

**GREATER AUSTIN AREA TELECOMMUNICATIONS
NETWORK (GAATN)
INTERLOCAL AGENCY**

**625 East 10th Street, 6th Floor
Austin, Texas 78701**

**MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS
MEETING HELD October 3, 2005
Lower Colorado River Authority
Shapiro Building Room 517
3701 Lake Austin Blvd**

Agenda Item No. 1:

The meeting was called to order by Chairman Patrick Jordan at 1:31 p.m.

The following Board members announced as present at the start of the meeting:

Tom Lott, on behalf of the Lower Colorado River Authority
Brian Kunz, on behalf of the Lower Colorado River Authority
John Kohlmorgan, on behalf of Austin Independent School District
Walter LaGrone, on behalf of Travis County
Patrick Jordan, on behalf of the City of Austin
Martha Riekeberg-Krischke, on behalf of the City of Austin
Gary Weseman, on behalf of Austin Community College
John House, on behalf of the University of Texas
Dave Kelly, on behalf of the State of Texas

GAATN Personnel present at the start of the meeting:

Ronald Roberts, Project Coordinator
Ashley Caron, Project Manager
Syd Falk, GAATN Attorney
Heidi Cottingham, Maintenance Contractor

Agenda Item No. 2:

Citizen Communication

No citizens were present and Patrick moved onto the next agenda item.

Agenda Item No. 3:

Approval of September 12, 2005 Board Minutes.

There was a change to the Board Minutes concerning the "UCC meeting." The organization is actually called the Austin Utility Location Coordination Committee (AULCC). Gary made the motion to approve the minutes as corrected, which was seconded by John Kohlmorgan and adopted with unanimous approval.

Agenda Item No. 4:

Discussion and possible action regarding the Board Chairperson Update.

Patrick noted that the City was looking at wireless opportunities and initiatives at present and added that Gray had suggested discussions on that topic before as well. Tom asked if it was internet only and was told that the City was looking at everything. Patrick then raised the

possibility of common equipment as it related to wireless and encouraged the Technical Subcommittee to examine the issue further especially with the budget considerations beginning in the next month for GAATN. John K noted the importance of shared solutions in this realm of technology because of the limited channels in the spectrum available. Patrick noted that parks were a target for wireless internet, libraries, and noted that Gray was considering campuses at AISD. The item will be included at the next Technical Subcommittee meeting for a round table discussion.

Agenda Item No. 5:

Executive Session:

Adjourn for closed session, under one or more of Tex. Gov't Code sections 551.071, 551.072, 551.074, and/or 551.076, to seek legal advise about pending, anticipated or contemplated litigation concerning:

- A. Construction, equipment, and product warranty claims;
- B. Damage to GAATN fiber optic cables, equipment, hardware, and other property; or
- C. Contractual or tort claims by or against GAATN; or
- D. the procedures and operations of the Board or the organization; and/or

to consider matters concerning

- E. real property purchase, exchange, lease or value;
- F. personnel matters; or
- G. security devices or security personnel.

Reconvene for discussion and actions, if any, on matters considered in closed session.

Patrick moved the Board to Executive Session at 1:50 pm and back to regular session at 2:08 pm. There was no action required in open session.

Agenda Item No. 6:

Discussion and possible action regarding the financial report and budget issues.

John K stated that GAATN was real close to where the Board had wanted to be at year end. He noted that the target closing balance was \$700,000 and the report will close out with about \$150,000 over that mark. Patrick noted that the overrun issue was solved but that close fiscal choices would be necessary in the next year. Tom wondered if the build up would be an important asset in the next year as a 'catastrophic capital event' category considering some of the recent activity and discussion. Patrick noted that he would speak to that later in the agenda. John closed by adding that the final budget report will be next month.

Agenda Item No. 7:

Discussion of and possible action regarding the Technical Subcommittee Update.

Tom started by sharing that Ron and some of the personnel at CoCom were looking into the AutoCad solutions at present for documenting the GAATN physical plant condition, configuration and history data, instead of revamping with a GIS database. This will be ongoing as an item until a solution is chosen. Tom went on to say that the Technical Subcommittee had recommended cable replacement for the super ring, the location and particulars being protected under House Bill 9.

Agenda Item No. 8:**Discussion and possible action regarding the Network Manager's Update (COA, 10 minutes).****A. Operations Report**

Ashley shared that Heidi had completed a lot of projects and noted that the C2S South expansion was going in. She also noted that her report on the fiber due in November would probably be late due to work on the budget.

B. Downtown light rail

John K noted that the information that Gray had gotten from Cap Metro last month conflicted with Ashley's report. In actuality she had the information backwards and that the impact to GAATN on 3rd street was much greater than on 4th street. Patrick had an update on this issue through his interactions with Pete Collins, which suggested the downtown project might be more like a trolley system than a light rail. Basically, the issue seems to be evolving into one that may not require the trenching and plant rework that was first reported to the Board through conversations that Ashley had with Austin LaBrach.

Patrick added that a trolley was being considered and the focus was 4th street for that project with Capital Metro to pay for the project. This new information had come from Pete Collins and conversation with other directors about the topic. Patrick closed out by adding that he had discussed the issue as it related to the GAATN budget and, based on that discussion, could not foresee adding this cost anywhere in the GAATN budget for the 2006-07 fiscal year. He then adjourned to Executive Session at 2:31 pm to discuss specific locations and projects, a discussion protected under House Bill 9. Patrick moved back into open session at 2:40 pm and made a motion to approve a recommendation by the Technical Subcommittee of a splice-to-splice rework of a section of the Super Ring, with a cost not to exceed \$31,000. The motion was seconded by Gary Weseman and approved unanimously.

Agenda Item No. 9:**Discussion and possible action regarding GAATN claims procedures. (All, 60 minutes.)**

John opened the discussion by reminding the Board of the Claims policy that was adopted in December of 2004. The stated goal was to streamline and accelerate the process of claims. He added that the longer the time frame before a resolution, the less likely that GAATN was going to succeed. Heidi added that the new method hadn't really had any tests yet but agreed that the existing claims were way overdue for resolution. She added that she was working on 2 new claims at present and hoped for a quick resolution for these. John K suggested using small claims court as an alternative for some of the claims and having GAATN personnel file thereby saving on legal expenses. Ron stated that the cap on claims that may be brought in Small Claims Court is \$5,000. John spoke to the spreadsheet on the outstanding claims and amounts spent so far and noted that a system of categorizing claims and identifying a correspondingly appropriate course of action needed to be in place. Syd commented that he received some mixed signals about how to proceed. He also suggested that categorization of claims based on damages alone might be too simplistic, since the cost of a legal action doesn't necessarily correspond to the level of damages claimed, and there are other factors the Board likely would want to consider. Patrick shared his observation of claims recovery as being historically around 50% of the damage and added that if that was a trend then a \$10,000 case might also be considered for small claims court. Walter expressed his concern with cost considerations alone versus the consideration of making a statement on behalf of the agency, and Gary added that once the process started it needed to be pushed through to a conclusion. John K suggested that certain kinds of claims were historically difficult to pursue (for example, ones involving disputes about cable height, versus ones where the liability was less open to question, for example, cable cuts by a backhoe or during tree trimming) and suggested that as a consideration as well. Additionally, John K also stated what he

saw as the five major options and stated them as 1. do nothing 2. small claims court 3. mediation 4. trial and 5. letters. Syd added that there were separate issues for trial involving the degree of preparation, such as depositions and other discovery. Syd further stated that he understood two motivations from the Board, the first being economics and the second being aggressiveness and 'setting an example'.

Patrick shared that the individual entities of GAATN each did have the capabilities to 'throw their weight around' but stated that the Board has recognized GAATN as an entity with a set legal budget and its role as a 'small player'. Patrick suggested looking at the individual situation, including damages, anticipated costs and the nature of the liability issues in determining how a lawsuit should proceed. There was a lot of debate over the possible analysis process and classifications of categories which might be used in an effort to establish the appropriate course of action for a particular claim, and that such a decision may or may not require direct Board vote for every instance of teardowns. John K was fairly adamant on establishing a classification and category system lest the same topic reappear again on down the road, and Walter and Gary agreed. In the end the consensus was that a system of classifications for claims be established and added to the claims policy to assist with establishing a direction and guidelines for the Board to apply to specific claims, and to provide guidance to legal counsel for how to proceed. The GAATN staff said they would draft a few concepts for consideration and bring it to the Technical Subcommittee meeting.

Heidi added that she would continue with her efforts with claim background research and demand letter writing before sending the information over to the GAATN staff, possibly through a general synopsis of the situation which would help identify the best course of action.

There was also a concern about Syd not necessarily being the litigation attorney and the resulting costs of bringing a different litigating attorney up to speed should a trial be necessary. Syd stated that this expense likely would be minimal, and that costs clearly related to pure "learning curve" of another attorney generally would be absorbed by the firm; he also pointed out that, as a practical matter, trial preparation involved detailed review of such things as written discovery and depositions by whatever attorney, regardless of whether that attorney had been the one developing the case from the outset, so the costs of trial preparation in that sense were not substantially increased by involving a different attorney. Patrick moved the meeting into executive session at 3:57 pm to conclude the directions to Syd regarding existing litigation in light of the general policy discussion about claims, and came back into open at 4:31 pm; there were no items brought forward from this session as it related to direction for the GAATN attorney and was case specific.

Confirm date, time and location for the next regular Board meeting as November 7, 2005 at 1:30 p.m. in Board Room of the Hancock Building at LCRA on Lake Austin Blvd.

A. Add agenda items for next month.

The meeting was adjourned at 4:31 p.m.