

MINUTES

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM BOARD OF DIRECTORS

February 10, 2022

[Clerk's note: Except where noted, public, staff and board member comments are paraphrased. Note that the meeting was conducted via webinar to comply with public health orders].

1. Roll Call

Chair Fletcher called the Board meeting to order at 9:01 a.m. A roll call sheet listing Board member attendance is attached.

2. Approval of Minutes

Chair Fletcher moved to approve the minutes of the January 20, 2022, MTS Board of Directors meeting. Board Member Elo-Rivera seconded the motion, and the vote was 13 to 0 in favor with Board Member Gastil and Board Member Salas absent.

3. Public Comment

Tasha Williamson – Made a verbal statement to the Board during the meeting. Williamson spoke about Lanisha Hill who was arrested, handcuffed and removed from the trolley for fare evasion. Williamson claimed MTS disproportionately ticketed black riders and asked that the Board address the case and end security checks for fare evasions. Williamson expressed concerns on the effects on black riders and riders of color. Williamson asked the Board to end security brutality and called to boycott the system.

Francine Maxwell – Made a verbal statement to the Board during the meeting. Maxwell requested the agency host a townhall so that the public understand policies and procedures that allow for physical removal of a rider. Maxwell noted other complaints where officers touched riders in some capacity. Maxwell asked if staff is trained on implicit bias along with de-escalation training because the agency should not be physically removing black woman, man or children. Maxwell emphasized accessible signage so that riders understand the system rules.

CONSENT ITEMS:

6. Authorization of Remote Teleconferenced Meetings

Action would authorize remote teleconferenced meetings for any public meetings held by MTS, including all Brown Act committees, for the next thirty (30) days pursuant to Assembly Bill (AB) 361 and make the following findings: 1) The MTS Board has considered the current circumstances of the COVID-19 pandemic and its impact in San Diego County; and 2) State or local officials continue to recommend measures to promote social distancing. On September 23, 2021, County of San Diego Public Health Officer, Wilma J. Wooten, M.D., M.P.H., issued a recommendation supporting the use of teleconferencing for attendance at public meetings as “a social distancing measure that may help control transmission of the SARS-CoV-2 virus.”

7. Investment Report – Quarter Ending December 31, 2021

8. MTS Excess Liability and Workers' Compensation Insurance Renewals

Action would 1) Authorize the Chief Executive Officer (CEO) to purchase an Excess Liability Program, effective March 1, 2022, that results in a not to exceed amount of \$2,938,804 based

on the expiring coverage structure of \$70M excess of a \$5M Self Insured Retention (SIR). (See Discussion); and 2) Approve a new two-year rate commitment from Arch Insurance for MTS Excess Workers' Compensation program, effective March 1, 2022 for a first-year premium of \$253,211.

Action on Recommended Consent Items

Board Member Goble moved to approve Consent Agenda Item Nos. 6 to 8. Board Member Sandke seconded the motion, and the vote was 14 to 0 in favor with Board Member Salas absent.

NOTICED PUBLIC HEARINGS

25. None.

DISCUSSION ITEMS:

30. San Diego Transit Corporation (SDTC) Pension Investment Status (Jeremy Miller, Representative with RVK Inc. and Larry Marinesi)

Larry Marinesi, MTS Chief Financial Officer, and Jeremy Miller, representative with RVK Inc., presented on SDTC Pension Investment Status. They outlined the following items: investment structure as of June 30, 2021, FY 2021 performance, long term performance details, and investment structure summary.

COMMITTEE COMMENTS

Board Member Sandke asked about the performance measure at 21% and its reflection on the Coronavirus Aid, Relief, and Economic Security (CARES) Act fund gain for the year.

Mr. Miller replied that CARES Act funds do not count towards the total, because those are a cash contribution and the return only covers assets during that period.

Action Taken

Informational item only. No action taken.

31. San Diego Transit Corporation (SDTC) Employee Retirement Plan's Actuarial Valuation as Of July 1, 2021 (Anne Harper And Alice Alsberghe With Cheiron Inc. And Larry Marinesi)

Larry Marinesi, MTS Chief Financial Officer, and Anne Harper And Alice Alsberghe, with Cheiron Inc., presented on SDTC Employee Retirement Plan's Actuarial Valuation as Of July 1, 2021. They presented on: assumption changes, CARES Act additional funding, plan cost changes, plan history contributions, funding, membership & support ratio, projected total contributions, projected funded ratio, and stochastic projection of contributions.

Action Taken

Chair Fletcher moved to receive the SDTC Employee Retirement Plan's Actuarial Valuation as of July 1, 2021, and adopt the pension contribution amount of \$17,901,804 for fiscal year 2023. Board Member Goble seconded the motion, and the vote was 15 to 0 in favor.

32. Social Equity Listening Tour – Contract Award (Stacie Bishop)

Stacy Bishop, MTS Manager of Marketing, presented on the Social Equity Listening Tour Contract Award. She provided details on: social equity listening tour, objectives and priorities, project concept plan, procurement process, evaluation criteria, initial review, second evaluation, interviews, Pueblo Planning, staff recommendation, and next steps.

Monique Lopez, a representative from Pueblo Planning, thanked the Board for their commitment to social equity and for having this item on the agenda. They acknowledged previous public comments and additional community experiences as stories that should be documented as part of the process. They offered to answer questions regarding the process and highlighted that half of the budget is reserved for community member partners, who are crucial in capturing long term relationships within the community.

PUBLIC COMMENT

Tasha Williamson – Provided a verbal statement to the Board during the meeting. Williamson acknowledged that Community feedback is to understand the issues with security fare checks that result in brutality arrests and disproportionate ticketing. Williamson asked the agency to refrain from talking about social justice.

Tripp – Provided a verbal statement to the Board during the meeting. Tripp claimed the agency could save money if they instructed enforcement from not assaulting riders of color. Tripp stated that the agency has a lack of policies that disproportionately ticket black riders. Tripp was disappointed in the agency's lack of accountability.

Indigo Curtis – Provided a verbal statement to the Board during the meeting. Curtis stated that the Community will not accept an empty discussion with no action. Curtis demanded the agency stop fare evasion checks because they have seen a pattern of black and brown people being disproportionately ticketed, harassed and brutalized by MTS security, including the recent incident involving Lenisha Hill. Curtis acknowledged that this would allow community members to feel safe.

Francine Maxwell – Provided a verbal statement to the Board during the meeting. Maxwell supported the recommendation, but asked if attendees for the meetings would be provided stipends. Maxwell was concerned that individual community members would not gain from the allocated participation funding like a registered partner would and advocated for participation stipends to compensate individuals for their intellectual property.

Michelle – Provided a verbal statement to the Board during the meeting. Michelle supported claims to stop fare evasion policing. Michelle provided first hand confirmation about bias fare policing.

Malcolme – Provided a verbal statement to the Board during the meeting. Malcolme stated that neighborhoods experienced over policing and that the same culture should not be part of people of color's commute. Malcolme suggested the budget for the proposed program be spent on low income programs and vouched for Lenisha Hill's demeanor.

Darwin Fisherman – Provided a verbal statement to the Board during the meeting. Fisherman supported the fare evasion comments. Fisherman provided an anecdote and was concerned about oversight, training and accountability of the officers.

Heval – Provided a verbal statement to the Board during the meeting. Heval agreed with previous comments and questioned providing additional funding for transit security. Heval provided an anecdote about their experience as a fare evader years ago.

COMMITTEE COMMENTS

Board Member Whitburn thanked staff for revisiting this topic and including the community in the discussion. He stated a concern that MTS not simply gather feedback, write a report and archive the findings. He asked staff to explain how they would incorporate findings into policy and projects. Sharon Cooney, MTS Chief Executive Officer, stated she hoped the Board would authorize a \$3 million Capital Improvement Program (CIP) budget that will be available to invest in programs the community deems vital as result of this listening tour process. The resulting projects would be approved by the Board. Board Member Whitburn believed that the recommendation was vital to representing the community and supported the staff recommendation.

Board Member Shu asked about the listening tour questions and was concerned about the alternative, restrictive options given to the community. He asked the consultant if they would be able to provide innovative case study discussion at the listening tour. Lopez replied that their approach for innovation is a combination of both community stories and innovation. They highlighted the presented budget to show the inclusion of community stipends. They explained that their best practices research is not conducted immediately, because community stories are used for case studies. Once a solution is sought out, the community is re-involved into the findings so that the agency is sure to capture the needs.

Board Member Shu asked about the anthropological approach and how that benefits the findings. Lopez acknowledged that ethnographic research informs and documents the mobility justice and injustice history of the region. They acknowledged their team also involves a social worker to provide the community with a comprehensive narrative for inequity and equity practices in the region.

Board Member Shu asked about the economic justice narrative. He acknowledged the agency's need for funding and the junction between this need and the narrative arch. He asked that a voucher be given to patrons that are not able to pay for fare.

Board Member Gastil ask Lopez to explain how their regional experience informs the work that would translate to this research. Lopez responded that they would approach it through a social justice and social equity lens. They acknowledged their extensive relationship with community members and community-based organizations. They continued to list that their anecdotal approach to their mobility justice story and meeting people where they are, allows the organization to create a well assessed narrative.

Board Member Elo-Rivera recognized public comments. He expressed excitement for the agency's engagement with the community. He stated that the expectation should be both realistic and tangible and asked how financial projections were determined, along with a comparison to the overall CIP budget. Ms. Cooney clarified that the listening tour will be a year long process. Ideas will be generated for Board approval. The \$3 million amount is a placeholder and is not projected to be spent in full during that fiscal year. She listed various community concerns as examples that the budget could be committed to. Board Member Elo-Rivera hoped to have a sufficient funding commitment and flexibility for additional funds. He

commended Ms. Cooney for acknowledging the agency's opportunity to learn from community members. He supported the staff recommendation.

Board Member Montgomery Steppe supported the item and looked forward with working with Monique Lopez in regards to stipends and outreach. She acknowledged the comments of the public and noted the continuing change of the system and the continuous work that needs to occur to achieve change.

Board Member Moreno supported the recommendation. She listed her perceived improvements members would be recommending including: restrooms, benches, shelters and lighting, reliable service, along with safe and clean transit vehicles and stations. She asked the Board to update its transit amenities policy to attract increased ridership.

Chair Fletcher thanked the members of the public for their comments, the contractor and Board members. He noted in agreement that the agency needs to move forward with a fair and just system. He agreed that the work is never done and that the project has a great platform, with allocated funding to assist with success.

Board Member Sandke thanked staff, the contractor, and Board member comments for the trajectory of the agency's culture.

Action Taken

Board Member Whitburn moved to authorize the CEO to execute MTS Doc. No. G2529.0-22 with Pueblo Planning, LLC for the purposes of a Social Equity Listening Tour for a one-year base period for \$186,275.00. Chair Fletcher seconded the motion, and the vote was 15 to 0 in favor.

REPORT ITEMS:

45. MTS Safety Performance Annual Review (David Bagley And Jared Garcia)

The Board waived the staff report for this item and deferred the presentation to the March meeting.

46. Fiscal Year (FY) 2022 Mid-Year Performance Monitoring Report (Denis Desmond)

The Board waived the staff report for this item and deferred the presentation to the March meeting.

47. Operations Budget Status Report for December 2021 (Gordon Meyer)

Gordon Meyer, MTS Operating Budget Supervisor, presented on Operations Budget Status Report for December 2021. He outlined the consolidated MTS operations comparison to December 31, 2021, FY 2022 federal stimulus funding, total operating revenues, total operating expenses and total operating activities.

Board Member Elo-Rivera was glad the agency was performing better than anticipated. He hoped the agency could use the positive projections to invest in ridership. He invited feedback for the Board about creating a program to invest targeted program funding to support transitional aged foster individuals, which would be an investment in a lifetime rider.

Chair Fletcher expressed his commitment to the idea and acknowledged that the County was looking into demographic data. He clarified that current youth foster care services do provide transit passes, however providing passes after they become adults is necessary.

Board Member Aguirre supported the strategy proposed by Board Member Elo-Rivera.

Board Member Montgomery Steppe supported Board Member Elo-Rivera's suggested program and was open to a proposed timeline.

Board Member Shu supported the targeted approach proposed by Board Member Elo-Rivera and was encouraged by the thoughtful process to capture social transportation needs as a coordinated effort.

Action Taken

No action taken. Informational item only.

OTHER ITEMS:

60. Chair Report

Chair Fletcher provided an update on the TransNet operations funding shortfall. The previous projected shortfall was projected to be in the next five years, however that commitment has been extended to eight years. He acknowledged the eight-year commitment was a minimum and hoped the commitment could be extended in future years.

61. Chief Executive Officer's Report

There was no Chief Executive Officer's Report.

62. Board Member Communications

Board Member Sandke acknowledged that the Coronado Bridge suicide barrier project has reached a level of Caltrans approval process. The comment period on the environmental document would take place that evening via a virtual town hall and is available to the public. He requested for possible partnerships with any of the jurisdictions on the topic.

63. Additional Public Comments on Items Not on the Agenda

There were no additional public comments.

64. Next Meeting Date

The next regularly scheduled Board meeting is March 10, 2022.

CLOSED SESSION (ITEMS TAKEN OUT OF ORDER):

24. Closed Session Items

The Board convened to Closed Session at 10:31 a.m.

- a. CLOSED SESSION – CONFERENCE WITH REAL PROPERTY NEGOTIATORS
PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54956.8 – TWO
PROPERTIES

Property 1: 9805 Prospect Avenue and 8547 Cuyamaca Street, Santee, CA (APNs 384-190-44 and 384-190-74)

Agency Negotiators: Sharon Cooney, Chief Executive Officer; Karen Landers, General Counsel; Heather Furey, Director of Capital Projects; Sean Myott, Manager of Real Estate Assets; Chip Willett, Bender Rosenthal Inc.

Negotiating Parties: Creighton Companies, LLC (represented by Wendell Hindley, RetailSiteExperts)

Under Negotiation: Price and Terms of Payment

and

Property 2: 8606 Cuyamaca Street, Santee, CA (APN 384-311-38-00) (Vacant Land)

Agency Negotiators: Sharon Cooney, Chief Executive Officer; Karen Landers, General Counsel; Heather Furey, Director of Capital Projects; Sean Myott, Manager of Real Estate Assets; Chip Willett, Bender Rosenthal Inc.

Negotiating Parties: KMSP Inc (represented by Matt LoPiccolo, CBRE); and Fred A Jajou (represented by Aidan James, Inland Pacific)

Under Negotiation: Price and Terms of Payment

- b. CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(d)(1)

One Case: Anna Avenue Associates, LLC, et al., v. SANDAG, et al., San Diego Superior Court Case No. 37-2018-00000231-CU-EI-CTL (Consolidated with Case No. 37-2016-00009321-CU-EI-CTL)

The Board reconvened to Open Session at 10:55 a.m.

Oral Report of Final Actions Taken in Closed Session

Karen Landers, General Counsel, reported the following:

- a. The Board received a report and gave instructions to negotiators.
- b. The Board received a report and gave instructions to legal counsel.

65. Adjournment

The meeting was adjourned at 10:56 a.m.

/S/ Nathan Fletcher

Chairperson

San Diego Metropolitan Transit System

Filed by:

Approved as to form:

/S/ Dalia Gonzalez

Clerk of the Board

San Diego Metropolitan Transit System

/S/ Karen Landers

General Counsel

San Diego Metropolitan Transit System

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS
ROLL CALL

MEETING OF (DATE): February 10, 2022 CALL TO ORDER (TIME): 9:01am
 RECESS: _____ RECONVENE: _____
 CLOSED SESSION: 10:31am RECONVENE: 10:55am
 PUBLIC HEARING: _____ RECONVENE: _____
 ORDINANCES ADOPTED: _____ ADJOURN: 10:56am

BOARD MEMBER		(Alternate)		PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
FLETCHER	<input checked="" type="checkbox"/>	(Vargas)	<input type="checkbox"/>	9:01am	10:56am
SOTELO-SOLIS	<input checked="" type="checkbox"/>	(Bush)	<input type="checkbox"/>	9:01am	10:56am
AGUIRRE	<input checked="" type="checkbox"/>	(Leyba-Gonzalez)	<input type="checkbox"/>	9:01am	10:56am
ELO-RIVERA	<input checked="" type="checkbox"/>	(LaCava)	<input type="checkbox"/>	9:01am	10:56am
FRANK	<input checked="" type="checkbox"/>	(Mullin)	<input type="checkbox"/>	9:01am	10:56am
GALVEZ	<input checked="" type="checkbox"/>	(Cardenas)	<input type="checkbox"/>	9:01am	10:56am
GASTIL	<input checked="" type="checkbox"/>	(Mendoza)	<input type="checkbox"/>	9:05am	10:56am
GLORIA	<input type="checkbox"/>	(Whitburn)	<input checked="" type="checkbox"/>	9:01am	10:56am
GOBLE	<input checked="" type="checkbox"/>	(Ortiz)	<input type="checkbox"/>	9:01am	10:56am
HALL	<input checked="" type="checkbox"/>	(McNelis)	<input type="checkbox"/>	9:01am	10:56am
MONTGOMERY STEPPE	<input checked="" type="checkbox"/>	(Von Wilpert)	<input type="checkbox"/>	9:01am	10:56am
MORENO	<input checked="" type="checkbox"/>	(Campillo)	<input type="checkbox"/>	9:01am	10:56am
SALAS	<input checked="" type="checkbox"/>	(Cardenas)	<input type="checkbox"/>	9:11am	10:56am
SANDKE	<input checked="" type="checkbox"/>	(Donovan)	<input type="checkbox"/>	9:01am	10:56am
SHU	<input checked="" type="checkbox"/>	(Arapostathis)	<input type="checkbox"/>	9:01am	10:56am

SIGNED BY THE CLERK OF THE BOARD:

/S/ Dalia Gonzalez