



BATA Board of Directors Special Meeting Agenda
Thursday, December 28, 2023 @ 10:00am
115 Hall St Traverse City Michigan

1. Call to Order - Chairperson
2. Pledge of Allegiance and Moment of Silence
3. Roll Call
4. First Public Comment*
5. Approval of Agenda/Declaration of Conflict of Interest
 - a. BATA Board of Directors Special Meeting Agenda
6. Old Business
7. New Business
 - a. Consideration of Request from the Grand Traverse County Commission for a 2-week extension to the dispute process adopted by the BATA Board of Directors on December 7, 2023.
8. Board Discussion Item
9. Second Public Comment*
10. Directors Comments/Open Floor
11. Adjournment

*Next Board Meeting: **Thursday, January 25, 2024** at the Hall St Transfer Station*

Public Comment:

Any interested party or person may address the board on any matter of BATA concern during public comment. Comments will be limited to 5 minutes and a one-minute warning will be given when needed. Any public comment that becomes disruptive, unduly repetitive, or impedes the orderly progress of the meeting may be terminated by the presiding officer. Once you have completed your public comment the board may ask any clarifying questions. If needed, you will be assigned a member of BATA's staff to follow up directly on any open concerns.

Bay Area Transportation Authority



RESOLUTION: 2023-06

Grand Traverse County Breach of Agreement Resolution

December 7, 2023

A Resolution to Declare that Grand Traverse County's Proposed Appointments to the BATA Board Would Constitute a Breach of the Recently-Approved Interlocal Agreement and To Authorize Legal Counsel to Take Appropriate Responsive Actions

WHEREAS, on August 15, 2023, Grand Traverse County, Leelanau County, and BATA entered into an interlocal agreement to define their respective rights, responsibilities, and obligations regarding the composition of the BATA Board of Directors, including the number of members, membership eligibility, and the appointment of members (the "Agreement"); and

WHEREAS, the interlocal agreement was the product of months of negotiation and was intended to resolve an ongoing dispute regarding the composition of the Board; and

WHEREAS, during the negotiation process, representatives of both Leelanau County and BATA indicated that the negotiated agreement must include language providing — consistent with past practice — that no more than one county commissioner from each county could be appointed to or serve on the BATA Board at any given time; and

WHEREAS, the Agreement incorporates this request by providing in section 3 that the BATA Board shall include, as an *ex officio* member, 1 county commissioner from each county; and

WHEREAS, on November 30, 2023, a subcommittee of the Grand Traverse County Board of Commissioners formally recommended that two Grand Traverse County Commissioners be simultaneously appointed to the BATA Board for terms beginning in January, notwithstanding the language in section 3 of the Agreement;

NOW, THEREFORE, BE IT RESOLVED, that the subcommittee's recommended slate of appointments to the BATA Board is contrary to the text and spirit of the recently-approved Agreement and would constitute a breach thereof; and

FURTHER, BE IT RESOLVED, that the BATA Board respectfully requests that the Grand Traverse County Board of Commissioners reject the subcommittee's recommendation and appoint a slate of nominees to the BATA Board that is consistent with the terms of the Agreement.

FURTHER, BE IT RESOLVED, that BATA's legal counsel at the law firm of Foster Swift Collins & Smith, PC ("Foster Swift") is authorized and directed to initiate the dispute-resolution process provided in Article 7 of the Agreement.

FURTHER, BE IT RESOLVED, that if the dispute-resolution process is unsuccessful in resolving the dispute within 30 days, Foster Swift is authorized and directed to file a lawsuit against Grand Traverse County seeking appropriate relief.

CERTIFICATE

The undersigned duly qualified Board Secretary of the Bay Area Transportation Authority certifies the foregoing is a true and correct copy of a Resolution adopted at a legally convened meeting of the Bay Area Transportation Authority held on December 7, 2023.

Fwd: December 20, 2023, motion

Kelly Dunham <dunhamk@bata.net>

Wed 12/27/2023 12:46 PM

To: Britny Schwartz <schwartzb@bata.net>

Britny,

This is the request from the county for the packet. Thanks!

Kelly

Begin forwarded message:

From: Nate Alger <nalger@gtcountymi.gov>
Date: December 20, 2023 at 7:03:36 PM EST
To: Kelly Dunham <dunhamk@bata.net>
Cc: Deborah Allen <dallen@leelanau.gov>, twessell@leelanau.gov
Subject: December 20, 2023, motion

Good evening, Kelly,

As you are aware, the Ad Hoc Committee responsible for making a recommendation to the Board of Commissioners has been requested to interview additional applicants for the Grand Traverse County appointees to the BATA Board. The next committee meeting is expected to occur in January. At this morning's Board of Commissioners' meeting, the following motion was passed:

"Moved by Andrews, seconded by Jewett to direct Administrator to seek two-week extension on dispute resolution before retaining counsel so BATA Interview Ad Hoc Committee can proceed with the recommendation."

Following that motion I am requesting that the BATA Authority consider Grand Traverse County's request for a two-week extension so the BATA interview Ad-Hoc committee may complete the process of the interviews and recommendation to the Board of Commissioners for appointment to the BATA board.

Please let me know if you have any questions or concerns.

Thank you,

Nate Alger
Grand Traverse County Administrator
231-922-4780

Grand Traverse County, through innovation and collaboration with our community, cultivate a vibrant place for all to live, work, and play.