

MINUTES OF THE  
BOARD OF DIRECTORS MEETING OF THE  
SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY

April 12, 2016

A meeting of the Board of Directors of the San Diego & Arizona Eastern (SD&AE) Railway Company, a Nevada corporation, was held at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101, on April 12, 2016, at 9:00 a.m.

The following persons, constituting the Board of Directors, were present: Wayne Terry (for Paul C. Jablonski) and Matt Domen. Blake Jones was absent. Also in attendance were:

MTS staff:	Karen Landers, Tim Allison, Erin Dunn
SD&IV staff:	Jared Gooch
Pacific Southwest Railroad Museum:	Diana Hyatt
Pacific Imperial Railroad (PIR):	Tim Doolittle
Ferrocarriles Peninsulares del Noroeste:	R. Mitchel Beauchamp
Public:	Lorraine Leighton

1. Approval of Minutes

Mr. Domen moved to approve the Minutes of the January 19, 2016, SD&AE Railway Board of Directors meeting. Mr. Terry seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances

Erin Dunn reviewed the Statement of Railway Finances for the period ending February 29, 2016 (see the attachment to the agenda item).

Action Taken

The Board received a report for information.

3. Report on SD&IV Operations

Mr. Domen reviewed the SD&IV Periodic Report for activities for the first quarter of 2016 (see the attachment to the agenda item). Mr. Terry added that the FRA recently finished a review of MTS's request for a five-year waiver for temporal separation and a decision is pending.

Action Taken

The Board received a report for information.

4. Report on Pacific Southwest Railway Museum Operations

Diana Hyatt reviewed the First Quarter 2016 Pacific Southwest Railway Museum (PSRM) report. Ms. Hyatt requested that the Board consider entering into a lease agreement with PSRM for tenant rights (similar to the Campo Depot lease) to restore the Jacumba Depot. Karen Landers responded that PSRM will also need to work with PIR. Ms. Hyatt stated that PSRM would like to renovate the office at Jacumba Depot. Ms. Landers responded that PIR

has been tasked with addressing the abandoned property at Jacumba. Ms. Hyatt stated that a lot of that property has historical significance. Tim Allison clarified that there is a lease for operating rights and a lease for Jacumba Depot. Ms. Landers added that since PIR is not currently operating, that lease should be terminated. She asked Mr. Allison to follow up and give a status report at the next meeting. Discussion continued regarding asset ownership on the Desert Line, inaccessibility of some of the cars on the line, ongoing issues with vandalism, and bridge inspections. Ms. Landers stated that MTS will work on creating a formal notice with a deadline to submit any claims to accessible assets at Jacumba. A status update will be given at the next meeting.

Ms. Hyatt reported that the electricity is still on at Jacumba. Ms. Landers asked PIR staff to look into who is paying the bill.

#### Action Taken

The Board received a report for information.

#### 5. Report on Desert Line

Tim Doolittle reviewed the PIR Periodic Report dated April 1, 2016. Ms. Landers added that collaboration continues with PIR and Baja Rail to negotiate a joint venture.

#### Action Taken

The Board received a report for information.

#### 6. Real Property Matters

##### a. Summary of SD&AE Documents Issued Since January 19, 2016

Tim Allison stated that since the January 19, 2016, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- S200-16-627: Right of Entry Permit to Emmerson Construction to construct a residential building near Euclid Avenue in the City of San Diego.
- S200-16-633: Right of Entry Permit to Caster Properties for construction of a storage facility near Elm Street in the City of San Diego.

#### Action Taken

The Board received a report for information.

##### b. Use Agreement with the Unified Port of San Diego

Karen Landers reported that two written comments were received (attached) and distributed to Board members. She added that she spoke with Mr. Jablonski (prior to the meeting), and it was decided to defer this action. Ms. Landers stated that no formal proposal has been received, and Tim Allison has contacted the Port requesting more information regarding its proposal.

Tim Allison gave a brief presentation of the proposed Use Agreement with the Port for a portion of the Coronado Branch Line south of H Street in Chula Vista. Karen Landers noted that the aerial map on page 6b-4 incorrectly highlighted the bike path as MTS right-of-way. A corrected version will be added to the final materials package and is attached for reference.

Mr. Allison described the property's ownership and layout. He has requested that the Port provide the specifics of its proposed developments on the property, and Mr. Allison reiterated to the Port that MTS must preserve its rights to operate on that line if needed.

#### Public Comment

- *R. Mitchel Beauchamp*: Mr. Beauchamp referred to the attached letter from Ed Kravitz with San Diego & Midwestern Railway Partners LLC dated April 11, 2016. Mr. Beauchamp summarized issues outlined in the letter and reminded the Board of the value and importance of preserving operating rights on the Coronado Belt Line.

#### Action Taken

Action was deferred pending more specific information and receipt of a formal proposal from the Unified Port of San Diego.

#### 7. Board Member Communications

Mr. Domen introduced Jared Gooch with SD&IV. Mr. Domen requested that the Board consider nominating Mr. Gooch as Blake Jones' replacement.

Ms. Landers responded that this request will be added to the next agenda item. She added that this request wasn't on the agenda but reminded members of a previous discussion about potentially working with Genesee & Wyoming to alter the makeup of the SD&AE Board.

Ms. Landers noted that the 1984 Operating Agreement with RailTex (now with Genesee and Wyoming) states that the operating company will have 2 Board members and MTS will have 1 Board member. However, the distance to MTS and the briefness of the meetings may make it more feasible to have 2 MTS members and 1 SD&IV member. In the long term, if and when the Desert Line becomes operational, it may be feasible to add 1 representative from each operator and MTS. Ms. Landers stated that it was previously questioned as to whether an interim change is necessary if the plan is ultimately to change the Board makeup from PIR or Baja Rail. She suggested discussing these possibilities at the next SD&AE meeting and having an agenda item to nominate Mr. Gooch as an SD&AE Board member until the Desert Line is operating freight and then alter the makeup of the Board at that time.

#### 8. Public Comments

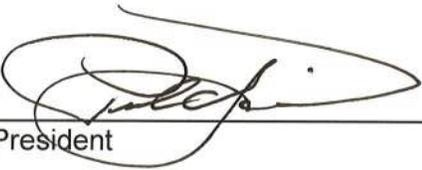
There were no public comments.

#### 9. Next Meeting Date

The next meeting of the SD&AE Board of Directors is on July 19, 2016, at 9:00 a.m.

10. Adjournment

The meeting was adjourned at 9:30 a.m.



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President



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Legal Counsel

2016-4-12 DRAFT SDAE Minutes

Attachments: AI 6b – Comments Submitted (2)  
AI 6b-4 Revised Aerial Map

## San Diego & Midwestern Railway Partners LLC

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SDA&E Railway Board Of Directors / M.T.S.

10<sup>th</sup> Floor , 1255 Imperial Avenue.

San Diego, CA 92101-4902

April 11, 2016

**RE: Agenda Item 6 b**

It is with some dismay that I have to write to you about the proposed lease of portions of the Coronado Belt Line of the SDAE Railway for: *other than the promotion of freight or rapid transit purposes.*

When I last spoke by phone with Staff Council Karen Landers, she was going to speak with Mr. Jablonski and ;" Get back to me; but it won't be real soon." That was about 3 months ago when I requested to know; if and when MTS would agendize ratification of the bylaws The SDA&E Board voted on and approved last January.

According the Agenda and Minutes of your January Meeting, The Board Voted to Approve Bylaws Changes in order to be recognized as **Tax Exempt**. Those new bylaws changes state that: the purpose of the parent agency is to promote the use of freight and rapid transit uses of the SDA&E and ease the burden on local government. Public records going back at least as far as 1998 indicate ***efforts to do otherwise with the portion of the SDA&E known as the Coronado Belt Line.***

I have come before this Board going back to 1999 begging you to keep the linear resource in tact for future use. My vision was to save the economy of then ailing Imperial Beach by providing a similar quality of transit service that most other San Diego Cities have. With Beaches, Pier, Wildlife Refuges and new attractions, Imperial Beach has also become an magnet for folks who live in the newly build Eastlake and Otay Mesa areas. Expansion by the Navy at Ft. Emory and proposed Chula Vista Bay Front Developments will put un-due stress on existing transportation infrastructure. **Unfortunately , Imperial Beach is and will be painted in a corner with GRID LOCK.** The quality of life will suffer and so will the air quality. Our argument is this. If Santee can have a trolley: Why Can't Imperial Beach? Our proposals for

repurposing the CB-ROW and extending it from 7<sup>th</sup> Street in Imperial Beach to the Camp Surf vicinity makes more sense than ever now .

SANDAG has most of the information. So do we ! Use of the Coronado Belt Line for light rail link to the new Navy Base and the Beach would make sense if it were not for vested political interests that want to use that real estate for the benefit of favored real estate developers and not for Public Transit or Industrial Freight movements.

Instead; various powerful political figures have tried to plot and execute the demise of the contiguous rail corridor for real estate development purposes that would benefit favored developers and not the public transit issues facing the south bay cities.

As stated in the MTDB original charter and legislation passed by then Senator Mills when the SDA&E was acquired from Southern Pacific to facilitate the San Diego Trolley system, the purpose was for light rail mass transit development without interference with common carrier freight. When the light rail use precludes or interferes with Common Carrier Freight movements, the light rail variance with the Federal Railroad Administration is void!

Over 20 separate acts against the linear integrity of the CB-ROW have occurred since the late 1990's. Suspicious Trestle Fires, Signals and Gates Disabled. Rails buried and paved over, loading docks and construction roads built over rails ;removal of rails at key crossings and interconnects, land leases and surrendering critical infrastructure and adjacent SP land parcels to political figures and other pet projects !

In a cache of public records posted at <[Bayshore.sweet-haven.com](http://Bayshore.sweet-haven.com)> in the 1998 B.F. Goodrich Relocation Agreement documents and contract it states among other things that the City Of Chula Vista Community Development Department (Chris Salamone) and the Port Real Estate Division under Thomas Morgan and then Chula Vista Port Commissioner David Malcolm; **sold this same portion of the CB-ROW in today's agenda item 6b to Goodrich in 1998 and took the money!** They did not own the property but, they took the money! In the contract they promised to use the Port's best efforts to acquire the MTDB/ MTS parcel and surrender it to consummate the bay front land swap with Goodrich. (See attachments)

In 1999 appointed Imperial Beach City Councilman Dan Malcolm (now Port Chairman) voted as Imperial Beach's MTS representative to vote for an abandonment of the CB-ROW without considering Federal Railroad Abandonment Laws. When Abandonment failed, the now defunct MFRC or Metropolitan Freight Rail Committee was established to decide the fate of the line.

No less than 4 members of the committee with financial ties within 500 feet of the CB-ROW voted to lease the CB-ROW to the Unified Port District for \$1.00 per year for 66 years to conceal the prior sale for 66 years!

Then there was the effort to preserve the line by actively moving freight on it. I am the last shipper of record and moved a railcar with pure sand to Salt Works station as a freight movement with SDIV when it was RailAmerica's contract.

I cut all the weeds and brush on the line with a handful of volunteers to facilitate taking the State Historical Commission on a tour of the line on rail speeders and went to multiple meetings of many historical groups in an effort to save the resource from burial and insure that the CB-ROW would maintain its linear integrity and not befall the same fate as many other urban rail corridors as illustrated in DePaul University's Professor. Joe Schwieterman's two volume series; "When the Railroad Leaves Town." It is clear that every action to sever the linear integrity of the CB-ROW will increase the difficulty and cost of recovering it when it is needed again. It's needed again now!

In the time frame from 2004 – 2006 our LLC San Diego & Midwestern Railway Partners negotiated a freight movement and railcar storage agreement with the contracted Common Carrier and the item was approved by the SDAE Board. The consummation of the contract was thwarted by the head consultant for the Agency Chip Willet. Our freight movement was thwarted by an agency who's bylaws state their purpose is otherwise.

It's clear that the SDAE and its parent agency MTS as well as SANDAG and the Unified Port District seem to be working together to insure that this rail corridor will be unavailable for transit use by severing the contiguity of the line in as many places as possible. This is just one more attempt to slice and dice its integrity. It's clear that this particular Agenda Item 6 b is for the purposes of consummating the illegal transaction of 1998 where money was taken for this same parcel when it was not owned by the Port or Chula Vista. This demonstrates that the recently adopted bylaws are meaningless, fraudulent and this action illustrates a continued conspiracy to abscond with taxpayer property for private developer's and political benefit.

Where is the benefit to Imperial Beach? Where is the benefit to mitigate over 4000 additional vehicles per day that will drive through Imperial Beach? The proposed traffic impacts of the proposed Chula Vista Bayfront Development will overload the existing interstate highway capacity and surface street capacity in the vicinity. Chula Vista and the Port may not realize it yet; but they are going to need it also someday.

It's time for Imperial Beach to be treated as an asset in the region instead of the red-headed stepchild. Please do not vote to support 6b and please insist that staff from SDAE, MTS, SANDAG and the Port re-examine the potentials as we have proposed for light rail transit on a re-purposed CB-ROW to the beach.



Ed Kravitz

**San Diego & Midwestern Railway Partners, LLC**



## Port of San Diego

and Lindbergh Field Air Terminal

619) 686-6200 • P.O. Box 120488, San Diego, California 92112-0488  
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October 27, 2000

Mr. Leon Williams, Chairman of the Board  
Mr. Tom Larwin, General Manager  
METROPOLITAN TRANSIT DEVELOPMENT BOARD  
1255 Imperial Avenue, Suite 1000  
San Diego, California 92101-7490

Dear Messrs. Williams and Larwin:

At its August 12, 1999 MTDB Board meeting, there was discussion of the possibility of abandoning the MTDB/San Diego and Arizona Eastern Railway Company (SD&AE) rail line south from "F" Street in Chula Vista. At that meeting Mr. Rindone proposed an action item to "recommend to the SD&AE Railway Board the concept of abandonment of the Coronado branch line". The majority vote on this point was in favor of the recommendation (see attached Exhibit "A").

Please be advised that in its recently completed transaction involving the Community Development Commission of the city of Chula Vista, Rohr/BFGoodrich, and the District, the parties agreed to a number of actions, including the consolidation of real estate parcels north and south of the projected extension of "H" Street. The properties north of "H" Street were consolidated under Rohr/BFGoodrich ownership, and those south of "H" Street were consolidated under Port District ownership. The purpose of this transaction is to provide for more developable properties for both parties and for redevelopment of the area.

The existing railway south of "F" Street separates each of these holdings into parcels adjacent to the freeway and a separate parcel west of the railroad right of way. It would be extremely beneficial to abandon this barrier in order to effectively redevelop the properties. As part of the contract between the District and Rohr/BFGoodrich, the District agreed to "use its best efforts to either acquire title to the MTDB property or cause SD&AE to convey the MTDB property directly to Rohr/BFGoodrich" that MTDB property between "F" and "H" Streets in Chula Vista (see attached Exhibit "B"). The District also has strong interest in acquiring title of the balance of this right of way to fully consolidate its ownership and enhance the viability of redevelopment for the area.

→ 3.1.4 MTDB Property.

(a) Property to be Transferred to BFG. The Port shall use its best efforts to acquire and convey to BFG, or cause to be conveyed to BFG, the land currently owned by SD&AERC between H Street and Lagoon Drive, as shown on Exhibit C (the "MTDB Parcel"). City/Agency shall reasonably cooperate with Port's MTDB Parcel acquisition efforts.

(b) Condition of MTDB Parcel. The parties acknowledge that the MTDB Parcel currently contains an active rail line and related equipment (collectively, the "MTDB Railway"), and the MTDB Railway must be legally vacated and abandoned by MTDB and all users of the MTDB Railway prior to transfer to BFG. The Port shall use its best efforts to cause the vacation and abandonment of the MTDB Railway by MTDB and all users of the MTDB Railway. City/Agency shall reasonably cooperate with Port's MTDB Railway vacation and abandonment efforts.

(c) Purchase of the MTDB Property. Promptly after Port acquires or secures the right to acquire the MTDB Parcel, Port shall provide BFG written notice (the "Transfer Notice") evidencing BFG's opportunity to acquire the MTDB Parcel from, or through, Port. The parties acknowledge that the sum of \$212,573 (equal to \$2,00 per square foot for the 2.44 acre/106,286.4 square foot parcel), has been prepaid by BFG for the MTDB Parcel as a good faith estimate of its "fair market value." Within thirty (30) days after delivery of the Transfer Notice, BFG or Port may elect by written notice to the other to seek an adjustment (up or down) of the \$212,573 prepayment for the MTDB Parcel, based upon the "fair market value" of the MTDB Parcel in its then "as is" condition at the time of delivery of the Transfer Notice. Promptly thereafter, Port and BFG shall negotiate in good faith for a period of thirty (30) days to attempt to mutually agree upon the "fair market value" of the MTDB Parcel. If the parties are unable to agree upon a determination of "fair market value," then prior to the expiration of the 30-day negotiation period, Port and BFG shall mutually appoint one (1) MAI appraiser to determine the "fair market value" of the MTDB Parcel which shall be binding upon both parties. Upon determination of the "fair market value" of the MTDB Parcel (\$212,573, or otherwise), or promptly thereafter, BFG shall acquire the MTDB Parcel from or through Port, and an appropriate cash adjustment shall be made in the event the "fair

**Exhibit D**  
(referenced in Section 5.1)

**Transfer Payments**

	Acres <sup>1</sup>	Price/SF	Amount Payable by Port to BFG <sup>2</sup>
Port Acquisition of of BFG's South Campus:	n/a	n/a	\$16,467,514 <sup>3</sup>
<b>BFG Property Acquisitions:</b>			<b>Amounts Payable by BFG to Port, City</b>
<i><u>From City:</u></i>			
Agency Parcel	3.65	\$ 8.00	\$1,271,952
Rados Parcel	3.02	\$ 8.00	\$1,052,409
<i><u>From Port:</u></i>			
Port Parcel 1	9.99	\$ 8.00	\$3,481,315
Port Parcel 2 (5.0 gross acres)	3.30 <sup>4</sup>	\$ 8.00	\$1,149,984
SDG&E Parcel	7.41	\$ 2.00	\$645,539
MTDB Parcel	2.44	\$ 2.00	\$212,573
<b>Total</b>			<b>\$7,813,792</b>
<b>Cash Balance to BFG at Closing</b>			<b>\$8,653,721</b>

<sup>1</sup> Acreage and resulting purchase prices subject to post Closing adjustment based upon verified parcel sizes, in accordance with Section 3.2.

<sup>2</sup> Port is also deponing into escrow \$673,639 to be applied toward Transfer Activities pursuant to Section 3.6.1 and/or disbursed pursuant to Section 3.6.3.

<sup>3</sup> This figure is based upon a valuation of \$8.00 per square foot for the BFG Property based upon an estimated

