

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

1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101

September 20, 2012

MINUTES

1. Roll Call

Chairman Mathis called the Board meeting to order at 9:09 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Mr. Minto moved to approve the minutes of the July 19, 2012, MTS Board of Directors meeting. Mr. McClellan seconded the motion, and the vote was 10 to 0 in favor.

3. Public Comments

*Barbara Nevarez* – Ms. Nevarez is representing Improve Transportation in City Heights (ITCH) from Mid-City Community Advocacy Network (CAN) regarding youth bus passes. She thanked the Board of Directors for agreeing to look into a free bus pass program for students ages 15-24, in the City Heights area.

*John Wood* – Mr. Wood questioned why the Lemon Grove Depot station work is not finished and why the ticket vending machine has been moved to the other side of the station platform.

*Lorraine Leighton* – Ms. Leighton stated that the Veolia weekend bus drivers are denying service to disabled patrons. She has filed a complaint with the Federal Transit Administration. She said that the Route 833 driver is going off the planned route and that, according to transit dispatch, they do not have to follow the written schedule.

CONSENT ITEMS: (Taken Out of Order)

*Chairman Mathis stated that Consent Items 14 and 22 had been pulled from the Consent Agenda.*

6. Investment Report - June 2012

Action would receive a report for information.

7. Compass Card Back-Office Implementation and Commissions on Fare Media - Amendment to MOU with SANDAG and NCTD

Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. G1248.3-09 amending the Memorandum of Understanding (MOU) between the San Diego Association of Governments (SANDAG) and North County Transit District (NCTD) regarding Compass Card back-office implementation and commissions on fare media.

8. State Transit Assistance (STA) Claims

Action would adopt Resolution No. 12-12 approving fiscal year (FY) 2013 State Transit Assistance (STA) claims.

9. Job Order Contract Work Order for San Miguel Grade-Crossing Renewal Project

Action would authorize the CEO to execute Job Order Contract (JOC) No. 11183 (under Work Order No. MTSJOC1582-02) with Herzog Contracting Corporation to perform work under MTS Doc. No. PWL134.0-12 for the San Miguel Grade-Crossing Renewal Project on the Orange Line.

10. General Engineering Contracts - Various

Action would authorize the CEO to execute General Engineering On-Call Services contracts piggybacking on contracts between the San Diego Association of Governments (SANDAG) and Parsons Brinckerhoff, Kimley-Horn Associates, Inc., Pacific Railway Enterprises, PGH Wong Engineering, Inc., and RailPros, Inc.

11. High-Speed Circuit Breaker Replacement and Installation - Contract Award

Action would authorize the CEO to execute MTS Doc. No. L1052.0-12 with Siemens Transportation Systems, Inc. (Siemens) to furnish and install high-speed circuit breakers on MTS's fleet of 52 SD 100 light rail vehicles (LRVs).

12. Replacement Bus Radios for MTS Paratransit and Rural Bus Fleets

Action would authorize the CEO to purchase 92 new 5300 ES Mobile Radios for the MTS Access and Rural bus fleets.

13. Platform Card Interface Devices (PCIDs) for Trolley Renewal Project

Action would authorize the CEO to execute MTS Doc. No. L1111.0-13 as a sole-source contract with Cubic Transportation System for the procurement of Platform Card Interface Devices (PCIDs) and associated PCID spare parts to support the additional fare equipment requirements called for in the Trolley Renewal Project's station design specifications.

14. *Pulled from Consent Agenda.*

15. Engineering Support Services for the Mission Valley East Orange Line Signal Print Verification Project

Action would authorize the CEO to execute Work Order No. 13.01 to MTS Document No. G1494.0-13 with Pacific Railway Enterprises, Inc.

16. Janitorial Services for MTS LRV Fleet - Additional Services

Action would: (1) ratify MTS Doc. No. G1387.2-11 dated September 30, 2011, with NMS Management for janitorial and light rail vehicle (LRV) cleaning services, which was previously

executed pursuant to the CEO's authority; and (2) authorize the CEO to execute MTS Doc. No. G1387.3-11 for LRV cleaning services through September 30, 2016.

17. Disadvantaged Business Enterprise (DBE) Goal

Action would adopt a 4.1% goal for DBE-participation in federally funded contracts over the Federal Fiscal Year (FFY) 2013 to FFY 2015 triennial period.

18. SD 100 Complete Gearbox Assemblies for Light Rail Vehicles - Contract Award

Action would authorize the CEO to execute MTS Doc. No. L1053.0-12 with Hi-Tec Enterprises (Hi-Tec) to furnish complete gearbox assemblies for MTS's fleet of 52 SD 100 LRVs.

19. Proposed Revisions to Policy No. 42 - Transit Service Evaluation and Adjustment

Action would approve the proposed revisions to MTS Policy No. 42 - Transit Service Evaluation and Adjustment.

20. LiveScan Authorization

Action would approve Resolution No. 12-13 authorizing staff to execute a request to the California Department of Justice to become a contributing agency for LiveScan fingerprinting.

21. San Diego Trolley Inc. Building B Roof Replacement

Action would authorize the CEO to execute Work Order No. MTSJOC1337-12 with Southland Electric (MTS Doc. No. PWL132.0-11) for repairs to San Diego Trolley, Inc.'s (SDTI's) Building B.

22. *Pulled from Consent Agenda.*

Action on Recommended Consent Items

Mr. McClellan moved to approve Consent Agenda Item Nos. 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, and 21. Ms. England seconded the motion, and the vote was 13 to 0 in favor with Mr. Gloria and Mr. Roberts absent.

*Discussion of Consent Agenda Items 14 and 22:*

14. Transmissions and In-Frame Engine Overhaul Services - Contract Award

Public Comments

*John Wood* – Mr. Wood questioned whether the overhauls were for MTS or Veolia vehicles.

Claire Spielberg, Chief Operating Officer of Transit, stated that the vehicles are MTS vehicles.

Action Taken

Ms. Emerald moved to authorize the CEO to: (1) execute MTS Doc. No. B0574.0-12 with Cummins Cal Pacific, LLC for the provision of transmission and in-frame engine overhaul services for Group I (In-Frame Engine Overhauls) for a three-year base period with two 1-year options; and (2) exercise each option year at the CEO's discretion. Mr. Ewin seconded the motion, and the vote was 13 to 0 in favor with Mr. Gloria and Mr. Roberts absent.

22. Consent to Assignment or Extinguishment of San Diego & Imperial Valley Railway Company's Residual Rights and Obligations to the Desert Line

Public Comments

*Mitch Beauchamp* – Mr. Beauchamp's public comments are included as Attachment B.

Karen Landers, General Counsel, stated that the agenda item pertains to documents related to Rail America and its agreement with MTS. She explained that the action before the Board is to permanently extinguish SD&IV rights and obligations to the Desert Line so that MTS can do away with an offer to purchase.

Action Taken

Mr. Ewin moved to authorize the CEO to execute an amendment to the 1984 Operating Agreement extinguishing San Diego & Imperial Valley Railway Company's (SD&IV's) rights and obligations related to the Desert Line. Mr. McClellan seconded the motion, and the vote was 13 to 0 with Mr. Gloria and Mr. Roberts absent.

**CLOSED SESSION:**

24. Closed Session Items

**The Board convened to Closed Session at 9:17 a.m.**

a. **CLOSED SESSION - CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to California Government Code section 54957.6

Agency-Designated Representative - Jeff Stumbo;

Employee Organization - Amalgamated Transit Union, Local 1309

b. **CLOSED SESSION - CONFERENCE WITH REAL PROPERTY NEGOTIATORS** Pursuant To California Government Code Section 54956.8

Property: 6645 Imperial Avenue, San Diego, California (Assessor Parcel No. 549-181-05)

Agency Negotiators: Paul Jablonski, Chief Executive Officer; Karen Landers, General Counsel; and Tim Allison, Manager of Real Estate Assets

Negotiating Parties: Thomas and Tiffany Mannion

Under Negotiation: Price and Terms of Payment

**The Board reconvened to Open Session at 10:02 a.m.**

Oral Report of Final Actions Taken in Closed Session

Karen Landers, General Counsel, reported the following:

- a. The Board voted 14 to 0 in favor, with Mr. Roberts absent, to authorize the CEO to impose a last, best, and final offer.
- b. The Board received a report and gave direction to staff.

NOTICED PUBLIC HEARINGS:

25. None.

DISCUSSION ITEMS:

30. 115-Pound High-Strength Rail - Contract Award

The Board voted on this agenda item without a staff report.

Action Taken

Mr. Young moved to authorize the CEO to execute MTS Doc. No. L1092.0-13 with Progress Rail Services Corporation, Inc. for the purchase of 115-pound high-strength rail. Mr. Minto seconded the motion, and the vote was 10 to 0 in favor with Ms. Emerald and Messrs. Castaneda, Gloria, McClellan and Roberts absent.

REPORT ITEMS:

45. Trolley Renewal Project Update (Taken Out of Order)

John Haggerty of the San Diego Association of Governments (SANDAG) gave the Board an update on the Trolley Renewal Project. He provided an update of the station construction schedule for the Blue and Orange Line Improvement Corridor and provided a layout of the trolley stations that have been completed, are under construction, and planned construction. He talked about the budget and total expended dollars stating that 33% of the total budget has been expended. Mr. Haggerty talked about the project status in terms of design, construction, work completed, and work in progress. He provided before-and-after photographs of station improvements at the 12<sup>th</sup> & Imperial Station, Washington Street Station, Gaslamp Quarter Station, Convention Center Station, Santa Fe Depot Station, Middletown Station, Seaport Village Station, and the County Center/Little Italy Station.

Mr. Haggerty talked about the work taking place at Orange Line stations. He provided before-and-after photographs of station improvements at the 47<sup>th</sup> Street Station, Encanto/62<sup>nd</sup> Street Station, Massachusetts Avenue Station, Lemon Grove Depot Station, La Mesa Boulevard Station, 25<sup>th</sup> & Commercial Station, 32<sup>nd</sup> Street & Commercial Station, and the Spring Street Station. He showed pictures of the platform improvements in progress at the Lemon Grove Depot Station, Euclid Avenue Station, and 25<sup>th</sup> & Commercial Station. He also showed pictures of the platform work being done at the Civic Center Station, Park & Market Station, 5<sup>th</sup> Avenue Station, and the City College Station.

Wayne Terry, Chief Operating Officer of Rail, stated that 42 new light rail vehicles have been delivered from the Siemens plant at this time with 8 currently in production.

Denis Desmond, Manager of Planning, talked about the service changes that were implemented on September 2, 2012. He discussed the preparations, outreach efforts, and challenges that occurred as well as the next steps.

Action Taken

Mr. Cunningham moved to receive a report for information. Mr. Ewin seconded the motion, and the vote was 10 to 0 in favor with Ms. Emerald and Messrs. Castaneda, Gloria, McClellan and Roberts absent.

46. Operations Budget Status Report for June 2012

Mike Thompson, Budget Manager, gave the Board an Operations Budget Status Report for the fiscal year ending in June 2012. He explained that the net-operating income unfavorable variance totaled \$78,000. He explained that these factors include unfavorable variances in passenger revenue, other operating revenue, personnel costs, and energy partially offset by favorable variances in outside services, general and administrative, and risk management.

Mr. Thompson stated that the nonoperating net subsidy for fiscal year 2012 was favorable to budget by \$887,000 primarily due to favorable subsidy revenue variances with TransNet revenues, and in total, fiscal year 2012 net income was favorable to budget by \$808,000.

Action Taken

Mr. Alvarez moved to receive the MTS operations budget status report for June 2012. Ms. England seconded the motion, and the vote was 11 to 0 in favor with Ms. Emerald and Messrs. Castaneda, Gloria, McClellan and Roberts absent.

60. Chairman's Report

Chairman Mathis made no report.

61. Audit Oversight Committee Chairman's Report

Mr. Ewin stated that the audit was underway and that a report will be given to the Board in November.

62. Chief Executive Officer's Report

Mr. Jablonski stated that he traveled to Washington, D.C. earlier in the month for a meeting with the Federal Transit Administration regarding the Mid-Coast Project. He stated that officials from Mendoza, Argentina will be visiting next week to sign an agreement for the purchase of 24 additional rail vehicles, valued to be \$5.1 million.

63. Board Member Communications

There were no Board member communications.

64. Additional Public Comments on Items Not on the Agenda

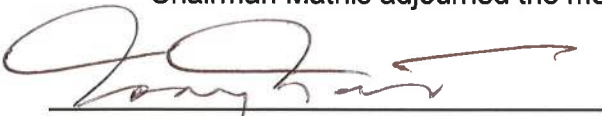
There were no additional public comments.

65. Next Meeting Date

The next regularly scheduled Board meeting is Thursday, October 18, 2012.

66. Adjournment

Chairman Mathis adjourned the meeting at 10:40 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

Attachments:

- A. Roll Call Sheet
- B. Agenda Item 22, Public Comments

METROPOLITAN TRANSIT SYSTEM  
BOARD OF DIRECTORS  
ROLL CALL

MEETING OF (DATE): September 20, 2012

CALL TO ORDER (TIME): 9:09 AM

RECESS: \_\_\_\_\_

RECONVENE: \_\_\_\_\_

CLOSED SESSION: 9:17 AM

RECONVENE: 10:02 AM

PUBLIC HEARING: \_\_\_\_\_

RECONVENE: \_\_\_\_\_

ORDINANCES ADOPTED: \_\_\_\_\_

ADJOURN: 11:04 AM

BOARD MEMBER	(Alternate)	PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
ALVAREZ	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>	9:11 AM	
BRAGG	<input checked="" type="checkbox"/> (King) <input type="checkbox"/>		
CASTANEDA	<input checked="" type="checkbox"/> (Rindone) <input type="checkbox"/>		10:40 AM
CUNNINGHAM	<input checked="" type="checkbox"/> (Mullin) <input type="checkbox"/>	9:16 AM	
EWIN	<input checked="" type="checkbox"/> (Arapostathis) <input type="checkbox"/>		
EMERALD	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>		10:44 AM
ENGLAND	<input checked="" type="checkbox"/> (Gastil) <input type="checkbox"/>	9:20 AM	
GLORIA	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>		9:50 AM
MATHIS	<input checked="" type="checkbox"/>		
MCCLELLAN	<input checked="" type="checkbox"/> (Ambrose) <input type="checkbox"/>		10:56 AM
MINTO	<input checked="" type="checkbox"/> (McNelis) <input type="checkbox"/>		
OVROM	<input checked="" type="checkbox"/> (Denny) <input type="checkbox"/>		
RIOS	<input checked="" type="checkbox"/> (Zarate) <input type="checkbox"/>		
ROBERTS	<input type="checkbox"/> (Cox) <input type="checkbox"/>		
YOUNG	<input checked="" type="checkbox"/> (Faulconer) <input type="checkbox"/>		

SIGNED BY THE CLERK OF THE BOARD:

Valerie Vikelet

CONFIRMED BY THE GENERAL COUNSEL:

Mike Landers



## Good Morning Directors

I am Mitch Beauchamp, currently serving as the Treasurer of the City of National City, but I was once a member of this Board, representing the City of National City. During those 8 years on this Board I was focused on opening the Desert Line of the San Diego and Arizona Eastern Railroad. You have before you today yet another action that will not serve that purpose. The action proposed will further degrade the complex system require to make this dream of John D. Spreckels work, a system that requires Mexican and US cooperation.

I will point out some cogent issues for your consideration:

1. Pacific Imperial Railroad is owned, managed, directed by, controlled and otherwise comprised of many of the former key shareholders, officers and directors, and their advisors, of Carrizo Gorge Railway, the same people who lost the Mexican railroad contract last year.
2. Through an internal transfer of assets, currently the subject of pending litigation in San Diego Superior Court, Pacific Imperial Railway obtained an assignment of Carrizo Gorge Railway's operating rights.
3. It is a matter of public record from files contained in Federal District Court, San Diego, that Charles McHaffie, former president and director of Carrizo Gorge Railway, and now intimately involved with the management and control of Pacific Imperial Railway, consented to a significant six-figure fraud judgment against himself within the past 12 months.
4. It is a matter of public record, and all public records one would assume have been thoroughly vetted by MTS prior to entering into any negotiations with Pacific Imperial Railroad and it's cronies, that the same Charles McHaffie has consented to a mid six-figure

personal tax liability and judgment arising out of his failure to pay payroll taxes on behalf of Carrizo Gorge Railway while it was under his management and control as president of that company.

5. It is a matter of opinion whether persons who consent to fraud judgments and who otherwise have failed to pay tax liabilities are trustworthy, honest or have integrity. I offer no such opinion here—only the actual facts that are a matter of public record for MTS to investigate thoroughly on its own on behalf of the public it represents.

6. It is also a matter of public record that Charles McHaffie has been sued in the last several years, following his run as president of Carrizo Gorge Railway, by investors who invested money in Carrizo Gorge Railway and later claimed fraud or breach. Gina Seau, for example, the former wife of the recently deceased Junior Seau, sued Mr. McHaffie for fraud after investing over \$2 million in Carrizo Gorge Railway.

7. If any one of the MTS board members currently paying attention to my words would take a moment to go to the register of actions for the San Diego Superior Court website you would find confirmation of any of the state court actions I just mentioned against Mr. McHaffie personally for fraud and other causes of action. MTS and its investigators could also go to the Federal District Court website and find the same information for that court system and it could also inquire with the IRS for the consent judgment IRS currently possesses against Mr. McHaffie.

8. The point of my presentation here to the MTS board today, and I do thank you for your time and for listening, is to suggest caution. Caution with whom you're dealing. Caution with respect to what you are being told. There is a history behind Pacific Imperial Railroad and behind Mr. McHaffie. They are deeply and genetically inseparable.

We are all familiar with the admonition regarding history repeating itself. We are also, each of us, very familiar with human behavior and how it often repeats itself. As recited above and as each of you can individually research on your own, there is a vivid history of repetitive, recidivist behavior in the form of fraud and misrepresentation of fact supported by public record. I would not like to see MTS be the victim of a new fraud. As result, I urge you respectfully and as an experienced politician myself, use an abundance of caution before considering entering into any significant transaction involving Pacific Imperial Railroad and it's lead, Charles McHaffie.

I thank you for your time and can provide you this written statement.