution until it is changed. Mrs. Thomas also commented that since the NET RMA's projects are different now as opposed to when TxDOT was building and doing all of it we need a better structure because the NET RMA is now its own "person".

Board member Jeff Sandford moved to table Resolution 11-21. Board member Robert Murray seconded the motion. The motion carried and the Resolution was tabled / deferred.

**15. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION TO AUTHORIZE NEGOTIATION OF AN INTERLOCAL AGREEMENT WITH PARTICIPATING AGENCIES FOR PURCHASE OF ABANDONED RAILROAD CORRIDOR BETWEEN WHITEHOUSE AND TROUP AND ISSUANCE OF AN RFP FOR FINANCING OF PURCHASE**

**(Resolution 11- 22)**

**Action Item**

Mr. Everett Owen explained the need for the NET RMA to find out who the constituents are that would benefit from the purchase of the railway between Whitehouse and Troup. Vice Chairman Linda Thomas said that the NET RMA would need to work in a cooperative manner with the different entities that are already involved to maintain the corridor like the City of Whitehouse, the City of Tyler, Smith County, Tyler Chamber of Commerce and the Tyler Economic Development Council and those that are potentially going to be identified as constituents for the railway. Mrs. Thomas said this has been an ongoing project for several years.

Board member Walta Cooke made a motion to pass Resolution 11-22. Board member Celia Boswell seconded the motion. The motion carried.

**16. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON A GEC WORK AUTHORIZATION FOR APPRAISAL SERVICES FOR THE ABANDONED RAILROAD CORRIDOR BETWEEN WHITEHOUSE AND TROUP**

**(Resolution 11-23)**

**Action Item**

Mr. Everett Owen explained to the board that this Resolution would let the NET RMA to allow Atkins to be the GEC and to let them obtain scopes for appraisal services on the railroad corridor. Board member and Treasurer Andy Vinson asked if the NET RMA would become the owner of the railroad at some point. Everett Owen answered that that can't be determined today and was not the purpose of the Resolution and the final owner didn't have to be decided today. He also mentioned that the railroad corridor has no functioning track but the right of way is what the NET RMA is interested in. Mrs. Thomas asked Celia Boswell if this had gone through her Rail Committee and Mrs. Boswell said no.

Board member Robert Murray made a motion to pass Resolution 11-23. Board member Jeff Sandford seconded the motion. The motion carried.

**17. EAST TEXAS HOURGLASS UPDATE**

- A. Discussion, Consideration and Possible Action on a GEC Work Authorization for Environmental Review Services for the East Texas Hourglass  
**(Resolution 11-24)** **Action Item**

Mr. Everett Owen suggested per the Resolution that the NET RMA hire a GEC, Atkins, to perform a detailed scope of services for feasibility, planning and environmental services for the ETHG. Chairman Austin mentioned that this will touch a little bit of the entire corridor. It would relieve traffic congestion on other area roadways.

Board member Gary Halbrooks made a motion to pass Resolution 11-24. Board member Andy Vinson seconded the motion. The motion carried.

**18. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON APPROVAL OF A GRANT AGREEMENT WITH TXDOT FOR THE SMITH COUNTY MULTI-MODAL FACILITY** **Action Item**  
**(Resolution 11-25)**

Chairman Austin said that this Resolution formalizes the ILA agreement between TxDOT and the NET RMA. Chairman Austin explained to new board member Jeff Sandford that the Smith County Multimodal Facility is to help house regional transportation such as rail, taxis, car rental agencies and buses. The Chairman also explained how the NET RMA got a grant from TxDOT for \$120,000.00 by submitting an application. The Chairman then stated that the matching of \$10,000.00 by Smith County is a "pretty good return." "This is a great partnership that sets the model with other counties of what can we do to help facilitate needed projects?" the Chairman stated.

Board member Walta Cooke made a motion to pass Resolution 11-25. Board member Linda Thomas seconded the motion. The motion carried.

**19. UPDATE ON LOOP 571 PROJECT WITH RUSK COUNTY**

Chairman Austin asked Mike Battles to give the update on the Loop 571 Project in Rusk County to which he said that the schematics had been approved and that TxDOT was working on getting a public hearing set up for the end of summer. TxDOT had sent out a new call for projects statewide. The end of August is the deadline for project submissions to TxDOT for those counties projects to be considered. Board member and Treasurer Andy Vinson said he had heard that the deadline was August for the submission of projects. Mr. Battles confirmed that that was the same deadline and schedule he was aware of as well.

Then again, Chairman Austin asked if there were any other projects from the board member counties that need to be considered or put on the priority list. "Even if the NET RMA isn't the lead agency we can still be supportive and help facilitate other projects including TxDOT projects." stated the Chairman Austin. The Chairman then asked that the Wells Relief Route in Cherokee County and the Lake Columbia projects get their status checked on so they didn't get forgotten about. Mr. Battles said that he would get an update on them.

**20. REPORT CONCERNING STATUS OF GEC WORK AUTHORIZATIONS** **Mike Battles**  
A. Update on the RFP selection process for the NET RMA web page

Mike Battles gave the board the update on the NET RMA web page by announcing that Cypress Interactive out of Kilgore was selected as the new provider. Mr. Battles told the board a little bit about Cypress and



what they will offer as far as services to the NET RMA. He touched on the ability to get the board members individual email addresses that could link to their existing emails as well which the Chairman liked. The Chairman asked how long the contract with Cypress would be. Mr. Battles said three years (2013), the length of the 3B Project. With that answer the Chairman wanted to find out to the NET RMA is clear on what the early termination clause would be and if there are any additional costs involved with potentially having to cancel the contract with Cypress. Mr. Battles said he would find out.

Mr. Battles then went over the toll activity logs of Toll 49. Chairman Austin mentioned that he had two requests from citizens regarding TxTags and where to get them and why hasn't there been any more advertising for them. The Chairman responded to the citizens' question by saying as soon as there are more segments opened up there will be another marketing campaign push for the TxTags again.

Vice Chairman Linda Thomas asked about the collections of the 33% of the tolls that have not been collected that Mike Battles covered in his GEC report. Apparently, that information is not available yet but the Chairman sent a letter to TxDOT to request how to find out that knowledge because it could be used to help the NET RMA deal with unpaid tolls and how to collect on them.

The Chairman wants to make sure that the public will be informed of the fact that Toll 49 will enforce toll collections. The board talked about how to enforce it within all the surrounding counties; if it was even really possible. Chairman Austin asked that the subject of "tolls collection policy" be on the next several board meeting agendas for discussion.

## **21. TxDOT DISTRICT REPORTS**

### **A. Atlanta District**

TxDOT Atlanta Representative

Deanne Simmons was present for the board meeting and spoke briefly on the legislative items that will affect TxDOT and its funding. There was \$22 million awarded for funding but now that TxDOT is in maintenance mode, there is not any money for doing new design, right of way acquisition or construction. Ms. Simmons said they have been working with their local cities and government entities to get their new projects underway. Chairman Austin stated that the Federal Highway Trust Fund has no money that is usually collected from the gas taxes nor is there any stimulus monies which will impact MPOs and TxDOT across the state and said that the financing needs to get very creative to find ways to pay for all of the projects going forward. Chairman Austin asked Deanne Simmons about FM 3535 in Camp County and if it is was on their long-range plan. Mrs. Simmons said that it had been withdrawn.

### **B. Tyler District**

TxDOT Tyler Representative

There was not a representative from TxDOT - Tyler present at the meeting.

## **22. METROPOLITAN PLANNING ORGANIZATION REPORTS**

- A. Longview
- B. Texarkana
- C. Tyler

Karen Owen  
Brad McCaleb  
Barbara Holly

Neither Longview nor Tyler had a MPO representative present at the meeting. Brad McCaleb was there representing the Texarkana MPO. Mr. McCaleb thanked the board for coming to Texarkana and said thanks for allowing him to attend the meeting.

## 23. TREASURER'S REPORT

Andy Vinson

### A. Discussion, Consideration and Possible Action to Designate Authorized Signatories for NET RMA Checks

#### (Resolution 11-26)

**Action Item**

Chairman Austin called upon Board Treasurer Andy Vinson to present the Treasurer's Report. Mr. Vinson noted that the first item was to discuss a resolution for adding the positions of Chairman (Jeff Austin III), Vice Chairman (Linda Thomas), Secretary (Dave Spurrier) and Treasurer (Andy Vinson) as being authorized signatories on the NET RMA bank account. Chairman Austin commented that there had only been two authorized persons in the past, and that sometimes due to travel and other schedules these persons were not available to sign checks. Chairman Austin also requested that the position of Finance Committee Chair (Gary Halbrooks) and Board Member Mike Thomas, CPA be added to the resolution for signature authority also.

Board member Gary Halbrooks made a motion to pass Resolution 11-26. Board member Andy Vinson seconded the motion. The motion carried.

### B. Discussion, Consideration and Possible Action on the Treasurer's Report

**Action Item**

Board Treasurer Andy Vinson then called upon the Board's accountant, Tom Fitzgerald, CPA, to present the Treasurer's Report. Mr. Fitzgerald presented the NET RMA Financial Statements through July 31, 2011. The first item covered was the Statement of Net Assets for the Board. This page indicated that the NET RMA has approximately \$370,891 in cash in the bank, of which \$288,424 is credited to the Rusk Co. Loop 571 project and cannot be spent on other items. This leaves \$ 82,467 in the bank available for paying miscellaneous expenses. In addition, the NET RMA has approximately \$20,905,724 in the bank from SIB and Toll Equity Loan Draws. These funds are reserved for payments on the Toll 49, Segment 3B project being designed and constructed by CH2M Hill. Mr. Fitzgerald suggested that perhaps some of the available cash could be used to pay off old non-loan eligible legal fees. However, Chairman Austin replied "Not Yet", and explained that he had an agreement with the legal firm of Locke Lord Bissell & Liddell to pay those fees when the NET RMA actually begins to collect toll revenue, and not before.

The next financial page presented a statement of revenue and expenses for the month of July, 2011 and for the ten-month period ending on July 31, 2011. Mr. Fitzgerald indicated that the NET RMA had collected \$28,000 in county contributions to-date this fiscal year, and that three counties (Cass, Harrison and Van Zandt) still owed their annual contributions for FY 2011. Chairman Austin instructed Mr. Mike Battles, GEC Project Manager, to send letters to the counties asking them to pay their outstanding contributions.

Mr. Fitzgerald also noted that to-date the NET RMA had collected \$442 in interest payments, thus providing total revenue of \$28,442. He also noted that the NET RMA has had FY 2011 expenses of \$1,288,646, but that a great majority of these expenses were related to construction of Toll 49 Segment 3B and would be paid out of the SIB and Toll Equity funds.

The third and last financial page simply compared the annual budget to actual year-to-date income and expenses. As mentioned, YTD income was \$28,442 vs a budget of \$38,000 because all counties have not made their contribution. Expenses YTD were \$1,288,646 because this figure includes a lot of non-capitalized items being paid with SIB and Toll Equity Loan funds. These items were not in the original FY 2011 budget because they were included in a separate Toll 49 Segment 3B project budget.

## **24. FINANCE COMMITTEE REPORT**

Gary Halbrooks

Gary Halbrooks said there was not anything specific to report. He told the board about a presentation that he, Mike Battles and Randy Hopmann gave to the Lindale Chamber of Commerce meeting on August 4<sup>th</sup> regarding segment 3B of Toll 49. He commented that it went well and that it was the largest attendance at a Lindale Chamber meeting to date. Mr. Halbrooks also spoke briefly on his visit to the legislative meetings and how they went.

## **25. PUBLIC OUTREACH AND EDUCATION COMMITTEE REPORT**

Andy Vinson

Treasurer and board member Andy Vinson reported that he has given a few interviews to a news organization and the newspaper stations regarding the NET RMA, his position on its board and also the projects in Rusk County; mainly the status of Loop 571. Mr. Vinson also encouraged all board members to give an annual report to their counties and their city councils so they are kept apprised of what their NET RMA representative is doing for the county's transportation needs as far as priority projects that may include rail, road, airports and multimodal facilities.

## **26. COMPLIANCE & OVERSIGHT COMMITTEE REPORT**

Keith Honey

Board member and compliance oversight committee chair Mr. Keith Honey was not present at the meeting so Chairman Austin went through the spreadsheets stating again that the conflict of interest sheet needed to be updated. The current status of the five items was:

- A. Open Records Spreadsheet – all Board Members except newly appointed member, Jeff Sandford, of Bowie County have completed their training
- B. Surety Bond Spreadsheet – all Board Member surety bonds current except newly appointed member, Jeff Sandford, of Bowie County he is still in need of a bond
- C. Conflict of Interest Spreadsheet – all Board Members have submitted conflict of interest statements except newly appointed member, Jeff Sandford, of Bowie County
- D. Term Expiration Spreadsheet – all Board Members will expire in 2012 or 2013. Board Member Ed Smith III from Harrison County will have his term expire in November 2011.
- E. TEC Filing Spreadsheet – all Board Members except newly appointed member, Jeff Sandford, of Bowie County has filed with the TEC

## **27. UPDATE ON THE 82<sup>ND</sup> LEGISLATIVE SESSION**

Lori Winland

Lori Winland presented a summary recap of events that occurred regarding legislation filed in support of legislative priorities that several RMA's had adopted. This summary did not differ from May's board meeting when she gave the update then. Mrs. Winland commented that, "A lot of good stuff happened during the last session and the efforts paid off." Please see the attached sheet that Mrs. Winland supplied for supplemental information regarding the 82<sup>nd</sup> Legislative Session. These sheets provide full information regarding each item and the status of each in the legislative process. Chairman Austin did mention the TRIZ and how the use of it is beginning to differ from when it was originally created in that it does not now need to be used wholly for TxDOT projects.

**28. TRAINING ON ETHICS ISSUES AND THE NET RMA INTERNAL COMPLIANCE POLICY**

Lori Winland

Lori Winland of Locke Lord Bissell and Liddell gave a slide presentation regarding NET RMA ethics policy and procedures. The 11 training slides covered items such as: NET RMA ethics and compliance program, training requirements, internal components of the program, oversight and reporting violations, conflicts of interest, policies on gifts and honoraria, and other ethics-related requirements of the NET RMA board.

A copy of Mrs. Winland's presentation was subsequently sent to each member of the NET RMA board.

**29. ADJOURNMENT**

Chairman Austin adjourned the meeting at 4:50 pm. The Chairman commented briefly about the next board meeting being held in Rusk County in Henderson on September 21st and then in October it being held back in Tyler, Smith County.

  
\_\_\_\_\_  
Jeff Austin III – Chairman

  
\_\_\_\_\_  
Dave Spurrier – Secretary

  
\_\_\_\_\_  
Erin Lavender

**FY 2011 Scheduled Board Meetings / Functions**

September 21, 2011  
NET RMA Board Meeting  
TBA

October 2011  
NET RMA Board Meeting  
TBA

**Non-Scheduled Meetings / Functions - Where a Quorum Could be Present, but No RMA Business Would be Conducted**

Date Pending  
TeamTX  
Austin, Texas

August 25, September 29 and October 27, 2011  
Texas Transportation Commission Meeting  
Austin, Texas

**COURTESY RULES**

Thank you for your presence. The NET RMA appreciates your interest. If you wish to address the RMA on any agenda item, Public Participation Forms will be available before the meeting. These forms must be filled out and turned in to the RMA Chairman or secretary *prior* to the time the agenda item in question is addressed by the RMA.

You must be recognized by the Chair. (NOTE: Items will not necessarily be presented in the order they are posted.)

**OPEN COMMENT PERIOD**

At the conclusion of all other agenda items, the Board will allow an open comment period, **not to exceed one hour**, to receive public comment on any other matter that is under the jurisdiction of the Board. Public comment that does not relate to a specific agenda item must be made during the open comment period.

Each speaker will be allowed a **maximum of three (3) minutes**. Speakers must be signed up prior to the beginning of the open comment period. For subjects that are not otherwise part of the agenda for the meeting, Board members may neither comment nor question speakers during the open comment period, but may direct the Chairman, or a recognized committee to investigate the subject further. No action will be taken on matters that are not part of the agenda for the meeting.

**NOTE**

Enumerated agenda items are assigned for ease of reference only, and will not necessarily be considered by the Board in that particular order. The Chairman may rearrange the order in which agenda items are considered.

Presenters with audiovisual needs are requested to contact Erin Lavender at (903) 509-1552 ext. 448-1229, at least two working days prior to the meeting.

**ACCESSIBILITY STATEMENT FOR DISABLED PERSONS**

This meeting site is accessible to disabled persons as follows: wheelchair ramp at the main entrance. If any special assistance or accommodations are needed in order to attend this RMA meeting, please contact Erin Lavender at (903) 509-1552 ext. 448-1229, in advance so accommodations can be made.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for person who are deaf or hearing impaired, and readers of large print or Braille, are requested to contact Erin Lavender at (903) 509-1552 ext. 448-1229, at least two working days prior to the meeting so that appropriate arrangements can be made.

# NORTH EAST TEXAS REGIONAL MOBILITY AUTHORITY

## ETHICS & COMPLIANCE POLICY

### **I. General Statement of Policy**

The North East Texas Regional Mobility Authority ("NET RMA") is committed to conducting its business in an ethical, honest, and open manner and to maintaining high ethical standards among its officers and employees. In furtherance of that commitment, the NET RMA adopts the Ethics & Compliance Policy set forth herein.

In addition to complying with the requirements of this Ethics & Compliance Policy, NET RMA officers and employees must at all times abide by applicable federal and state laws and regulations, the NET RMA bylaws, and NET RMA policies.

### **II. Employee Code of Conduct**

Employees of the NET RMA are expected to conduct the business of the authority in an open, honest, and ethical manner. Employees must adhere to the highest standards of ethical conduct in the performance of their responsibilities and must refrain from engaging in any activity that could raise questions as to the honesty or integrity of the NET RMA or damage the NET RMA's reputation or credibility. Additionally, employees must at all times comply with the Employee Code of Conduct set forth in this Section II.

#### *Equal Employment Opportunity*

The NET RMA is an equal opportunity employer and is committed to the principles of equal employment opportunity. The NET RMA will not tolerate discrimination based on race, ethnicity, color, creed, religion, ancestry, national origin, sex, gender, sexual orientation, age, disability, or any other status protected by law.

All employment decisions, including but not limited to decisions regarding recruitment, selection, hiring, transfer, compensation, benefits, training, promotion, demotion, discipline, discharge, termination, leave of absence, and other terms, conditions, and privileges of employment, shall be based on individual qualifications without regard to an employee's status as a member of a protected class. The NET RMA will make reasonable efforts to ensure that all protected classes have equal access to employment with the NET RMA, and all personnel responsible for hiring, managing, and promoting employees are charged to support the NET RMA's commitment to equal employment opportunity.

The NET RMA will make reasonable accommodations for applicants or employees with disabilities, provided that the individual is otherwise qualified to perform the duties and responsibilities of the position and that any accommodation is not detrimental to the business operations of the NET RMA.

### *Workplace Harassment*

The NET RMA is committed to ensuring a respectful work environment free from sexual harassment or any type of unlawful discrimination or harassment based on race, ethnicity, color, creed, religion, ancestry, national origin, sex, gender, sexual orientation, age, disability, or any other status protected by law. Harassment based on any of the above is considered a form of illegal discrimination. The NET RMA will not tolerate any form of harassment in the workplace.

Prohibited sexual harassment includes any unwelcome sexual advances, requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature where submission to such conduct affects an individual's employment; such conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or such conduct creates an intimidating, hostile, or offensive work environment. Other forms of prohibited harassment include unwelcome verbal or physical conduct that belittles, shows hostility, or ridicules an individual because of race, ethnicity, color, creed, religion, ancestry, national origin, sex, gender, sexual orientation, age, disability, or any other characteristic protected by law.

If an employee believes that he or she is or has been subjected to harassment, including but not limited to any of the conduct listed herein, by any manager, other employee, consultant, customer, vendor, or any other person in connection with employment at the NET RMA, the employee should report the incident to the chief administrative officer of the NET RMA, if any, the Chairman of the NET RMA, or, in the absence of a chief administrative officer or Chairman or in the event that the incident involves the Chairman, to the Vice-Chairman. Similarly, an employee who witnesses harassment directed at another employee should immediately report the matter to the chief administrative officer of the NET RMA, if any, the Chairman of the NET RMA, or, in absence of a chief administrative officer or Chairman or in the event that the incident involves the Chairman, to the Vice-Chairman, with or without the permission of the employee involved. All complaints of workplace harassment will be investigated promptly and thoroughly and with as much confidentiality as possible. Retaliation against an employee who reports workplace harassment will not be tolerated.

The NET RMA will take complaints or reports of harassment very seriously and will take appropriate remedial action if an investigation reveals that prohibited harassment, discrimination, or retaliation in violation of this Code of Conduct has occurred. Employees who engage in prohibited harassment will be subject to corrective action, up to and including termination of employment.

### *Conflicts of Interest*

Employees are prohibited from engaging in any activity that could create a conflict of interest or even the appearance of a conflict of interest with the employee's duties and responsibilities to the NET RMA. Activities that could create a conflict of interest include, but are not limited to:

1. Transaction of NET RMA business with any entity in which the employee is an officer, agent, member, or owner of a controlling interest;
2. Participation in a NET RMA project in which the employee has a direct or indirect monetary interest;
3. Outside business or professional activities that could interfere with the employee's performance of duties on behalf of the NET RMA or impair the employee's independence of judgment with respect to the employee's performance of NET RMA duties;
4. Personal investments that are likely to create a substantial conflict between the employee's private interest and the interest of the NET RMA; and
5. Any activity that could result in the disclosure of confidential or sensitive information that the employee has access to as a result of the employee's position with the NET RMA.

If an employee is uncertain as to whether a particular activity could create a conflict of interest, the employee should consult the NET RMA's General Counsel prior to engaging in the activity.

#### *Gifts and Honoraria*

Employees are prohibited from accepting gifts, favors, benefits, or other compensation, whether in the form of money or other thing of value, which could influence them or even have the appearance of influencing them in the performance of their official duties. Employees may accept meals offered in the course of normal business relationships. Additionally, employees may accept promotional items that do not exceed an estimated \$25 in value and are distributed as a normal means of advertising.

Employees may not accept an honorarium for appearing at a conference, workshop seminar, or symposium as a representative of the NET RMA other than reimbursement for food, transportation, or lodging.

If an employee is uncertain as to whether he or she may accept a gift, favor, or benefit, the employee should consult the NET RMA's General Counsel prior to acceptance.

#### *Use of NET RMA Property*

Computers, including all software, hardware, internet, and email systems; modems; printers; telephones; cellular phones; fax machines; copy machines; and other electronic and communications equipment owned or leased by the NET RMA may be used for official NET RMA purposes only. Employees may, however, make brief personal telephone calls for which the NET RMA does not incur any additional charges. Employees do not have an expectation of privacy when using NET RMA electronic and communications equipment, and all emails, computer files, and telephone records are the property of the NET RMA and are subject to



disclosure under the Texas Public Information Act, discovery in litigation, and/or examination by managers or supervisors.

Employees must immediately report lost or stolen NET RMA property to the chief administrative officer of the NET RMA, if any, the Chairman of the NET RMA, or, in the absence of a chief administrative officer or Chairman, to the Vice-Chairman. Misuse or theft of NET RMA property may result in disciplinary action, including criminal prosecution.

#### *Criminal Activity*

The NET RMA will perform criminal background checks on all final applicants for any position involving the disbursement of NET RMA funds or the handling of cash, checks or credit cards; negotiable documents and materials; or highly confidential or sensitive information. All applicants admitting a felony conviction on their application materials will also be subject to a criminal background check. Additionally, the NET RMA may at its discretion perform criminal background checks on applicants for any other position.

If an employee is charged with a felony or a misdemeanor other than a traffic violation, the employee is required to immediately inform the chief administrative officer of the NET RMA, if any, the Chairman of the NET RMA, or, in the absence of a chief administrative officer or Chairman, the Vice-Chairman. The NET RMA may take steps to respond to criminal violations consistent with Section V below, up to and including termination of employment.

#### *Maintenance of Agency Records, Fraud, & Public Information*

Employees must maintain all NET RMA records for at least the minimum amount of time prescribed by the records retention schedules applicable to local governmental entities adopted by the Texas State Library and Archives Commission. In the event that litigation is filed against the NET RMA or is reasonably anticipated to be filed, the NET RMA's General Counsel may determine that it is necessary to implement a litigation hold in order to ensure the preservation of all records related to the lawsuit. Employees must refrain from destroying any records that are the subject of a litigation hold. Additionally, Employees must comply with the NET RMA's Policies and Procedures for Retention of Records.

Given the need for accurate and honest business records, any false or misleading report or record (including but not limited to financial documents; resumes; employment applications; contracts; and reports) will be taken very seriously. Employees who become aware of any suspected fraudulent act or falsification of NET RMA records must immediately report the concern to the chief administrative officer of the NET RMA, if any, the Chairman of the NET RMA, or, in the absence of a chief administrative officer or Chairman, to the Vice-Chairman, who shall respond to the evidence by taking appropriate remedial action. Discovery of a fraudulent act related to a person's employment or job responsibilities may result in corrective action, up to and including termination of employment.

Members of the public may make written requests for records maintained by the NET RMA. Employees must comply with the NET RMA's Guidelines for Responding to Public Information Act Requests and applicable law and regulations when responding to a request for

records. Employees must refrain from destroying any records that are the subject of a pending public information request.

#### *Employee Acknowledgement*

All employees must sign an acknowledgment, in the form attached as Attachment "A", acknowledging that they have received, read, and understand this Employee Code of Conduct and that they will comply with the requirements set forth herein.

### **III. Training Regarding Ethics & Compliance Standards**

Upon beginning service or employment with the NET RMA, all officers and employees shall be provided with a copy of this Ethics & Compliance Policy and shall receive orientation on ethics laws and policies. Additionally, officers and employees of the NET RMA shall receive periodic training on the requirements of this Ethics & Compliance Policy and on ethics issues generally.

### **IV. Oversight & Reporting of Suspected Violations**

The chief administrative officer of the NET RMA, if any, and the Chairman of the NET RMA are responsible for monitoring and enforcing employee compliance with this Ethics & Compliance Policy.

If an officer or employee becomes aware of a suspected violation of this Ethics & Compliance Policy, a violation of law, or a breach of fiduciary duty by any officer, employee, or agent of the NET RMA, he or she must immediately report the suspected violation to the chief administrative officer of the NET RMA, if any, the Chairman of the NET RMA, or, in the absence of a chief administrative officer or Chairman or in the event that the incident involves the Chairman, to the Vice-Chairman. The chief administrative officer, Chairman, or Vice-Chairman shall respond to evidence of any suspected violation or breach by taking appropriate action, including adopting or enforcing appropriate remedial measures or sanctions. Retaliation against those who come forward to raise concerns or report suspected violations will not be tolerated by the NET RMA.

### **V. Enforcement & Response to Offenses**

The NET RMA will not tolerate unethical or illegal conduct or conduct that discredits or interferes with the operations of the NET RMA. The NET RMA may discipline employees for any conduct that violates state or federal laws or regulations or the terms of this Ethics & Compliance Policy, up to and including immediate dismissal.

Examples of behavior that may result in an employee's immediate dismissal include, but are not limited to:

- gross negligence of job duties
- theft or misuse of NET RMA property

- fraud, dishonesty, or falsification of NET RMA records
- unlawful use, sale, manufacture, distribution, dispensation, or possession of narcotics, drugs, or controlled substances while on NET RMA premises
- prohibited sexual harassment or offensive or degrading remarks about another person's race, ethnicity, color, creed, religion, ancestry, national origin, sex, gender, sexual orientation, age, disability, or any other characteristic protected by law in violation of the Employee Code of Conduct set forth in Section II
- assault of or verbal threat to a fellow employee, officer, agent, or customer
- criminal conduct
- failure to address a recurring problem for which the employee has already been disciplined
- unprofessional conduct or behavior that negatively impacts the NET RMA's public image, credibility, or integrity.

The NET RMA may, but is not required, to take corrective action to make an employee aware of a problem related to the employee's conduct and to provide an opportunity for the employee to remedy the problem. Such corrective action may include an oral conference, a written warning, and/or suspension. However, nothing herein shall limit the NET RMA's right to terminate an at will employee at any time, for any reason, with or without cause or notice.

**Attachment "A"**

**Employee Acknowledgement**

**LLB&L**

Locke Lord Bissell & Liddell

**North East Texas Regional Mobility Authority  
Ethics and Internal Compliance  
Training**

August 17, 2011

Lori Winland  
Locke Lord Bissell & Liddell, LLP

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**NET RMA Ethics and Internal  
Compliance Program**

- Adopted by the Board in December 2009
- Required for all RMAs and all entities that receive financial assistance from TxDOT
- Designed to detect and prevent violations of law, regulations, and ethical standards
- Applicable to all NET RMA officers and to future NET RMA employees

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**Training Requirement**

- Members of the Board of Directors must receive periodic training in the NET RMA's ethics and internal compliance program
- In addition to this training, Board members should familiarize themselves with the contents of the NET RMA's Ethics and Compliance Policy, bylaws, and conflict of interest policies

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**Components of the Ethics and Internal Compliance Program**

- NET RMA Ethics & Compliance Policy
- Bylaws
- Conflict of Interest Policies
- Drug and Alcohol Policy
- Procurement Policy

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**Oversight & Reporting of Violations**

- A suspected violation of the Ethics & Compliance Policy, a violation of law, or a breach of fiduciary duty must be reported immediately to the Chairman or Vice-Chair
- The Chairman or Vice-Chair will take and enforce appropriate remedial measures or sanctions
- Retaliation for reporting suspected violations will not be tolerated

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**Conflicts of Interest**

Board members may not:

- accept employment or engage in business activities that might induce disclosure of confidential information or impair the member's independence of judgment
- make personal investments that could create a conflict between the member's private interest and that of the NET RMA
- have a personal interest in a NET RMA contract

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**Conflicts of Interest (cont'd)**

Board members or their spouses may not:

- be employed by, or own or control more than a 10% interest in, a business that is regulated by or receives money from TxDOT or the NET RMA
- use or receive a substantial amount of tangible goods, services, or money from TxDOT or the NET RMA
- register as a lobbyist

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**Conflicts of Interest (cont'd)**

Board members must:

- file an affidavit and abstain from participation in a matter that could have a special economic effect on a business entity or real property in which the member has a substantial interest
- file a conflicts disclosure statement to disclose a business relationship with a potential NET RMA contractor

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**Gifts & Honoraria**

Board members may not accept:

- any benefit that is being offered in an attempt to influence the member
- any benefit from a potential contractor during a pending procurement
- an honorarium for services related to the member's position with the NET RMA
- benefits other than food, lodging, transportation, or entertainment from those with an interest in NET RMA contracts, including current consultants

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**Other Obligations of NET RMA  
Board Members**

- Open Government Training
- Compliance with the Open Meetings and Public Information Acts
- Personal Financial Statements

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**LLB&L**  
Locke Lord Bissell & Liddell

**Questions?**

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(512) 305-4718

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