

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

MEETING OF THE BOARD OF DIRECTORS

MEETING HELD April 6, 2021 1:30 p.m.

Via Teleconference at (512) 831-7858, Conference ID 296 561 635#

MINUTES

1. Call to Order and Roll Call

GAATN Board Chairman Dain Herbat called the meeting to order at 1:30 p.m.

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

Dain Herbat, on behalf of Travis County

John Kohlmorgan, on behalf of Austin ISD

Steve Pyle, on behalf of State of Texas DIR

Anthony Breckenridge, on behalf of City of Austin

Robert Saddler, on behalf of LCRA

Gary Weseman, on behalf of Austin Community College

Jaime Guerra, on behalf of UT-Austin

Harold Nall, on behalf of UT-Austin

Syd Falk, GAATN attorney

Frank Ammons, on behalf of GAATN

Sarah Eichelberger, on behalf of GAATN

Carlos DeMatos, on behalf of GAATN

A quorum was established at roll call.

GAATN Contractors:

Chris Gonzales, on behalf of BryComm

Doug Wilson, on behalf of JC Communications

Members of the public:

Wayne Wedemeyer

Michael Shear, on behalf of Broadband Planning Initiatives

2. Citizen Communications

Michael Shear said he has been an advocate for resilient broadband networks and currently is advocating that Texas take some lessons learned from GAATN and apply that in a broader multi-county network initiative.

3. Review and Approve the minutes for the Board Meeting of March 9, 2021

Dain Herbat moved to approve the draft minutes as presented; Gary Weseman seconded the motion and it passed unanimously.

4. Consent Agenda Items – Certain contract renewals and/or Items Recommended for Approval from the March 23, 2021 Technical Subcommittee Meeting:

Jaime Guerra moved to approve consent agenda items 4A, 4B, 4C, and 4D; Steve Pyle seconded the motion and it passed unanimously.

A. Seeking approval for SRN permanent repair at Cameron Road and 51st Street at a cost not to exceed \$63,500 to be funded from the FY22 MAC budget

APPROVED ON CONSENT.

B. Seeking approval for developer-funded relocation of A1N/A2N/SRN/UT at Travis County Civil Court House at no cost to GAATN

APPROVED ON CONSENT.

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- C. Seeking approval for Travis County A1N new node at Civil Courthouse entity-specific project at no cost to GAATN**
APPROVED ON CONSENT.
- D. Seeking approval for Travis County A2N new node at Civil Courthouse entity-specific project at no cost to GAATN**
APPROVED ON CONSENT.

5. Board Chairperson Update (30 minutes) – Discussion and possible action regarding:

A. Seeking approval for FY21 GAATN budget line item transfers and fund balance transfer

Sarah reviewed a handout showing a projected shortfall for FY21 of \$30k in the legal services budget and \$71k in the locates/notifications budget. The handout also showed approximately \$51k in budget savings in certain categories. Sarah said that after corresponding with the fiscal agent, they recommended re-appropriating \$101k of the \$171k in unbudgeted revenue received to those line items. Gary asked about the shortfall in the locates budget and what that was attributed to. Sarah said the number of monthly locates has increased dramatically due to the increase in construction in the greater Austin area. Gary asked if this was accounted for in the FY22 budget; Sarah said the locates budget was increased by \$30k over the FY21 budget, but based on the amount spent this year, she may need to bring a revised budget in June that decreases the FY22 MAC budget in order to increase the FY22 locates budget. John asked management to illustrate the increase of monthly locates when they bring the revised FY22 budget request. Gary Weseman moved to re-appropriate \$101k of unbudgeted revenue to the following FY21 budget line items - \$30k for legal services and \$71k for locates/notifications; John Kohlmorgan seconded the motion and it passed unanimously.

B. GAATN Cap Metro agreement

Syd reported that he has been working with Cap Metro and is very close to having a finalized agreement for execution. He said the final question is regarding insurance requirements that are applicable to GAATN and GAATN's contractors. Dain said Travis County is very eager to get this agreement executed so they can move forward with their project.

C. Draft Guidance for Entity-Specific Projects and corresponding draft agreement

Syd noted that the handouts include both a redlined and clean version of the revised guidance/agreement that incorporates all entity feedback received thus far. He said the only entity he is waiting on is DIR. Steve said he thought that the DIR legal counsel had responded. Syd said he did receive a voicemail from the DIR attorney and had tried to call him back more than once but has yet to receive another call back. Steve said he would schedule a conference call between the three of them to ensure they connect.

D. SB 632 regarding possible LCRA provision of broadband service and limitations thereon

Dain noted that GAATN management received a letter from a City of Austin attorney expressing concern that this bill could have an impact to GAATN. Syd previously reviewed the bill as written and does not believe it will impact GAATN. The summary is that it will give LCRA the ability to provide non-retail broadband service using its fiber to accomplish broadband connectivity in rural areas. LCRA is forbidden from providing retail service but they can provide wholesale service to other outfits that will then provide the retail service to individual customers. Syd said the language that prompted the concern was the provision that requires LCRA to advertise if they are proposing to provide broadband capacity at a wholesale level to a municipality, and if a private provider wants that capacity, they can preempt the municipality. Syd said this does not apply to GAATN since it's not a retail provider and it is unlikely to affect any of GAATN's members directly. Syd reminded the Board that the GAATN interlocal prohibits non-governmental use of GAATN fiber. Dain asked if the provision of the

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interlocal that prohibits non-governmental use of GAATN fiber is derived from statute or if it was simply the prerogative of the drafters of the interlocal. Syd said that question has come up from time to time by members. He said there is not a direct statute that prohibits it but it does come from constitutional and tax considerations that a governmental entity in general is prohibited from donating to any third party a benefit that it doesn't provide the populous at large as a governmental function. Secondly, there is a risk that if we allow commercial non-governmental entities to participate, GAATN would risk losing its tax exempt status. Dain said he asked because Travis County is looking at addressing the digital divide, and there are federal funds available to build infrastructure to provide discounted service for qualifying residents. He said Travis County is struggling to identify where they can help bridge the gap and what role is appropriate to get broadband out to the masses; he hopes that the formation of the state broadband office will help to provide guidance on that point. Syd said he will continue to monitor this bill.

E. Property damage claim against Asplundh for damage to C1N at Willamette Drive

This item was reviewed in executive session for attorney consultation under Texas Government Code 551.071. Upon reconvening in open session, no additional discussion was held and no action was taken.

F. Property damage claim against Texstar for damage to SRN at Cameron Rd. and 52nd St.

This item was reviewed in executive session for attorney consultation under Texas Government Code 551.071. Upon reconvening in open session, no additional discussion was held and no action was taken.

6. Network Manager's Update:

A. GAATN Backup NOCC status update

Frank reviewed the overall NOCC construction schedule and the items that will be completed in the next two weeks. Jaime asked about the card reader for the entry door; Frank said that is being handled by the Data Center Office at COA. Dain asked if management had visited the site; Frank said he visited a couple of weeks ago and there wasn't much to see but he is hoping to visit again later this week. Jaime asked Syd if future updates that include floor plans and pictures should be done in executive session under Texas government code 418.181; Syd said he absolutely agreed.

B. Notification of RFP for GAATN Maintenance (21RFP063) issued April 6, 2021

Sarah reported that the RFP for GAATN Maintenance (AISD 21RFP063) was issued by Austin ISD today and there will be a mandatory virtual pre-proposal on Tuesday, April 13 at 10am. She said the meeting access information is on page 2 of the RFP. She noted that the RFP will close on Tuesday, April 27 at 2pm and a recommendation to award will be brought to the May 4 Board meeting. She said submissions are virtual. The evaluation subcommittee members are Bo Kinsey, Harold Nall and Frank Ammons.

C. Project status report

Frank reported on the following upcoming/recently completed projects:

- SRN permanent repair at Camino La Costa – scheduled to complete 4/7
- A1N upgrade project Segment 5 – scheduled to complete 4/21. Dain asked about the remaining A1N segments and when they will complete. Frank said all segments except 2 and 11 are expected to be completed this fiscal year.
- B1S splice case audits – ongoing through 4/12
- B2S SH71 relocation east of SH130 and Ross Road – completed 3/19
- B1N temporary repair at Parmer Lane – completed 3/9
- SRN permanent repair Cameron Road at 51st – approved today

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John asked about the columns added to the report for AE permits. Frank explained that, for every segment of A1N, the contractor or engineer divides the AE permit applications up by 5 to 10 poles; therefore, each segment has multiple applications. He said it would be very labor intensive and make the project status report too difficult to understand if management were to list all of those dates for each application. He proposed that management list the date the first permit was requested and the last permit was approved for each project/segment; Gary and John agreed with that approach.

D. Job budget report

Sarah reported that management is tracking 36 jobs totaling \$1.8 million and GAATN is expecting \$271k in recoveries, with \$171k already received. She noted that management should be able to nail down approximately how much will be spent in FY21 by the May Board meeting and request a fund balance transfer and/or unbudgeted revenue appropriation if needed.

7. Executive Session: At 2:22 p.m., Dain Herbat adjourned the GAATN Board for closed session, under Texas Government Code sections 551.071, 551.089 and 418.181 (“H.B.9”), to seek legal advice or to preserve confidentiality as permitted by law (including but not limited to pending, anticipated or contemplated litigation concerning) Agenda Items 5E and 5F. At 2:56 p.m. Dain Herbat reconvened the GAATN Board in open session. Agenda Items 5E and 5F were the only items discussed. Any action taken regarding an item upon return to open session is noted in the summary of the particular agenda item.

8. Discussion and possible action regarding the financial report and current fiscal year budget issues. (AISD, 10 minutes):

A. Financial Report

John reviewed the financial report for the month ending February 28, 2021. He asked members to review and send him any questions they may have.

9. Review of action items for network management and/or GAATN legal from this meeting:

Frank reviewed the following action items from this meeting:

- Bring locates per year/month for FY22 budget line item adjustments
- Pictures for backup NOCC are for executive session only
- AE permit dates on project status and average project timelines – Frank noted this will take a while to gather and asked for patience on this action item

10. Confirm date, time, and location for the next regular Board meeting on May 4, 2021 at 1:30 p.m. via Teleconference.

The date, time and location for the next regular Board meeting were confirmed; the meeting adjourned at 3:02 p.m.