

MEETING OF THE BOARD OF DIRECTORS FOR THE
METROPOLITAN TRANSIT SYSTEM (MTS)

1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

October 18, 2012

MINUTES

1. Roll Call

Chairman Mathis called the Board meeting to order at 9:06 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Mr. Cunningham moved to approve the minutes of the September 20, 2012, MTS Board of Directors meeting. Mr. Alvarez seconded the motion, and the vote was 10 to 0 in favor with Messes. Emerald and England and Messrs. Ovrom, Roberts, and Young absent.

3. Public Comments

John Wood – Mr. Wood commented that a friend was leaving College Grove and missed the bus by 1 minute and then missed the appointment.

Lyn Gwizdak – Ms. Gwizdak is requesting the drivers enforce the policy that disabled seating is vacated when a disabled rider boards the bus and needs to sit down.

Lisa Irving – Ms. Irving is representing the California Organization of the Blind and stated that removing a seat from all buses will likely help in accommodating disabled passengers.

Abdulhamid Somo – Mr. Somo stated that he has been driving a taxi since 1994, in the city of San Diego, and used to be with the Yellow Cab Company. He is now an independent driver and is not sure why air-conditioning is not required in the taxis.

Lorraine Leighton – Ms. Leighton stated that bus 3413 was leaking water during the rain last week, and stated that the new buses are not registered with the California Department of Motor Vehicles.

CONSENT ITEMS:

6. State Lobbying Services Contract - Exercise Contract Option Year Two

Action would: (1) ratify MTS Doc. No. G1204.1-09 with Smith Watts & Company LLC for continued state lobbying services; and (2) authorize the CEO to execute MTS Doc. No. G1204.2-09 with Smith Watts & Company LLC to exercise option year two for state lobbying services.

7. Compass Card Risk Follow-up - Audit Report

Action would receive an internal audit report on Compass Card risk follow-up for information.

8. LRV Warranty Operations - Audit Report

Action would receive an internal audit consultative report on light rail vehicle (LRV) warranty operations.

9. Follow-up Audit Reports - Status Updates

Action would receive internal audit reports as a status update on follow-up reviews.

10. Vehicle Advertising Services

Action would authorize the CEO to execute MTS Doc. No. G1140.2-08 with Michael-Allen & Associates for vehicle advertising services.

11. Hazardous Materials Disposal Services - Contract Award

Action would authorize the CEO to execute MTS Doc. No. G1474.0-12 with Environmental Logistics, Inc. for a five-year period to provide hazardous materials disposal services to San Diego Transit Corporation (SDTC) and San Diego Trolley, Inc. (SDTI).

12. Reallocated Transportation Development Act Funds for the La Mesa Village Trolley Access Improvements Project

Action would approve the use of Transportation Development Act (TDA) Article 4 funds currently held by the City of La Mesa for MTS's La Mesa Village Trolley Access Improvements Project.

13. Increased Authorization for Legal Services - Law Offices of Michael Ripley

Action would authorize the CEO to execute MTS Doc. No. G1428.1-12 with the Law Offices of Michael Ripley for current and future legal expenses throughout the remainder of FY 2013.

14. Federal Transit Administration 5316 Grant Applications

Action would adopt Resolution No. 12-14 authorizing the CEO to submit applications for federal fiscal year 2012 Job Access and Reverse Commute (JARC) funding.

15. Transmissions and In-Frame Engine Overhaul Services – Contract Award

Action would authorize the CEO to: (1) execute MTS Doc. No. B0592.0-13 with Harbor Diesel and Equipment, Inc. for the provision of transmission and in-frame engine overhaul services for Group II-Transmission Rebuilds for a three-year base period with 2 one-year options; and (2) exercise each option year at his discretion.

16. Federal Legislative Representation

Action would: (1) ratify the Chief Executive Officer's (CEO) approval of Amendment No. 4 to Task Order 5 of the San Diego Association of Governments' (SANDAG's) contract with Blank Rome Government Relations, LLP (MTS Doc. No. G0980.5-06/ Ref. SANDAG Contract No. 5000276), which assigned the remainder of the contract to Peyser Associates, LLC; and (2) authorize the CEO to execute Task Order 6 and Amendment No. 5 of the tri-agency contract with Peyser Associates, LLC effective November 1, 2012.

17. MTS Job Order Contract Work Order for Track Way Pavement Replacement on C Street

Action would authorize the CEO to execute Work Order No. MTSJOC1582-07 with Herzog Contracting (MTS Doc No.PWL134.0-12) to remove the existing asphalt paving and install new rubber rail interfacing boot along C Street.

18. Adoption of Amended 2012 Conflict of Interest Code

Action would: (1) adopt Resolution No. 12-15 amending the MTS Conflict of Interest Code pursuant to the Political Reform Act (PRA) of 1974; (2) adopt the amended 2012 MTS Conflict of Interest Code; and (3) forward the amended 2012 MTS Conflict of Interest Code to the County of San Diego (the designated code-reviewing body).

Action on Recommended Consent Items

Mr. Ewin moved to approve Consent Agenda Item Nos. 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18. Mr. McClellan seconded the motion, and the vote was 13 to 0 in favor with Mr. Ovrom and Mr. Roberts absent.

CLOSED SESSION:

24. Closed Session Items

The Board convened to Closed Session at 9:23 a.m.

- a. CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION PURSUANT to California Government Code Section 54956.9(a):
Norma Calloway v. MTS (SDSC Case Nos. 0414096, 0212699, and 10289196)

The Board reconvened to Open Session at 9:29 a.m.

Oral Report of Final Actions Taken in Closed Session

Karen Landers, General Counsel, reported the following:

- a. The Board approved a global compromise and release settlement in the amount of \$ 93,000 with the vote of 13 to 0 with Mr. Ovrom and Mr. Roberts absent.

NOTICED PUBLIC HEARINGS:

25. None.

DISCUSSION ITEMS:

30. An Ordinance Amending Ordinance No. 5, An Ordinance Relating to the Enforcement Authorities of Code Compliance Inspectors, Assistant Code Compliance Supervisors, the Code Compliance Inspection Supervisor, and Taxicab Inspectors I & II, and An Ordinance Amending Ordinance No. 11, An Ordinance Providing for the Licensing and the Regulating of Transportation Services within the City by the Adoption of a Uniform Paratransit Ordinance

Sharon Cooney presented proposed changes to MTS Ordinance No. 11 and No. 5 and explained that MTS is the contract holder for the administration and regulation of taxicabs. She explained that amendments to Ordinance No. 11 include the clarification of permit application requirements; additional permit holder and driver reporting requirements; prohibits smoking in taxicabs; prohibits use of cellular phones by drivers when passengers are in the vehicle; requires permit holders to supply credit card machines; establish taxicab and jitney loading zones; provides that for-hire vehicle driver or permit holder convicted of certain crimes will not be issued or renewed; and authorizes inspections by MTS Taxicab Administration for compliance with applicable CPUC. She explained that Ordinance No. 5 amendments are needed to enforce the recommendations proposed in Ordinance No. 11.

There was discussion between the Board members regarding adding requirements for permit holders to supply MTS with copies of leases and what impact that requirement would have on staff time and MTS's legal capacity for enforcement.

Ms. Cooney stated that in December staff will provide a historical review of MTS taxicab regulations to prepare for negotiations with the cities. Mr. Ewin requested staff present him with materials in advance of the December Board meeting.

Public Comments

Oliver James – Mr. James stated that he surveyed over 100 taxicab drivers and created the fact sheet presented (handout attached). Highlights of his survey bring light to the fact that most taxicab drivers work an average of seven days per week, and that after calculating expenses, the pay on the low end of the scale equates to earning \$4.23 per hour. He stated that roughly 72% of the vehicles used as taxicabs have over 200,000 miles.

Mikail Hussein – Mr. Hussein is representing the United Taxi Workers of San Diego (UTWSD) and tried to make the MTS Board more aware of the driver issues and would like to bring more knowledge about the industry so that the Board can make educated decisions about taxi matters.

Brian Giardina – Mr. Giardina talked about retaliation the taxicab drivers face. He stated that the drivers do not have protected free speech and are often politically retaliated against. He feels that even though drivers are independent contractors, they should be given employee protections.

Alor Calderon – Mr. Calderon stated that the taxicab drivers are required to issue receipts for credit card payments and so it is only right that permit holders should be required to provide receipts for lease payments received to them in cash. He explained that many drivers do not know the terms of their lease nor do they have a copy of it. He would like to change the terms of lease agreements and allow for complaints to be heard at the Small Claims Court rather than be heard through expensive arbitration.

Sarah Saez – Ms. Saez talked about the mission of the UTWSD to improve the overall service industries in the city of San Diego. She feels that the taxicab industry is vital to tourism in the city and that people should be safe when getting a taxi ride and because of the long hours many drivers put in each day, the public is not safe.

Hussein Nuur – Mr. Nuur stated that the Ordinance amendments do not give the taxicab drivers any protection and that some drivers have been fired unjustly for trying to obtain a receipt from the medallion holder for lease payments.

Tony Hueso – Mr. Hueso is President of USA Cab and a business owner and stated that most drivers are independent contractors that have chosen to be in the industry - and therefore can choose their own hours. They do this because they have the potential to make more money. He said that he supports the small changes that Ordinance No. 11 is trying to accomplish.

George Abraham – Mr. Abraham owns a cab and has been driving a cab since 1986. He said that he chose to have his own taxicab business and he has only gotten where he is now because he has worked hard. He thanked MTS for their work towards the taxi industry, and enjoys what he does for a living.

Margo Tanguay – Ms. Tanguay has been coming to MTS Board meetings for many years and has a heavy background of Ordinance No. 11, which is used for code enforcement. She stated that the Board is not voting on anything today other than some minor language changes. She added that in her opinion, the penalties are too costly.

Staff Recommendation

Action would: (1) read the title of Ordinance No. 5, An Ordinance Relating to the Enforcement Authorities of Code Compliance Inspectors, Assistant Code Compliance Supervisors, the Code Compliance Inspection Supervisor, and Taxicab Inspectors I & II, and An Ordinance Amending Ordinance No. 11, An Ordinance Providing for the Licensing and the Regulating of Transportation Services within the City by the Adoption of a Uniform Paratransit Ordinance (2) waive further readings of the ordinance; (3) introduce the ordinances for further consideration at the next Board meeting on November 15; and (4) direct publication of an ordinance summary.

Action Taken

Ms. Emerald moved staff approval with the following exceptions: (i) add to Section 1.10, in language to be drafted by staff, a requirement for permit holders to maintain copies of leases and receipts for leaseholder payments; (ii) in Section 2.4(c)(1), replace the word "maximum" with "minimum"; and (iii) in Section 2.7(d), add the phrase "and the vehicle begins moving", to the end of the first sentence. Mr. Alvarez seconded the motion, and the vote was 13 to 1 in favor with Mr. Ewin opposed and Mr. Ovrom absent.

31. Lease and Management Agreement with SYPS, LLC for San Ysidro Intercity Bus Terminal Facility at Rail Court

Karen Landers presented to the Board an agreement with SYPS, LLC for the San Ysidro Intercity Bus Terminal Facility at Rail Court. She gave the Board a history of the bus terminal and provided a configuration map. She then provided some photographs of Rail Court at San Ysidro and the current safety issues. Ms. Landers stated that Greyhound has proposed to use condemnation proceeds to reconfigure the terminal. She showed the Board a proposed re-configuration of the terminal. She explained the terms of the proposed lease and talked about the revenue and rate of return with an estimated annual return to MTS of \$175,000 over 7 years with a 3-year renewal option, and can be canceled with 1-year notice.

Board members voiced concerns for ticketing and grievances from other carriers against Greyhound and the resolution.

Mr. Jablonski stressed that the agreement is a public-private partnership to address some of the issues that have been ongoing at the facility.

Action Taken

Mr. Alvarez moved to authorize the CEO to enter into an agreement with SYPS, LLC for the lease and management of the San Ysidro Intercity Bus Terminal Facility on Rail Court in the City of San Diego. Mr. Castaneda seconded the motion, and the vote was 10 to 0 in favor with Messes. Emerald, Zarate and Messrs. Minto, Ovrom, and Young absent.

REPORT ITEMS:

45. San Diego Transit Corporation (SDTC) Pension Investment Status

Cliff Telfer, Chief Financial Officer, introduced Jeremy Miller and Bruno Grimaldi of RVKuhns & Associates, who provided a performance update of the San Diego Transit Corporation (SDTC) pension plan.

Mr. Miller explained that the plan has 15 managers and achieved a combined investment return of -2.89% for the year. He stated that the plan returned 9.64% since inception on October 1, 1982. He talked about the market returns for the year, which is 4.63% first FY13 quarter.

Mr. Roberts had concern that our largest holding is out of favor. In response, Mr. Miller indicated that investment managers often go through cycles where their strategy is in or out of favor leading to over or under performance. Trying to time these cycles is difficult. Sometimes waiting for the cycle to turn back in your favor is advantageous—though difficult. Mr. Miller stated that five years is the typical length of time given to an investment to perform and that perhaps next year, the investment will not be in the portfolio.

Action Taken

Ms. Emerald moved to receive a report for information and would like to see the due-diligence information at the next meeting. Mr. McClellan seconded the motion, and the vote was 9 to 0 in favor with Messes. Emerald, Zarate and Messrs. Ewin, Minto, Ovrom, and Young absent

46. Semiannual Security Report (January through June 2012)

Agenda item trailed to the next meeting.

47. East County Bus Maintenance Facility Project Update

Agenda item trailed to the next meeting.

48. Operations Budget Status Report for August 2012 (Taken Out of Order)

The staff report was waived.

Action Taken

Ms. Emerald moved to receive a report for information. Mr. Castaneda seconded the motion, and the vote was 10 to 0 in favor with Messes. Emerald, Zarate and Messrs. Minto, Ovrom, and Young absent.

60. Chairman's Report

Chairman Mathis made no report.

61. Audit Oversight Committee Chairman's Report

Mr. Ewin, Chairman of the Audit Oversight Committee, made no report.

62. Chief Executive Officer's Report

Mr. Jablonski stated that he traveled to Seattle for the APTA annual meeting earlier this month with Mr. Roberts and Chairman Mathis.

63. Board Member Communications

There were no Board member communications.

64. Additional Public Comments on Items Not on the Agenda

There were no additional public comments.

65. Next Meeting Date

The next regularly scheduled Board meeting is Thursday, November 15, 2012.

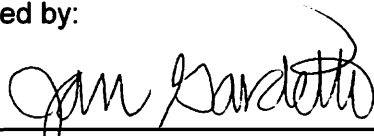
66. Adjournment

Chairman Mathis adjourned the meeting at 11:55 a.m.



Chairperson
San Diego Metropolitan Transit System

Filed by:



Clerk of the Board
San Diego Metropolitan Transit System

Approved as to form:



General Counsel
San Diego Metropolitan Transit System

Attachment: Roll Call Sheet
Fact Sheet Handout

METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS
ROLL CALL

MEETING OF (DATE): October 18, 2012

CALL TO ORDER (TIME): 9:06 AM

RECESS: _____

RECONVENE: _____

CLOSED SESSION: 9:23 AM

RECONVENE: 9:29 AM

PUBLIC HEARING: _____

RECONVENE: _____

ORDINANCES ADOPTED: _____

ADJOURN: 11:55 AM

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ALVAREZ	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>		
BRAGG	<input checked="" type="checkbox"/> (King) <input type="checkbox"/>		
CASTANEDA	<input checked="" type="checkbox"/> (Rindone) <input type="checkbox"/>		
CUNNINGHAM	<input checked="" type="checkbox"/> (Mullin) <input type="checkbox"/>		
EWIN	<input checked="" type="checkbox"/> (Arapostathis) <input type="checkbox"/>		11:39 AM
EMERALD	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>	9:19 AM	
ENGLAND	<input checked="" type="checkbox"/> (Gastil) <input type="checkbox"/>	9:13 AM	11:15 AM
GLORIA	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>		
MATHIS	<input checked="" type="checkbox"/>		
MCCLELLAN	<input checked="" type="checkbox"/> (Ambrose) <input type="checkbox"/>		
MINTO	<input checked="" type="checkbox"/> (McNelis) <input type="checkbox"/>		11:15 AM
OVROM	<input type="checkbox"/> (Denny) <input type="checkbox"/>		
RIOS	<input type="checkbox"/> (Zarate) <input checked="" type="checkbox"/>		11:16 AM
ROBERTS	<input checked="" type="checkbox"/> (Cox) <input type="checkbox"/>	9:46 AM	
YOUNG	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>	9:08 AM	10:45 AM

SIGNED BY THE CLERK OF THE BOARD: Valerie Vizkeleti

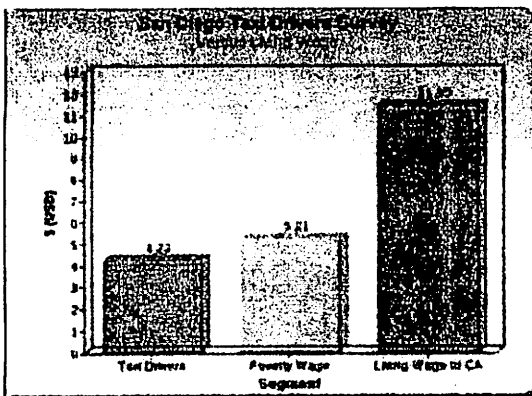
CONFIRMED BY THE GENERAL COUNSEL: Kenner Cord

ORDINANCE 11 REFORM

Improving the Taxi Industry for a Better, Safer San Diego

Ordinance 11 regulates the taxi industry on issues such as driver dress code, trip logs, taxi meters, etc. However, it fails to regulate the lease prices and the number of hours taxi drivers can work. Some taxi drivers pay up to \$920 a week to lease the taxis they drive - many drivers end up working as much as 12-16 hours per day, for 7 days a week just to cover the cost of their leases. At the end of the day, they may have either operated at a loss or earn on average \$4.23/hour. Every day, taxi drivers receive police and Metropolitan Transit System (MTS) tickets for minor rule infractions such as missing road maps, standing 12 feet away from their vehicle, or neglecting to wear a name badge under current Ordinance 11 rules. Meanwhile, they are silenced from identifying safety concerns out of fear of retaliation and blacklisting from the industry. There is no formal grievance process for safety violations or whistle blowing claims. Without proper reform, the City of San Diego and MTS end up protecting property while failing to protect lives.

Safety Concerns



Average Days Worked: 7
Average Hours Worked: 12
TOTAL: 84 hours/week

Average Hourly Wage of
San Diego Taxi Drivers:

\$4.23/hour

(After Expenses)

Out of 100 drivers surveyed 86% reported on average working 7 days a week, 12 hours a day. Despite long shifts, taxi drivers in San Diego report an hourly wage of \$4.23 an hour. The safety of both the driver and the public is at risk when a driver works extremely long hours just to cover the cost of his lease. Reform is necessary to save lives.

Recommended Changes to Ordinance 11:

1. Anti-Retaliation Clause For Reporting Ordinance 11 Violations and Safety Concerns.
2. Mandatory Receipts For Lease Payments Provided To The Lease Drivers For Their Records and Transparency.
3. Increased Restroom Mobility For Taxi Drivers.
4. Instituting Vehicle Mileage Restrictions In San Diego.
5. Following An Industry Study On Lease Payments, Instituting A Lease Cap Which Serves The Public Good And Allows A Reasonable Return For Lease Taxi Drivers. Other Cities With Lease Caps Include: New York, Chicago, Philadelphia. Seattle, San Francisco.

" Many guys die, they die at young age.... They have many health issues like diabetes, kidney failure, high blood pressure. It's a horrible job."

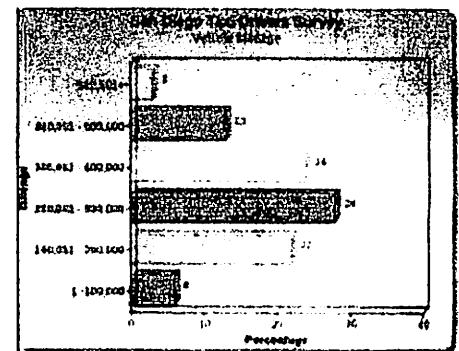
- Driving taxis for 8 years

The Last Time Ordinance 11 Was Amended Was In 2003. Safety Concerns & Recommendations Were Brought To MTS Regarding Long Hours And Low Wages Over A Year Ago In 2011. These Issues Have Not Been Considered Despite Unsafe Working Conditions And Risks To The Public. We Cannot Afford To Wait Another 9 Years. We Can Do Better.

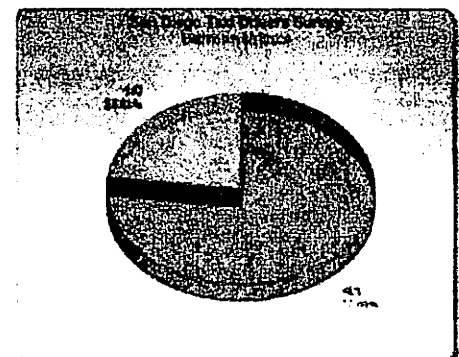
IT'S TIME FOR REFORM!

United Taxi Workers of San Diego
7364 El Cajon Blvd. San Diego, CA 92115
P: (619)713-5404 E: Info@utwsd.org

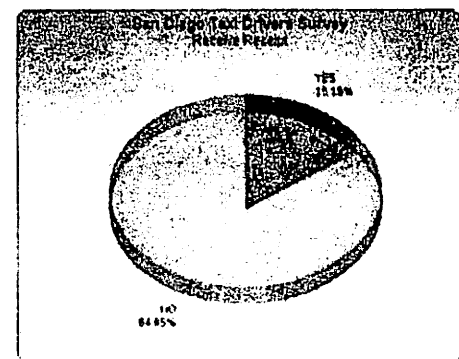
OTHER STATISTICS



72% of taxicabs surveyed had over 200,000 miles. Currently there are no restrictions on vehicle mileage or age limit for San Diego city cabs.



77% of drivers surveyed say that bathroom access is an issue for them. A majority of drivers are unable to use the restroom due to MTS 12 foot restrictions and availability.



84% of drivers do not receive receipts for the thousands of dollars they pay in lease fees every week.