BOARD OF DIRECTORS MEETING

Minutes of October 17, 2012

The regular meeting of the Board of Directors was held in the first floor Conference Rooms 1A, 1B and 1C at 1 Aviation Circle. The Chairman called the meeting to order at 9:10 a.m. All fourteen Directors were present during the meeting:

Michael A. Curto, Chairman
Thomas M. Davis III, Vice-Chairman
Earl Adams, Jr.
Richard S. Carter
Lynn Chapman
Frank M. Conner III
H.R. Crawford
Shirley Robinson Hall
Barbara Lang
Dennis L. Martire
Caren D. Merrick
Michael L. O'Reilly
Warner H. Session
Todd A. Stottlemyer

The Secretary and Executive Management were present:

John E. Potter, President and Chief Executive Officer
Margaret E. McKeough, Executive Vice President and Chief Operating Officer

The Chairman said the day's meeting would be very significant. The Board would be taking a major step forward in the procurement process for the Silver Line project. It was also welcoming four new Members, in the most extensive change in membership in the Authority's history. The Council of the District of Columbia had enacted amendments to the Authority's compact legislation matching those made earlier in the year by the Virginia Assembly, increasing the number of Members from 13 to 17 and requiring Members to leave the Authority as soon as their terms expired.

As a result, two federal Members had left the Board, and six new ones would be joining by December. The two federal appointees were Bill Cobey, who had started in 2005, and Bob Brown, the longest-serving Member, who had joined the Board in 1996. Dennis Martire, a Virginia appointee from 2009, would be leaving the Board after the day's meeting.

Mr. Curto said he wished to thank the departing members on behalf of the Board and the men and women of the Authority for their years of service, for their dedication, for their positive contributions to the advancement of the Authority and its mission. He said the Authority would miss their helpful insights and valuable institutional knowledge.

The new Directors were: from the District of Columbia, Barbara Lang, President and CEO of the D.C. Chamber of Commerce; from Maryland, Earl Adams, Jr., a partner at DLA Piper, who had served as Chief of Staff to the Lieutenant Governor of Maryland; and from Virginia, Lynn Chapman and Caren Merrick, both of whom had long experience in high-tech businesses and in civic matters. He welcomed them all.

With a new Board, the Authority was embarking on a the second phase of the Metrorail Silver Line project, just as the first phase was nearing completion next year with an excellent record of performance. The Authority was continuing to move forward with a number of initiatives to increase the organization's transparency, accountability and public trust.

I. MINUTES OF THE SEPTEMBER 19, 2012 MEETING

The Chairman called for the approval of the Minutes of the September 19 Meeting, which were unanimously adopted.

II. COMMITTEE REPORTS

a. <u>Business Administration Committee</u> – Warner H. Session, Chairman

Mr. Session reported that the Business Administration Committee had last met September 19. It had first considered a special report on small business subcontracting on major Authority contracts. In the future, such detailed reports could be developed quickly, in any style required, by the new Enterprise Resource Planning (ERP) computer system; the report at hand had been manually assembled from the 15 largest construction contracts, the 15 largest goods and services contracts, and the three Dulles Corridor Metrorail contracts.

The purpose was to obtain a snapshot of Disadvantaged Business Enterprise (DBE) and Local Disadvantaged Business Enterprise (LDBE) contract awards and payments as of July 31. Mr. Session offered a summary. In non-federal construction, LDBE awards of $33.7 million had been 27 percent of a total $123 million. For federal-aid construction, DBE awards of $1.9 million had also been 27 percent of a total $7 million. For goods and services contracts, LDBE awards of $46.3 million had been 52 percent of the total $84 million. Finally, for the rail project, DBE awards of $292 million had been 13 percent of a total $2.1 billion.

The Committee had also considered a set of option-year contracts requiring Committee review, with options to be exercised January through June 2013. Non-construction contracts, particularly service contracts, were typically awarded for two or three years, with two or three one-year extension options, exercised by the Authority. When such contracts were large enough to require Board approval, in general, when the total award was for more than $3 million, the staff reported back well in advance before exercising an extension option.

The contracts on the agenda had been largely uncontroversial. At both Airports, they had covered shuttle bus services and glycol de-icing fluid recovery services. At Dulles International, there had been four contracts: baggage handling system operation and maintenance; elevator, escalator and moving walkway maintenance; uniformed security guard services; and refuse and recycling services.

One contract was not to be extended: custodial services at Reagan National. There had been nothing wrong with the services provided. Instead, passenger growth had changed the scope of the work, and both the Authority and the contractor had agreed that the contract should be re-advertised. The Committee had agreed with all procurement actions proposed.

The Human Resources staff had reported on the 2012 Workforce Profile, and how the staff worked to assure that the 1400-employee workforce was close with respect to diversity in comparison to other agencies in the region. The analysis was done by job groups, comparing the availability of candidates with the makeup of a given group. Thus a job category that had less that 80 percent of the available women or minorities would be considered "under-represented".

The Authority's overall record was good, and the staff was working on the weak spots. The largest overall disparity, unsurprisingly, was in gender. The Authority was 78 percent male, while the regional workforce was 52 percent male.

The Committee also heard a full explanation of recruitment efforts, which were now spread through many different types of media.

The Committee had considered three pre-solicitation reports, which were reports on the proposed selection process for contracts that would ultimately require Board approval. The first procurement was a new food, fueling and convenience plaza at Dulles International. The deal would be for a ground lease with a minimum annual guarantee of a percentage of annual revenues. The existing gas station was overwhelmed and the business potential was excellent. The competitive award would be made on the basis of financial offer, development plan, property management, and the background of each offeror. The DBE requirement was 15 percent of gross sales.

The second procurement was for the custodial services at Reagan national. As had been reported, the scope of this custodial services contract had been expanded. It would require a 100-percent LDBE firm, and the contract would be awarded based on cost, past performance, project understanding, quality control and management plan.

The third procurement was for rental cars at Dulles International. This procurement, unlike for other concessions, would be an Invitation for Bids. The contract for each rental car operator would require payments that were the greater of a minimum annual guarantee (MAG) or ten percent of gross receipts. As there were seven rental car facilities and currently only six operators, the amount of the MAG, which must be at least $750,000, would determine where each company would be located. The Committee had concurred in all three reports.

Mr. Session said he understood there was a pending procurement on diversity training. He asked if it would have an impact on the workforce profile. Steve Baker, Vice President for Business Administration, said the contract was for diversity and inclusion training; the concept was to consider what diversity and inclusion meant beyond race and gender. It would have some impact, but was actually focused on a broader conversation. Mr. Session asked about the ERP system development, and whether the ERP could produce the additional studies. Mr. Baker said it would be used to produce a report for the February 2013 Business Administration Committee meeting.

b. Dulles Corridor Committee – Tom Davis, Chairman

Mr. Davis reported that the Dulles Corridor Committee had last met September 19. It had first heard the regular Dulles Corridor Metrorail June-July cost summary and project update. Expenditures had been at $40 million in June and $46 million in July, bringing the total to $2.03 billion. The $2.905 billion forecast for Phase 1 was still holding.

About $65 million in contingency funds had been used through July, for a total of $396 million. $92.7 million in contingency remained unobligated.

The Committee had next heard the quarterly status report for the Metrorail project. On Phase 1, design had been 99.9 percent complete and utility relocation 99 percent complete. These high numbers meant the final design had been done, but that there might be occasional field adjustments as the project proceeded. Construction had reached 79 percent at the end of July. New rail cars would be delivered between 2013 and 2015, and the substantial completion date remained August 2013.

On Phase 2, spending had been still quite low; preliminary engineering had cost $81 million out of a budgeted $121.5 million. It would not be long, however, before cash began to flow on Phase 2. The main project had gone out to bid, in the form of a Request for Qualification Information, as soon as Loudoun County had "opted in" in July. Responses had been received in October, and the evaluation of them would be reported at the Committee meeting later in the day. The selected firms would then put price proposals together, which would be due in April 2013. Mr. Davis reported that the Authority's intention was that the award, based on the prices offered, should be made in May 2013.

The Committee next saw and heard the Metrorail Project quarterly construction report, presented by the prime contractor for Phase 1, Dulles Transit Partners (DTP). The Project's outstanding safety record was continuing; lost time and recordable incident rates remained much lower than for the rest of the industry.

Larry Melton, the DTP representative, had also explained how the Project was keeping on schedule. He reported that all "wayside facilities" had been delivered; they were critical to traction power, train control and communications. That would mean that test trains could soon be running.

Staff levels on the Project had been about 1500 people in July. As Phase 1 approached completion, electricians had been replacing iron workers. Mr. Melton also reported that the DBE subcontractor participation was exceeding the ten percent goal, as much of the remaining work was in station finishes, most of which would be done by DBE firms.

The Committee next considered a necessary revision to the Locally Preferred Alternative (LPA) for Phase 2 of the Project, a condition for federal funding. The original LPA had been developed when the Commonwealth was still responsible for the Project. As Members were aware, many changes had come to the Project over the past year, as preliminary engineering identified many areas of cost savings. Most of the changes were the subject of the agreement, driven by Transportation Secretary Ray LaHood, among the funding partners for the Project.

The Airport station had been moved, other stations and their parking facilities had been altered, and some parking garages had been taken out of the project entirely. As a result, the Airports Authority and the Washington Metropolitan Area Transit Authority (WMATA) had to approve a new locally preferred alternative. Mr. Davis said he would offer a resolution to do so later in the meeting.

The Committee next reviewed three pre-solicitation reports and concurred in their approaches. The first was for professional real estate services for acquisition and related services on the Phase 2 Project. The second was for wetland and stream mitigation credit purchases, also for the Phase 2 Project. The third was for program management services for the Project, a major element in the Authority's oversight.

Real estate acquisition for the Project was complicated: for the rail project, Virginia Department of Transportation procedures must be used, and the federal Uniform Relocation and Real Property Acquisition Policies Act must be followed. Not surprisingly, this is contracted out.

Wetland and Stream Mitigation is another very specialized business, requiring providers to offer replacement credits from the Virginia Department of Environmental Quality Mitigation bank.

Program management services for the Phase 2 Project would provide design review engineering, construction oversight, financial controls, schedules reviews, document control, quality assurance and communications support. Over five years, it would cost $20 to $30 million.

All three services would be funded as project costs. The Committee had approved the approaches for all three procurements.

Finally, the Committee had heard the regular monthly Dulles Corridor Enterprise Financial Report for August, basically the numbers from the Toll Road Operation. In sum, the number of toll transactions had been climbing from a dip after the last toll increase in January. Revenues, $68 million year-to-date at the end of August, had been close to budget. Expenses, at $17.6 million, were below budget by about 6 percent. E-ZPass devices were paying over three-quarters of the tolls, and the participation rates were climbing every month.

c. <u>Executive and Governance Committee</u> – Michael Curto, Chairman

Mr. Curto reported that the Executive and Governance Committee had last met about an hour and a half before to review minor amendments to the Bylaws. When the District of Columbia had acted to amend the Authority compact legislation October 4, it had completed the necessary legislative steps to increase the Membership of the Board, as required by federal law. The addition of four Directors required corresponding amendments to the basic governing document, the Bylaws. Those Bylaws had been amended in February in a more substantive way, a major step in the efforts to be more transparent. The Executive and Governance Committee would continue to look at the Bylaws to ensure they were consistent with efforts to increase transparency and accountability.

The changes were simple in this case. In addition to increasing the number of Directors, the number of required votes had to be changed in several categories. Specifically, nine Directors now would constitute a quorum. Mr. Curto noted that a quorum was present. Ten affirmative votes would be required for the Annual Budget, for bond issues, for the appointment of a President and Chief Executive Officer, to grant exceptions to competitive procurement procedures for contracts over $200,000, and to amend the Bylaws. Nine Directors could waive a notice requirement for action not on the agenda at a regular Board Meeting. A provision on Directors' tenure, also a result of the federal legislation, had been added; Directors may no longer serve beyond the end of their terms, unless reappointed. That was the reason presidentially-appointed members were not serving on the Board currently.

The supermajority for sole-source contracts had always been in the federal act that transferred the Airports, and had always been applicable through the Lease of the Airports. It had unaccountably been left out of the Bylaws in the past, although it had always been observed.

The Committee had agreed to recommend the amended Bylaws to the Board. Mr. Curto said he would offer a motion to adopt them later in the meeting.

d. <u>Finance Committee</u> – Frank M. Conner, Chairman

Mr. Conner reported the Finance Committee had last met, quite briefly, on September 19. Several reports had been accepted as written, without a presentation.

The Committee had discussed two issues. One was the securitization of the Full Funding Grant Agreement with the Federal Transit Administration. For Phase 1, the federal government had contributed $900 million, which had been paid out in separate payments over time. There were three $96 million payments and one $1 million payment to be made over the next four years. Rather than issuing bonds, the proposal was to issue debt backed by the cash flow under the grant agreement. Discussions were already underway with Bank of America for a secured loan. The amount would be about $290 million. Such an approach would obviate going to the market currently. Decisions would be made in about 30 days.

The second issue was the Authority's relatively small amount of variable-rate debt. Much of it was in four letter-of-credit liquidity facilities that would expire in 2013. The Committee had authorized the staff to proceed with a Request for Proposals (RFP) and begin discussions with banks on replacement facilities.

e. Nominations Committee – H.R. Crawford, Chairman

Mr. Crawford reported that the Committee had met earlier that morning to discuss next steps in the process. There had never been a Nominations Committee before, so the Members had discussed their roles and the composition of the Committee. As Directors would remember, the Committee was made up of the senior member of each delegation – the District, Virginia, Maryland and the United States. Each delegation could agree on a member other than the senior one, and that had in fact happened in the Maryland delegation. Because of the recent amendments to the compact legislation, the federal slots were vacant. Committee Members were Mr. Carter, Mr. O'Reilly and Mr. Crawford; Mr. Crawford said he had been elected Chairman. The Committee would present a report before the next Board Meeting. He urged Directors to take any concerns or recommendations for officers to any Member of the Committee.

III. INFORMATION ITEMS

a. President's Report

Mr. Potter began by welcoming the new Members of the Board and thanked them for joining. He said he was anxious to work on their onboarding, and would be arranging tours of the facilities, and meetings with the senior staff. He also thanked the departing Directors, though he noted Bill Cobey and Bob Brown were not present. He thanked Dennis

Martire for his work, and particularly for putting the Authority first when he stepped down. It was important to do everything one could to build accountability and trust.

Since the new Freedom of Information Policy had been adopted on July 18, Quince Brinkley, serving as the Freedom of Information Officer, had handled 30 public requests. All Board minutes and agendas, and PowerPoint presentation materials were posted promptly on the website.

The revised travel policy adopted September 5 had been distributed to all employees, as well as to all Board Members. Actual travel expenses would be reported to the Board quarterly.

The Board ethics policy was approved September 19, subject to the correction of minor policy points by counsel. At the same meeting, the Board had approved an ethics policy for employees. Ethics training had been scheduled for all 1400 employees beginning the next week. Over 30 sessions were planned, all of which would be complete before the policy took effect in January 2013.

The Board Ethics Code had provided for the appointment of a single Authority ethics officer. It was the first such position at the Authority, and would assist both employees and Directors with complying with new ethical policies. He also said he would have a nominee for the Board's approval later in the meeting.

Amendments were being drafted to the Contracting Manual to address the concerns of the Inspector General interim report. The issues were complicated; in the meantime, Mr. Potter said he had suspended the use of categorical exceptions to full and open competition when procuring professional services for legal, financial, audit, or legislative support. There would be formal competitive procurement training for all employees who served as contracting officers or contracting technical representatives. The training would be required annually.

In addition, Mr. Potter said staff was working on an RFP to hire outside experts to assist in the evaluation of the compensation systems and other aspects of human resources system.

He observed that the management could write all the policies it wanted to, but more was needed to assure there was compliance. He had established an internal controls function to ensure the new policies were fully complied with. To start, the unit was staffed with temporary detailees, pending the selection of permanent employees.

In the meantime, he continued to work closely with the accountability officer, identifying other areas that needed to be strengthened. All staff members were committed to gaining back the lost trust.

Mr. Potter said the organization was proud of community services it provided. Over 12,000 visitors had shown up at the recent Dulles International "plane pull". He thanked all the partners, airlines and vendors, and said the event had showed off the Airport and had raised over $170,000 for the Special Olympics. The Authority had also sponsored the Loudoun County United Way open golf event, which had raised $47,000 for the United Way. Over 13 years, these events had raised more than $500,000. The Authority was kicking off its annual United Way giving program; Mr. Baker would chair the effort this year.

For the first time, Dulles International had hosted a program called "First Flight". United Airlines and many airport concessionaires had hosted the event for families of special-needs children. The guests were afforded a very real airport experience. The children came with bags, checked them in, and proceeded to the gates to board a 777. On board, they watched some Disney videos, and then went through landing procedures. The plane never left the ground. The children deboarded the aircraft and proceeded to baggage claim. The parents of these children who had concerns about taking them on a plane learned that they were ready to travel.

The Chairman mentioned that a tour for the Directors of the Phase 1 construction would be scheduled soon. He also said he would be working on new committee assignments, and urged the new Directors to advise him of their interests.

Mr. Session asked if there were any updates on the upcoming sequestration. Mr. Potter said there were not, but that he hoped the Congress would act on it as soon as it returned.

Mr. Martire said the Board was not nearly as bad as people had been saying. Sitting on the sidelines for the past few months, he had some things to say. Some things at the Authority had to be fixed; there had been another letter from Governor McDonnell about transparency, and Congressman Frank Wolf had said the Authority was still not transparent enough. Their concerns should be addressed. He noted that he was aware of new people involved with the Board, but had no idea of what they did. He had heard of Kevin Chapman, a Department of Transportation person assigned to the Authority, and of Kimberly Moore. He asked that they come to the table to explain what they did. Mr. Curto said they were both liaisons on behalf of the Secretary of Transportation. Mr. Martire asked them to give a brief explanation of their duties for the new Board Members.

Ms. Moore said that in July, after publication of the interim Office of Inspector General (OIG) report, she had been asked by Secretary LaHood to help with policies on contracting, personnel issues, bylaws, and governing. She had been in Department of Transportation General Counsel's Office working on procurement and ethics for several years. She had come over to the Authority to assist with travel, ethics and procurement codes. She had worked collaboratively for the last several months. She devoted about half her time to the Authority, and would now be focusing on procurement.

Kevin Chapman said the Transfer Act gave the Secretary of Transportation authority to appoint two staff members as liaison. He was the first appointed to one of those positions, and was paid by the Authority, while reporting to the Secretary. He had been assigned in September 2011 when the Secretary had become heavily involved in Dulles rail and needed someone working full time with the Authority. He believed he had encouraged good relationships; he had previously been a political appointee of both the Bush and Obama administrations, working at the Department of Transportation. Ms. Moore then pointed out that she was not paid by the Authority, was not assigned under the Transfer Act, and was a career employee, not a political officer.

Mr. Martire asked what the Authority paid Mr. Chapman; Mr. Chapman said it matched his Transportation Department salary of $150,000. Mr.

Martire asked about benefits; Mr. Chapman said he did not take any, as he used his wife's health benefits from the D.C. Government.

Mr. Martire said he had a question on transparency. He had learned that the *Washington Post* had asked for document on the $220 million no-bid contract, but had been told the cost would be $6,000. He asked why there was such a large fee for documents that were public. If the fee was authorized, it should be waived. Mr. Brinkley, the Freedom of Information Officer, said that the policy did in fact allow a fee in responding to a burdensome freedom of information request

Mr. Curto said nothing was being hidden, and that the fee provision was consistent with policies of other agencies. Mr. Martire asked again about a waiver. Mr. Curto said it could be done. Mr. Brinkley said the request required many files coming from storage. Mr. Davis said a waiver for one requester could force a waiver for others, and suggested the Audit - Legal Committee review the issue. Mr. Brinkley said the Chairman of that Committee could decide the matter. Mr. Curto said it would be logical to distinguish between media requests and individual requests.

Mr. Martire next asked about the hiring of Mame Reiley, noting that Mr. Potter had assumed responsibility for the decision. He asked Mr. Chapman how the Secretary of Transportation was unaware of the hiring, if Mr. Chapman was on the premises every day. Mr. Potter said he had never told Mr. Chapman; people were hired every week, and he didn't tell everyone about it.

Mr. Davis asked about the L&L workforce study. It had included many employee interviews, and much of it was confidential. He said he hadn't heard much about it since Mr. Potter had been hired. Mr. Potter said a number of actions had been taken under it. Mr. Davis said there were some issues he wanted to address but could not at a public meeting because of the confidentiality. Mr. Crawford said that the L&L study had been very successful, and commended Mr. Potter for proceeding with it.

Mr. Crawford said he was sorry Bob Brown was not present; he had been the longest-serving Board Member. Initially appointed by President Clinton as a recess appointee in 1996, he was re-nominated as soon as that term ended. He had sometimes talked too much and "turned people off."

But he had truly loved the Authority. He had been very good with numbers; Mr. Crawford had been confident in his analysis. Mr. Brown had been far more astute with those numbers; he had known what he was talking about. Mr. Crawford said he thought Mr. Brown would have to be put in a strait jacket to get him out. Mr. Brown did not want to leave.

Mr. Crawford said he was himself phasing out. He remembered former Member John Paul Hammerschmidt, who had been a very powerful figure in the Congress. When his term on the Board had ended, he had just faded away; he did not come back for his gifts. Mr. Crawford would like to do the same thing.

He also recalled former Directors J. Kenneth Klinge and Robert Calhoun, who had ably represented the Authority in Richmond. Mr. Davis noted that they had been off the Board for ten years. The Authority had hired them; they had not asked for the job, but they had taken the criticism.

Mr. Crawford then recounted how several years ago he had driven down the Dulles Access Highway and noted among the work crews on the rail project that few workers looked like him. He mentioned when he got to the Board Meeting that there did not appear to be any workers of color on the project. Mr. Martire had checked the numbers and set out to change it.

He felt strongly that the Directors should always protect the institution. He had lived through extremely difficult times on the District of Columbia Council. No matter the disagreement, the Councilmembers had always walked out together.

He said the Board was a good one, with good people and good minds serving on it. He hoped the nonsense could be put behind, and the Board could get back to the business of aviation, and he hoped it would pay more attention to the District of Columbia. In closing, he saluted Bill Cobey and Chip Glasgow. He said the criticism of the Board had been totally unfair.

b. Executive Vice President's Report

Margaret McKeough said that the August passenger activity levels industry-wide had grown about 2 percent. At both Airports combined, the growth had been 3 percent. The growth had been driven by record levels at Reagan National, and growth in the international services at Dulles International. At Reagan National, over 1.9 million had been served in August, a record and a 12 percent increase over 2011. Dulles International had served 2.1 million, a decline of 4 percent; there had been growth in international services, but a drop in domestic.

Reagan National was heading for a record year, with over 19 million passengers for the year. Dulles International would show a slight decline for the year. Cargo had been down 6 percent in total volume of freight; for the industry as a whole, cargo was up 1 percent.

Mr. Martire asked why cargo had declined in August. Ms. McKeough said that most Dulles International cargo was to and from Europe, and the services were reflecting the weak economies there.

Mr. Adams asked what airports the Washington Airports were compared to. Ms. McKeough said the Airports were benchmarked, but mainly to the industry as a whole. International services were compared to other east coast hubs, such as New York, Atlanta and Miami. Reagan National was often benchmarked to other domestic airports, but because the monthly data was not available, the industry average was used instead.

Mr. Potter noted that the growth at Reagan National, an anomaly and the cause much of the decline at Dulles International, was the result of regulation. The federal government rules constrained flights at Reagan National; the Department of Transportation had allowed the swap of takeoff and landing rights, known as "slots", between Delta and US Airways at both LaGuardia and Reagan National. As part of that process, eight slot pairs had been auctioned off, with four pairs available for long-distance flights, beyond the "perimeter" set for Reagan National. JetBlue had obtained the slots, and was carrying more passengers with them than Delta ever had. The additional long-distance flights had directly hurt Dulles International, where matching flights were canceled as they were added at Reagan National. This had all been explained at length before Mr.

Crawford's Strategic Planning Committee in September; at its December meeting, the full story for services at Dulles International would be presented.

Ms. Merrick noted that the Airports were role models for some services. She said it was hard to compare the two Airports because of the restrictions. Mr. Potter said there were four slot-restricted airports: LaGuardia, Kennedy, Newark and Reagan National. The restrictions at Reagan National had been driven by the size of the facility. Dulles International had been built specifically for international and long-distance services, and to relieve Reagan National. Unlike other airports on the east coast, Dulles International still had plenty of room to grow. Staff is working on cargo infrastructure; currently most cargo is carried in the bellies of passenger aircraft. All these issues will be presented at the Strategic Planning and Development Committee in December.

Ms. McKeough observed that there were a myriad of aviation statistics, and that the airports were usually measured individually for rankings, not aggregated. Combined, Reagan National and Dulles International were quite a large operation.

IV. NEW BUSINESS

a. Third Edition of the Contracting Manual

Mr. Session moved the following resolution:

> WHEREAS, The staff has proposed a new Third Edition of the Contracting Manual that contains (1) changes to address requirements of the Federal Transit Administration, (2) process changes made necessary by the implementation of the ERP program, and (3) amendments to provisions of the Freedom of Information Policy that apply to procurement documents;
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> WHEREAS, The Business Administration reviewed the revised Manual at its May 18, 2012 meeting, was satisfied with its new content, and authorized a public comment period before recommending Board action; and

WHEREAS. Limited comments have resulted in minor, non-substantive amendments to the new edition; now, therefore, be it

RESOLVED, That the Third Edition of the Contracting Manual, as presented to the Board at its October 17, 2012 meeting, is hereby adopted.

Mr. Session reported that the Business Administration is recommending adoption of a new Third Edition of the Contracting Manual to replace the existing Manual that was issued in December 2009. He noted that the update would incorporate a new Chapter 10 for the Federal Transit Administration, which was a request that resulted from its 2011 Procurement System Review. It would also address the new Freedom of Information Policy recently adopted by the Board and clarify when and what documents would be released. The Third Edition would also make the Manual consistent with the procurement process changes caused by implementation of the ERP program and the reorganization of the Procurement Department, as well as other minor updates. It would also include the changes that the Committee had approved earlier this year to facilitate issuance of the RFQI for Phase 2 of the Dulles Metrorail Project.

He noted that the Committee had voted to approve these revisions in May and had asked staff to solicit public comments on the revisions. The U.S. Government Accountability Office (GAO) and U.S. DOT were specifically solicited for their comments; only the GAO had two very minor suggestions: (1) that the Manual address the length of time that a solicitation is advertised, and (2) that the Manual address when Contracting Officers should obtain cost and pricing data. Sections 1.5 and 2.2.1 of the Manual being adopted today have been updated to address these comments.

This revision of the Manual does not address the OIG audit; it is anticipated that further Manual revisions will be needed to address the audit's concerns. Mr. Session reported that the revised Manual needed to be adopted at the day's meeting so that its provisions, particularly the FTA requirements contained in the new Chapter 10, would govern the Phase 2 Metrorail RFP that would be issued that day. The Manual would apply to all solicitations issued on or after the day, as well as all solicitations and contracts in effect on October 17, 2012, except to the extent the requirements of the revised Manual conflict with those of the prior edition of the Manual, or to the extent application of the requirements of the revised Manual would alter actions taken with respect to solicitations and contracts now in effect. Approval was needed that day; the Third Edition would take effect immediately so that the issuance of the RFP for Phase 2 of the Metrorail would not be delayed.

The Board then voted unanimously to adopt the proposed resolution.

The final resolution filed in the Board of Directors Office includes a copy of the staff recommendation paper.

b. Revised Locally Preferred Alternative for Phase 2 of the Dulles Corridor Metrorail Project

Mr. Davis moved the following resolution, which was unanimously adopted:

> WHEREAS, The Locally Preferred Alternative, reflecting a community consensus at the conclusion of an alternatives analysis, is normally the first step in developing a federally-funded transit project;
>
> WHEREAS, The Locally Preferred Alternative for the Dulles Corridor Metrorail Project (Project) was adopted by the Commonwealth Transportation Board in December 2002, and revised by that Board in March 2004 to provide for two phases;
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> WHEREAS, Since 2006 the Airports Authority has been responsible for the Project, and has, through the preliminary engineering stages, developed significant changes to the Project, including the abandonment of the Dulles underground station and changes to the Herndon Station parking garage, Route 772 Station parking, the Route 28 Station entry location, and the rail yard and shop connection track;
>
> WHEREAS, These changes have been the subject of an environmental assessment, which has been commented on by the Environmental Protection Agency, the Washington Metropoli-

tan Area Transit Authority, the Virginia Department of Environmental Quality, the Virginia State Historic Preservation Office, and local governments along the proposed route;

WHEREAS, A Revised Locally Preferred Alternative including the above changes must be adopted by the Boards of both the Washington Metropolitan Area Transit Authority and the Metropolitan Washington Airports Authority;

WHEREAS, Upon the adoption of the Revised Alternative, it will become the Locally Preferred Alternative for the Project; now, therefore, be it

RESOLVED, That the Revised Locally Preferred Alternative for Phase 2 of the Dulles Corridor Metrorail Project, as presented to the Dulles Corridor Committee at its September 19, 2012 Meeting, is hereby adopted.

The final resolution filed in the Board of Directors Office includes a copy of the staff recommendation paper.

c. Amendments to the Bylaws

Mr. Curto moved the adoption of the amended Bylaws, as presented to the Board. The Bylaws were amended by a unanimous vote; a copy of them as amended is attached to these Minutes.

d. Approval of the Selection of an Ethics Officer

Mr. Potter asked the Board's approval of Naomi Klaus as the Authority's Ethics Officer. Mr. O'Reilly said he knew Ms. Klaus professionally, and urged her to speak to the Board. Ms. Klaus said she had worked over 20 years at the Authority, had helped draft the first employee code of ethics, had advised on it, made the revisions with Phil Sunderland, Vice President and General Counsel, and welcomed the opportunity to help the Authority regain whatever trust it might have lost. Mr. Curto moved approval of Ms. Klaus; the vote was unanimous.

V. UNFINISHED BUSINESS

There was not any unfinished business.

VI. OTHER BUSINESS & ADJOURNMENT

The Meeting was thereupon adjourned at 10:25 a.m.

Respectfully submitted:

Quince T Brinkley Jr lmb

Quince T. Brinkley, Jr.
Vice President and Secretary

BYLAWS

ARTICLE I

Organization of the Authority

Section 1. **Board of Directors.** Created on October 18, 1986, by Chapter 598 of the 1985 Virginia Acts of Assembly, as amended, and the Regional Airports Authority Act of 1985, D.C. Law 6-67, as amended, the Metropolitan Washington Airports Authority consists of seventeen Members. All powers, rights and duties of the Authority are thus conferred upon its Members, who are collectively known as "the Board of Directors," hereinafter referred to as "the Board." Individual Members of the Authority are known as "Directors."

a. There are seventeen Directors: seven appointed by the Governor of the Commonwealth of Virginia, four appointed by the Mayor of the District of Columbia, three appointed by the Governor of the State of Maryland, and three appointed by the President of the United States.

b. Directors (i) may not hold elective or full time, non-career appointive public office; (ii) serve without compensation, except that the Directors are entitled to reimbursement of their expenses incurred in attendance at meetings of the Authority or while otherwise engaged in the discharge of their duties, and (iii) reside within the Washington Standard Metropolitan Statistical Area, except that the Directors appointed by the President of the United States are not required to reside in that area, and must be registered voters of states other than Maryland, Virginia and the District of Columbia.

c. Appointments to the Authority are for a period of six years, except as otherwise provided by law for initial appointments.

d. Each Director may be removed or suspended from office only for cause, and in accordance with the laws of the jurisdiction from which he or she is appointed.

e. No Director may serve after the expiration of his or her term, unless reappointed. Any person appointed to fill a vacancy serves for the unexpired term. Each Director is eligible for reappointment for one additional term.

Section 2. Officers. The Board shall annually elect from its membership a Chairman and Vice-Chairman and shall elect from its membership, or elect and employ from its staff, a Secretary and a Treasurer or a Secretary/Treasurer, and prescribe the powers and duties of each officer. It may appoint from the staff an Assistant Secretary and an Assistant Treasurer, or an Assistant Secretary/Treasurer, who shall, in addition to other duties, discharge such functions of the Secretary and Treasurer, respectively, as may be directed by the Board. The Chairman and the Vice-Chairman may use any reasonable titles of their own choosing, such as Chair, Chairwoman, or Chairperson.

Section 3. Term of Office. The term for each elected office is one year, commencing January 1 of the year following the annual meeting. All officers, as long as they continue to serve as a Director or staff, hold office until the next January 1, or until their successors are elected or appointed and qualified, whichever may be the later.

ARTICLE II

Duties of the Board

The Board shall establish policy and provide direction to the President and Chief Executive Officer to acquire, operate, maintain, develop, promote and protect Ronald Reagan Washington National and Washington Dulles International Airports, including the Dulles Corridor, with its Dulles Toll Road and Dulles Metrorail Extension. The Board shall provide world class air transportation facilities with timely improvements at both Airports. The Board shall see that the laws pertaining to the purposes and functions of the Authority are faithfully observed and executed. In carrying out their duties on the Board, Directors appointed by the President shall ensure that adequate consideration is given to the national interest. The Board will employ staff, consistent with Article V, and adopt appropriate procedures to carry out these duties.

ARTICLE III

Powers and Duties of the Officers of the Board

Section 1. **The Chairman.** The Chairman is the first among equals and is dedicated to advancing the work of the Board and fostering common ground and consensus to move the Board's work forward in support of the Authority's mission. The Chairman is accountable to the Board, and serves as liaison between the Board and the Chief Executive Officer.

The Chairman presides at all meetings of the Board; establishes and appoints all Committees and the Chairmen thereof; determines the jurisdiction of all Committees; serves as an *ex officio* member of all Committees; executes documents on behalf of the Authority as prescribed by the Board; and performs such other duties as the Board may from time to time direct.

Section 2. **The Vice-Chairman.** The Vice-Chairman performs the duties and has the powers of the Chairman during the absence or incapacity of the Chairman from any cause. A certification by any seven Directors as to such absence or incapacity from any regular or special meeting is conclusive evidence thereof. Upon the resignation or death of the Chairman, the Vice-Chairman automatically becomes the Chairman for the unexpired term.

Section 3. **The Secretary.** The Secretary is the custodian of all records and of the Seal of the Authority and keeps accurate minutes of the meetings of the Board and its Committees. The Secretary has the authority to cause copies to be made of all minutes and other records and documents of the Authority and to certify under the official seal of the Authority that such copies are true copies. The Secretary affixes the Seal of the Authority to legal instruments and documents as required. The Secretary gives notice of all meetings of the Authority as required by law or by these Bylaws and distributes the agenda and related materials not less than 48 hours before the regular meetings of the Board. The Secretary is responsible for assuring that the public is fully informed as to the time, place, and agenda of all Board and Committee Meetings, and that records of these meeting are readily available. The Secretary, if a Director, becomes, *ex officio*, the Acting Chairman in the event the offices of the Chairman and Vice-Chairman are both vacant, or in the event that the Chairman and the Vice-Chairman are both unable to perform their duties by reason of absence or incapacity.

Section 4. **The Treasurer**. Except as may be required in any instrument under which any revenue or other bonds are issued by the Authority, the Treasurer shall have the care and custody of and shall be responsible for all monies of the Authority from whatever sources received. The Treasurer shall be responsible for the deposit of such monies in the name of the Authority in a bank or banks approved by the Board and shall be responsible for disbursements of such funds for purposes authorized or intended by the Board. The Treasurer, and any Assistant Treasurer, shall be bonded in an amount and with surety acceptable to the Board and shall make periodic accounting for all such funds as determined by the Board. The Treasurer's books shall be available for inspection by any Director during business hours.

Section 5. **Other Duties**. In addition to the duties and powers herein set forth, the Chairman, the Vice Chairman, the Secretary and the Treasurer have the duties and powers commonly incident to their offices and such duties as may be imposed by law or as the Authority may from time to time by resolution specify.

ARTICLE IV

Committees

Section 1. **Committee Roster.** The Chairman shall prepare a list of Committees, their members, and their jurisdiction.

Section 2. **Committee Meetings.** Each Committee Chairman schedules the Committee's meetings and sets the agenda. Except for the Audit Committee, all Committee meetings are normally held in public session.

Section 3. **Subcommittees.** Each Committee Chairman may establish special or *ad hoc* subcommittees that report to the full Committee, with the concurrence of the Chairman.

Section 4. **Attendance .** Any Director may attend and participate in any Committee meeting, but only members of the Committee count towards a quorum and may vote.

ARTICLE V

Chief Executive Officer, and Other Employees

Section 1. <u>Chief Executive Officer</u>. The Board shall appoint a President and Chief Executive Officer. He or she shall, except as otherwise provided by the Board, be in charge of management and operations of the Airports and any other activities of the Authority as prescribed by the Board. The President and Chief Executive Officer shall sign documents on behalf of the Authority as prescribed by the Board. The President and Chief Executive Officer shall discharge his or her duties in accordance with delegations of authority, and otherwise as directed by the Board.

Section 2. <u>Chief Operating Officer</u>. The Board shall appoint, upon the recommendation of the President and Chief Executive Officer, an Executive Vice President and Chief Operating Officer, who shall be initially responsible for the operational activities of the Authority, reporting to and exercising authority delegated to him or her by the President and Chief Executive Officer.

Section 3. <u>Employees</u>. The President and Chief Executive Officer shall staff the Authority in accordance with a plan approved by the Board. All selections for managerial positions reporting directly to the President and Chief Executive Officer and the Executive Vice President and Chief Operating Officer are subject to approval by the Board.

ARTICLE VI

Offices, Books and Records

Section 1. <u>Offices</u>. The Board shall maintain the principal office of the Authority at or near either Ronald Reagan Washington National Airport or Washington Dulles International Airport.

Section 2. <u>Books and Records</u>. Except as may be otherwise required or permitted by resolution of the Board, or as the business of the Authority may from time to time require, all of the books and records of the Authority shall be kept at its principal office. Such books and records shall be available during ordinary business hours for inspection by any member of the public, in accordance with the Authority's Freedom of Information Policy.

Section 3. **Minutes.** All approved minutes of Board or Committee meetings shall be open to public inspection during ordinary business hours.

Section 4. **Documents Posted on the Authority Website.** The Secretary shall post the following documents on the Authority website, with links shown at http://mwaa.com/board_members.htm:

a. Schedules of upcoming Board and Committee Meetings, for at least six months
b. Approved Minutes of Board and Committee Meetings
c. The Roster of Committees, their members, and jurisdiction
d. The Bylaws
e. The Code of Ethical Responsibilities for Members of the Board of Directors
f. Schedules, Agendas and non-privileged documents prepared for the next meetings, after they have been provided to the Directors

ARTICLE VII

Meetings of the Board

Section 1. **Meetings Open to the Public.** All meetings of the Board and its Committees are open to the public, except during executive sessions.

Section 2. **Regular Meetings.** A regular meeting of the Board shall be held at the principal office of the Authority on the third Wednesday of every month. When such day is a legal holiday or for any other reason inappropriate as a meeting day, the regular meeting shall be held on such other day as may be determined by the Chairman. The Secretary shall provide notice of a rescheduled meeting at least one week before the rescheduled date.

Section 3. **Annual Meeting and Election of Officers.** The regular meeting held in the month of November in each year is the annual meeting for the election of a Chairman, Vice-Chairman, Secretary and Treasurer. If the annual meeting is omitted, or the Board fails for any reason to elect a Chairman after repeated ballots, the election shall be on the agenda of each subsequent regular or special meeting until a Chairman is elected. If a vacancy occurs in any of the four offices, and is not filled under other provisions of these Bylaws, after appropriate notice the Board may at a subsequent meeting elect a successor to complete any unexpired term.

Section 4. **Special Meetings.** Special meetings may be called at any time by the Chairman. Upon receipt of a written request for a special meeting from any seven Directors, the Chairman shall call a meeting. Written notice of each special meeting, specifying the time and place of the meeting, and the purpose or purposes of the meeting, shall be given to the Directors by the Secretary. Notice is sufficient if sent by mail at least seventy-two hours in advance of the date and time of the meeting or by e-mail or otherwise in writing within twenty-four hours before the time of the meeting, if given to the Directors in person. Formal notice to any person is not required provided all Directors are present or those not present have waived notice in writing, filed with the records of the meeting, either before or after the meeting.

Section 5. **Schedule.** While Committee meeting schedules may vary because of unpredictable duration, Board Meetings will begin at the advertised time. Any Committee meeting running into the Board Meeting time will suspend its session until the Board Meeting has been adjourned. Executive sessions, if any, shall be scheduled, if possible, before Committee meetings begin or after the last Committee meeting of the day in order to minimize inconvenience to the public.

ARTICLE VIII

Voting

Section 1. **Quorum.** Nine Directors constitute a quorum for the transaction of all business at a regular or special meeting. A majority of the members of a Committee, not including the *ex officio* member, constitutes a quorum for the transaction of all Committee business.

Section 2. **Majority Voting.** Action by the Board is by a simple majority vote of the Directors present and voting except where otherwise provided by the Bylaws. Ten affirmative votes are required to approve bond issues, the annual budget of the Authority, and the appointment of a President and Chief Executive

Officer. Ten affirmative votes are required to grant exceptions to competitive procurement procedures for contracts over $200,000.

Section 3. Participation by Telephone. Directors unable to attend a meeting may participate by telephone, but may not vote.

ARTICLE IX

Transaction of Business

Section 1. Regular, Special and Committee Meetings. Any business of the Authority may be considered at any regular meeting of the Board. Only items of business identified in the agenda distributed by the Secretary forty-eight hours in advance of the meeting may be acted upon at a regular meeting. Other matters may be acted upon if nine or more Directors vote to waive this notice provision. When notice of a special meeting is sent, only matters specified or described in the notice may be considered at the special meeting, except that with the unanimous consent of the Directors present any other matter may be considered. Business within the jurisdiction of a Committee may be considered at any meeting of the Committee. Only items of business identified in the agenda distributed by the Secretary forty-eight hours in advance of the meeting may be acted upon at a Committee meeting. Other matters may be acted upon if a majority of the Members of the Committee vote to waive this notice provision.

Section 2. Order of Business. Unless waived by a vote of seven or more Directors, the order of business at a regular meeting of the Board is:

a. Approval of the minutes of the previous meeting.

b. Committee Reports.

c. Reports of Chief Executive Officer and staff.

d. Unfinished business.

e. New business.

f. Other business and adjournment.

Section 3. **Executive Session.** All regular, special and committee meetings of the Board shall be open to the public, except that at any time the presiding officer may, without objection, order that the Board or Committee consider a matter or matters in the categories described below in executive session closed to the public. Before an executive session begins, the presiding officer shall announce the matters to be discussed. At the discretion of the presiding officer, others who can contribute to the discussion, including appropriate employees, outside counsel and consultants, may attend an executive session, with the understanding that they are honor bound not to divulge what takes place there. Only the following items or matters may be considered in the executive session:

a. Personnel matters such as employment, appointment, assignment, promotion, demotion, performance appraisal, discipline, resignation, salaries and benefits, and interviews of Directors, officers, and employees of the Authority, and applicants for the same.

b. Personal matters not directly related to the Authority's business in order to protect the privacy of individuals.

c. Existing or prospective contracts, business or legal relationships to protect proprietary or confidential information of the Authority, any person or company; the financial interest of the Authority; or the negotiating position of the Authority.

d. Financial matters, including the indebtedness of the Authority and the investment of Authority funds, particularly where competition or negotiation is involved. The annual budget may be discussed in executive session in its earliest stages, but should otherwise be dealt with in open session, From time to time certain sections may be considered in executive session, particularly where public discussion could compromise the Authority's relationships with its employees or tenant airlines.

e. Consultation with legal counsel and briefings by staff, consultants and/or attorneys, pertaining to actual or potential litigation, pending or proposed legislation, compliance with a specific constitutional, statutory or judicially imposed requirement, or other legal matters, and discussions of such matters by the Board without the presence of counsel, staff, consultants, or attorneys.

f. Discussion of security plans and other law enforcement measures for the protection of the public from terrorism and aircraft hijacking.

g. Audit matters.

Section 4. **Actions in Executive Session.** No resolution, contract, or motion, adopted, passed or agreed to in an executive session, other than a request to the staff for information, is effective unless the Board or Committee, at an appropriate time following such session, reconvenes in public or open session and takes a vote of the Directors on such resolution, contract, or motion, and the subject of the resolution, contract, or motion is reasonably identified in the open session. This shall not be construed to require the Board or Committee to divulge information that is proprietary or actions that are not final.

Section 5. **Other Business.** After completion of the agenda, the Chairman, Directors, or the President and Chief Executive Officer may, for information purposes, place any matter or matters on the agenda or other business that either deems to require the attention of the Board.

Section 6. **Procedure.** Roberts Rules of Order, as amended, is the authority for all matters of procedure not otherwise covered by these Bylaws. A point of order as to procedure raised by any Director in the course of a regular, special or committee meeting is resolved by a ruling of the Chairman. The vote of a majority of the Directors present is required to overrule the Chairman. The Secretary serves as parliamentarian.

ARTICLE X

Directives and Regulations

Section 1. **General.** The Board will adopt, amend and repeal as necessary: 1) internal directives and procedures for operating the Airports, including delegations of authority, and 2) regulations which may have the force and effect of law, pertaining to the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Section 2. **Regulatory procedure.** Unless the Board determines that an emergency exists by unanimous vote of all Directors present, the Board shall, prior to the adoption of any regulation or alteration, amendment, or modification thereof:

a. Make such regulation or amendment thereof in convenient form available for public inspection in the office of the Authority for at least ten days.

b. Publish a notice in a newspaper or newspapers of general circulation in the District of Columbia, Montgomery County and Prince George's County, Maryland, and in the local political subdivisions of the Commonwealth of Virginia where the Authority facilities are located declaring the Authority's intention to consider adopting such regulation or amendment thereof and informing the public that the Authority will hold a public hearing at which any person may appear and be heard for or against the adoption of such regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least ten days from the day of the publication thereof; and

c. Hold the public hearing, or appoint a hearing officer to hold a public hearing, on the day and at a time specified in such notice or any adjournment thereof, and hear persons appearing for or against such regulation or amendment thereof.

d. In accordance with the Metropolitan Washington Airports Act of 1986, adoption by the Board of the regulations of the Federal Aviation Administration that governed the Airports at the time the Airports were transferred to the Authority were not subject to this procedure.

Section 3. Inspection of regulations. The Authority's regulations are available for public inspection in the Authority's principal office.

Section 4. Force and Effect of Law. The Authority's regulations relating to

a. Air operations and motor vehicle traffic, including, but not limited to, motor vehicle speed limits and the location of and payment for public parking;

b. Access to and use of Authority Facilities, including but not limited to solicitation, handbilling, picketing and the conduct of commercial activities; and

c. Aircraft operation and maintenance;

have the force and effect of law, as do any other regulations of the Authority that contain a determination by the Board that it is necessary to accord the same force and effect of law in the public interest; provided, however, that with respect to motor vehicle traffic rules and regulations, the Board will obtain the approval of the traffic engineer or comparable official of the local political subdivision in which such rules or regulations are to be enforced.

ARTICLE XI

Miscellaneous

Section 1. Code of Ethics. The Board shall adopt a code of ethics and financial disclosure to assure the integrity of all decisions by the Board and employees of the Authority. The code shall provide that each Director and his or her immediate families may not hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airports services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions may be made if the financial interest is fully disclosed to the Board and the Director does not participate in decisions that directly affect such interest.

Section 2. Indemnity. The Authority shall indemnify each Director and Officer against all costs and expenses (including counsel fees) the Director actually incurs in connection with or resulting from any action, suit or proceeding, of whatever nature, to which the Director is or shall be made a party by reason of his being or having been a Director or Officer of the Authority, provided (1) that the Director or Officer conducted him- or herself in good faith and (2) reasonably believed that his or her conduct was in the best interest of the Authority. This indemnity shall not apply in actions when the Director or Officer is adjudged liable to the Authority.

Section 3. Minority and women-owned business participation. The Board shall maintain a policy for providing minority and women-owned business participation in the contracts of the Authority, and monitor its implementation.

ARTICLE XII

Amendments

These Bylaws may be amended or repealed in whole or in part by resolution of the Board adopted by at least ten Directors at any regular meeting or special meeting, provided that notice of intention to present such resolution is given to all Directors at least two days in advance of the meeting at which the motion to adopt such resolution is to be made. Such notice may be given by any Director, or by the Secretary at the request of any Directors, and shall specify the subject matter of the proposed amendment or repeal. The notice of intention to amend or repeal these Bylaws shall include a specific reference to the Article subject to the proposed amendment or repeal, together with the suggested changes, or a "redline" draft showing existing text and suggested changes.

Adopted March 4, 1987
Amended: January 8, 1992; April 1, 1992; September 6, 2000; January 3, 2001; June 5, 2002; August 8, 2007; April 20, 2011; January 4, 2012; February 15, 2012; and October 17, 2012.