

No. EXC/MTG/55.

BOMBAY METROPOLITAN REGION  
DEVELOPMENT AUTHORITY,  
Griha Nirman Bhavan, 5th Floor,  
Bandra (East), Bombay-400 051.

Date : 9th January, 1981.

The minutes of the fifty-fifth meeting of the  
Executive Committee of the Bombay Metropolitan Region  
Development Authority, held on the 20th December, 1980  
are enclosed.

*B. S. Pradhan*  
( B. S. PRADHAN )  
SECRETARY,  
EXECUTIVE COMMITTEE.

To :

- The Chief Secretary to the Govt. of Maharashtra,  
General Administration Department, Mantralaya. -Chairman.
- The Metropolitan Commissioner, B.M.R.D.A. -Vice-  
Chairman.
- The Chairman, T. & C. Board, B.M.R.D.A. -Member.
- The Chairman, W.R.M. Board, B.M.R.D.A. -Member.
- The Chairman, H.U.R.E. Board, B.M.R.D.A. -Member.
- The Municipal Commissioner, B.M.C., Bombay. -Member.
- The Managing Director, C.I.D.C.O. -Member.
- The Secretary to the Govt. of Maharashtra,  
Urban Development Department, Mantralaya,  
Bombay. -Member.

INVITEES :

- The Financial Adviser, B.M.R.D.A.
- The Dy. Metropolitan Commissioner, B.M.R.D.A.
- The Member-Secretary, T. & C. Board, B.M.R.D.A.
- The Member-Secretary, W.R.M. Board, B.M.R.D.A.
- The Member-Secretary, H.U.R.E. Board, B.M.R.D.A.
- The Legal Adviser, B.M.R.D.A.
- The Senior Urban/Regional Planner, B.M.R.D.A.

*The P.O.*

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

CP.9181.

*These papers pertain to the 55<sup>th</sup> meeting  
of the B.C. & S. W. may retain them  
in his section.*

*Secy. Exc.  
(Sri. Wabastha)*

*14/3/81*

35

MINUTES OF THE FIFTY-FIFTH MEETING OF THE  
EXECUTIVE COMMITTEE, B.M.R.D.A.

Date : 20th December, 1980.

Time : 3.00 P.M.

Place : Special Committee Room,  
5th Floor, Mantralaya.

MEMBERS PRESENT :

- |  |                  |
|--|------------------|
| Shri P.G. Gavai, Chief Secretary<br>to the Govt. of Maharashtra.     | - Chairman.      |
| Shri D.M. Sukthankar, Metropolitan<br>Commissioner, B.M.R.D.A.       | - Vice-Chairman. |
| Shri B.N. Adarkar, Chairman,<br>T. & C. Board, BMRDA.                | - Member.        |
| Shri N.G.K. Murti, Chairman,<br>W.R.M. Board, BMRDA.                 | - Member.        |
| Shri D.M. Sukthankar, Managing<br>Director, CIDCO, <u>Bombay-21.</u> | - Member.        |

Shri K.R. Gokhale, Secretary, Executive Committee, BMRDA.

INVITEES :

- The Financial Adviser, B.M.R.D.A.
- The Dy. Municipal Commissioner (Shri Parikh).
- The Member-Secretary, WRM Board/HURE Board.
- The Member-Secretary, T&C Board.
- The Legal Adviser, BMRDA.
- The Sr. Planning Officer and Dy. Secretary,  
HURE Board, BMRDA.

Item No. 1 : Confirmation of the minutes of  
the last (54th) Meeting.

The minutes were confirmed.

Item No. 2 : Action taken on the minutes of  
the last (54th) Meeting as well  
as progressive action on the  
past decisions (Part 'a' only).

In regard to the preparation of the Project Report  
of the Thane Creek Ulhas River Inland Water Transport  
Project by the Steering Committee as reconstituted in  
the last preceding (53rd) meeting, the Chairman  
observed.....

observed that it would not be advisable to proceed with the preparation of the Detailed Project Report in the absence of any definite commitment by the Government of India to give 50% assistance towards the project, and/or the inclusion of this scheme in the Sixth Five Year Plan of the State with ear-marking ~~of the State with earmarking~~ a specific financial allocation therefor. The Chairman, therefore, suggested that the Metropolitan Commissioner should ascertain from the Planning Department of the State Government as to whether this scheme had been included in the State's Sixth Five Year Plan (either in the "Urban Development" sector or in the "Transport" Sector) and whether any financial provision had been earmarked for the scheme. Accordingly, it was decided that the Metropolitan Commissioner should discuss the matter with Special Secretary, Planning, Secretary, Urban Development, and Secretary, Home Department (Transport) and the preparation of the Detailed Project Report may be taken in hand by the Steering Committee only subject to confirmation that the said scheme had been included in the State's Sixth Five Year Plan, with or without Central assistance.

The action taken on other items and the present status of action on **past** decisions reported in the Annexures was noted.

Item No. 3 : Applications for permission under Section 13 of the BMRDA Act, 1974.

The applications bearing the following registration numbers were placed on the Table :

- |                   |                  |
|-------------------|------------------|
| (1) 303/29/10/80  | (3) 305/13/11/80 |
| (2) 304/04/11/80  | (4) 306/27/11/80 |
| (5) 307/28/11/80. |                  |

(1) Application No. 303/29/10/80 (Shri C.M. Vashani) :

The Committee considered the application and noted that the proposal was for addition to the existing building and the change of user from residential to commercial, at Vashani Chambers, New Marine Lines in 'A' Municipal Ward, thereby enhancing the F.S.I. from 2.15 to 2.45. The plot falls in the commercial zone as per the sanctioned Development Plan, and the F.S.I. normally permissible as per D.C. Rules, is 2.45. The Committee noted that the existing building had already consumed more F.S.I. than what was now permissible as per BMRDA's Notification dated the 10th June, 1977 as extended from time to time, viz. 1.33.

The.....

The Committee further noted that in accordance with the D.C. Rules as amended by Government by its Notification dated the 19th March, 1979, any development involving change of user from residential to commercial (for business offices etc.) is no longer permissible in the Island City of Bombay. The Committee also noted that in view of the BMRDA's Notification dated the 7th October, 1980, the Committee had no powers to grant any permission which may be in excess of or contrary to any provision of the D.C. Rules for the time being in force. The application was, therefore, rejected as ultra-vires of the Committee's powers, and, therefore, not maintainable.

(2) Application No.304/04/11/80. (Jai Hind College) :

The Committee considered the application and noted that the proposal was for addition to the existing building for being primarily for an educational purpose (Commerce College section) on plot No.29, Survey No.1707, B Road, Churchgate, in 'A' Municipal Ward. The floor area was proposed to be increased from the existing 2500.92 sq.mtrs. to 3499.85 sq.mtrs., thereby raising the F.S.I. from 1.72 to 2.41. The Committee noted that the plot falls in the residential zone where the permissible F.S.I. as per D.C. Rules is 2.45. The Committee further noted that as per BMRDA's Notification dated the 10th June, 1977, as extended from time to time, the F.S.I. now permissible is, however, only 1.33. The Committee also noted that the applicant had, inter alia, proposed construction of two residential flats on the fifth floor for which he had not given any justification. Having regard to all the aforesaid facts, the Committee decided to grant permission for construction of only the class rooms as proposed by the applicant, as the said user was meant for an educational purpose, and to relax the F.S.I. limit of 1.33 only to that extent. The Committee further decided to refuse the permission for construction of two residential flats as proposed by the applicant.

(3) Application No.305/13/11/80(M/s. Apar (P) Ltd.) :

The Committee considered the application and noted that the proposal was for reconstruction of the existing building on C.S. Nos. 49/1187 and 106/1187. Mody Bay Estate in 'A' Municipal Ward, with a floor area of 765.42 sq.mtrs., thereby enhancing the F.S.I. from the existing 1.18 to 2.26, for being used for commercial purposes. The Committee noted that the plot falls in the commercial zone as per the sanctioned Development Plan.

The.....

The Committee further noted that in accordance with the D.C. Rules as amended by Government by its Notification dated the 19th March, 1979, the construction or reconstruction of a building for commercial user (business offices etc.) is no longer permissible in the Island City of Bombay. The Committee also noted that in view of the BMRDA's Notification dated the 7th October, 1980, the Committee had no powers to grant any permission which may be in excess of or contrary to any provision of the D.C. Rules for the time being in force. The application was, therefore, <sup>summarily</sup> rejected as ultra-vires of the Committee's powers, and, therefore, not maintainable.

(4) Application No.306/27/11/80 (Shri J.C. Gandhi) :

The Committee considered the application and noted that the proposal was for addition to the existing building (Mahavir Building) on Survey Nos. 292 and 293, Shankar Pupala Road, in 'E' Municipal Ward, for increasing the floor area from 334.69 sq.mtrs., to 419.98 sq.mtrs., thereby raising the F.S.I. from 1.33 to 1.66, for being used for residential purposes. The Committee noted that the permissible F.S.I. as per D.C. Rules was 1.66 while that as per BMRDA's Notification dated 10th June, 1977, as extended from time to time, was 1.33. The Committee further noted that the applicant had not furnished the full details regarding the proposed additional construction; such as, drawings, area statement, etc. and that the justification given by him therefor was not convincing. The Committee felt that if the permission for the proposed additional construction were granted, the overall development of the Metropolitan Region was likely to be affected adversely. The application was, therefore, rejected.

(5) Application No.307/28/11/80(The Executive Engineer, Central Bombay Division, Bombay).

The Committee considered the application and noted that the proposal was to sub-divide, by constructing partitions, the existing 8 Court Halls, in the Small Causes Court New Building, Lokmanya Tilak Marg, Dhobi Talao in 'C' Municipal Ward, into 16 Court Halls. The Committee further noted that the space was already being used for the purposes of the Courts and no additional FSI was involved. The proposal being, thus, unobjectionable, the Committee decided to grant the requisite permission.

Accordingly.....

Accordingly, the Committee passed the following Resolution :-

RESOLUTION NO. 185 :

RESOLVED THAT applications for permission, bearing registration Nos. mentioned below, received in terms of Section 13(2) of the BMRDA Act, 1974, being ultra-vires of the powers of the Committee, and, therefore, not maintainable, are hereby rejected :--

(1) 303/29/10/80

(2) 305/13/11/80

RESOLVED FURTHER THAT in exercise of the powers conferred on it by clause (v) of the sub-section (2) of Section 7 of the BMRDA Act, 1974, read with sub-section (1) of Section 13 of the said Act and all other powers enabling it in this behalf, the Committee hereby -

(I) refuses permission on behalf of the Authority under sub-section (3) of Section 13 of the said Act to persons and authorities who have presented applications bearing the following registration Nos., for the reasons recorded in these minutes :-

(i) 304/04/11/80 - for construction of two residential flats;

(ii) 306/27/11/80;

(II) grants permission to the Principal, Jai Hind College, Bombay-20 (Application No.304/04/11/80) for addition to the existing college building only for being used for an educational purpose (class rooms for commerce section of the college), and to the Executive Engineer, Central Bombay Division, Bombay (Application No.307/28/11/80) for partitioning the existing eight Court Halls into 16 Court Halls, without increasing the FSI, in the Small Causes Court New Building.

Item No. 4 : Techno-economic Feasibility Study of Mankhurd-Panvel Rail Line - Consultancy Work for Traffic Projections and Social Cost-Benefit Analysis.

The Committee considered the agenda note and passed ~~xxxxxx~~ the following Resolution :

RESOLUTION NO. 186 :

RESOLVED THAT having considered the request of the Indian Institute of Management, Bangalore, for payment of amount of

Rs.22,500/-.....

Rs.22,500/- over and above the contract value of Rs.3,28,300 for Traffic Projections and Social Cost Benefit Study of the East-West Corridor and points set out in the Agenda note, the cost over-run of Rs.22,500/- over and above the contracted price of Rs.3.28,300 be and is hereby sanctioned to be paid to the IIMB, Bangalore.

RESOLVED FURTHER THAT in partial modification of Resolution No.132 dated 5th June, 1979, this additional amount of Rs.22,500/- be paid from the BMRDA Funds.

Item No. 5 : Agreement between BMRDA and Western Railway for appointing Western Railway as agency for

- executing the work of providing strengthening measures to the Western Railway Bridge No. 20
- across Mithi River for channelisation in
- Bandra-Kurla Complex.

There was protracted discussion on this item. While the Committee noted that there was no alternative but to entrust to the Western Railway the work of providing the strengthening measures to the Western Railway Bridge No.20 across Mithi River for channelisation in the Bandra-Kurla Complex, the Committee felt that the proposal to pay to the Western Railway (annually or in one lump sum of around Rs.15 lakhs representing the capitalized value) the charges towards recurring maintenance and repairs of the said work (over and above the capital cost of Rs.31.5 lakhs inclusive of centage charges at 12½%) needed careful consideration, in the light of precedents. The Committee also felt that certain clauses of the draft agreement to be entered into with the Western Railway (as set out in Annexure II appended to the agenda note) were objectionable from the point of view of the B.M.R.D.A. For example, clause 4 of the draft agreement sought to cast on the B.M.R.D.A. the responsibility for any damage to the railway track or property which may be caused on account of flooding of the railway track resulting from works undertaken by other concerned agencies like the B.M.C. and the State P.W.D. for channelisation in the Bandra-Kurla Complex. Further, the said clause sought to provide that the sole opinion of a Railway official (Chief Engineer/ Chief Track Engineer) in regard to the responsibility for the damage, the extent of the damage and the compensation to be paid by the BMRDA therefor shall be final and conclusive. Further, clause 10 of the agreement, which was in the form of an over-riding clause, sought to provide that "In case of any doubt, difference or dispute which shall arise between

the.....

/of

the licensee and the Railway Administration as to the true intent or meaning/these presents or any article, clause or thinking therein mentioned, then every such case of doubt, difference or dispute shall be referred to the General Manager of the Western Railway Administration and his decision thereon shall be final and conclusive and binding on both parties". These clauses of the draft agreement were one-sided and the agreement did not, as it should in fairness to all concerned, provide for reference of any point of dispute for decision to an independent arbitrator. After discussion, the Committee decided that :-

(i) The Metropolitan Commissioner should check with reference to similar agreements entered into in the past by any of the Government Departments or State Public Sector agencies in respect of works entrusted to the Railways whether the liability to pay to the Railways the charges towards recurring repairs and maintenance of the concerned railway work (either annually or as a lumpsum representing the capitalised value of the recurring annual expenditure towards such repairs and maintenance) had been accepted by the Government Department, State public sector agency concerned. If such a liability had been accepted in the past by a Government Department/State public sector agency, there would be no objection to the BMRDA agreeing to accept a similar liability in the present case also. On the basis of precedents, if the liability to make such payment towards normal repairs and maintenance has to be accepted, it may be cheaper to make the payment of the charges every year instead of making the payment in a lumpsum in the form of a capitalised amount. However, in view of the proposed provisions of clause 3(a) of the draft agreement, under which the Western Railway sought to reserve the right of enhancement of these charges at any time in future, the preferable course would be to discharge this liability once and for all by making the payment of the lumpsum amount representing the capitalised value; provided the draft agreement can be suitably amended to indicate clearly that such lumpsum payment will be a "once and for all payment" in full and final settlement of all claims or liabilities in respect of all kinds of repairs (ordinary, special, etc.);

(ii) As a number of agencies, such as the BMC, PWD of the State Government and the BMRDA, besides the Western Railway, were to execute the different strengthening and protective works involved in channelisation in the Bandra-Kurla Complex, the draft agreement should provide for a periodical joint inspection of all such works by the representatives of all the agencies concerned, with a view to verifying jointly whether the respective works were.....

were executed and maintained properly to the satisfaction of all parties concerned. In the case of any dispute as to the cause of any damage that may occur, the extent of damage and the compensation to be paid therefor, there should be a provision in the agreement for appointment of an independent Arbitrator (with the mutual consent of the parties to the dispute) whose decision shall be final and binding on all the parties concerned. However, if any similar agreements entered into with the Railways in the past by any Government Department/State public sector agency provided that the General Manager of the Railway concerned should have the authority to give the decision on any such difference or dispute, there would be no objection to accept a similar provision in the agreement to be entered into in the present case also. The Metropolitan Commissioner should accordingly verify the position on the basis of precedents and, if necessary, discuss the matter with the Western Railway authorities with a view to settling the draft of the agreement to the mutual satisfaction of the BMRDA and the Western Railway. If such a settlement is not reached, the matter may be brought to the notice of the Chairman of the Executive Committee for being resolved by taking it up with the General Manager of the Western Railway or the Railway Board, Government of India, New Delhi.

Item No. 6 : Construction of BMRDA's Office Building in 'E' Block of Bandra-Kurla Complex - Appointment of Architect for .....

The Committee considered the agenda note and passed the following Resolution :-

RESOLUTION NO.187 :

RESOLVED THAT in exercise of the powers delegated under Section 7(2) (vi) of the BMRDA Act, 1974, the proposal to appoint M/s. Architects' Combine as the Architect for the proposed BMRDA's Office building on plots C-14 and C-15 in 'E' Block of the Bandra-Kurla Complex, on the terms and conditions as stated in the Agenda note be and is hereby approved.

RESOLVED FURTHER THAT the Metropolitan Commissioner be and is hereby authorised to take further necessary action in the matter of appointing the Architect.

Item No. 7 : Accounts of the BMRD Fund for the quarter ending 30th September, 1980.

The Committee considered and noted the contents of the.....

the agenda note.

Item No. 8 : Bombay Urban Transport Project (BUTP)  
(World Bank Loan No.1335-IN)-Periodical  
Progress Report.

The Committee noted the contents of the agenda note. The Chairman observed that as the construction of the Drainage Channel Road, which was a vital link for the Worli Bus Depot of the BEST, had been held up pending the relocation of about 1,300 unauthorised huts, Government (the Cabinet Sub Committee) should be moved immediately, through Secretary, Urban Development, for an early decision on the relocation of these hutments.

Item No. 9 : Creation of the post of Officer-on-Special Duty and appointment of  
Shri S. S. Gadkari to it.

The Committee considered the agenda item and decided that the consolidated salary payable to Shri S.S. Gadkari, who had been appointed as Officer-on-Special Duty on a full time basis for a period of three months, should be Rs.1,600/- p.m.

The Committee then passed the following Resolution :-

RESOLUTION N<sup>o</sup>.188 :

In exercise of the powers delegated to it under the Standing Committee's Resolution No.38 dated the 17th November 1976, read with proviso to Regulation 5 of the BMRDA.(Conditions of Service) Regulations, 1977, the Executive Committee approves post facto the creation of a post of Officer-on-Special Duty on a consolidated salary of Rs.1,600/- per month for a period of three months, with effect from the 1st Dec 1980, and the appointment of Shri S.S. Gadkari to it on contract and on a full time basis, subject to the conditions mentioned in the BMRDA Central Office Order dated the 27th December, 1980.

Item No.10: Reporting cases of exercise of powers  
delegated by the Executive Committee.

The Committee noted the exercise of delegated powers in the cases set out in Statement 'A', and 'B' embodied in the agenda note.

The contents of a note regarding "Reconnaissance survey for identification of most economic alignment for the commuter line from Belapur to Nhava-Sheva", circulated by the Transport & Communications Board for the information of the members of the Committee, were noted.

The meeting then ended with a vote of thanks to the Chair-