

MINUTES  
MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM  
BOARD OF DIRECTORS

April 20, 2023

[Clerk's note: Except where noted, public, staff and board member comments are paraphrased. The full comment can be heard by reviewing the recording at the [MTS website](#).]

**1. Roll Call**

Vice Chair Whitburn called the Board meeting to order at 8:04 a.m. A roll call sheet listing Board member attendance is attached.

**2. Public Comment**

Susan – Made a verbal statement to the Board during the meeting. Susan made a statement about Board Member Elo-Rivera and the ongoing Grecia Figueroa v Nathan Fletcher, San Diego Metropolitan Transit System, et al. San Diego Superior court case. Susan asked that Board Member Elo-Rivera show all communication between him and Nathan Fletcher and resign from office.

Kera – Made a verbal statement to the Board during the meeting. Kera acknowledged the ongoing Grecia Figueroa v Nathan Fletcher, San Diego Metropolitan Transit System, et al. San Diego Superior Court Case and asked that Board Member Elo-Rivera show all communication between him and Nathan Fletcher and resign from office. Kera asked that all Board members take extensive Sexual Harassment training and the investigation review all Board Member involvement.

Jeff – Made a verbal statement to the Board during the meeting. Jeff was unsatisfied with the overlap representation throughout various organizations and believed that the membership was tied to global and federal oversight organizations. Jeff was skeptical about the validity of the COVID-19 pandemic. Jeff expressed dissatisfaction with the current Board composition.

Johnny Ramon – A resident of San Diego made a verbal statement to the Board during the meeting. Ramon encouraged Sean Elo-Rivera to resign from office and a review of complicity into the ongoing Grecia Figueroa v Nathan Fletcher, San Diego Metropolitan Transit System, et al. San Diego Superior Court Case. Ramon expressed concern with the state of the City.

Michael Brando – Provided a verbal statement to the Board during the meeting. Brando expressed disappointment in the former Chair Nathan Fletcher. Brando was unsatisfied with the overlap representation throughout various organizations. Brando expressed dissatisfaction with the current Board composition.

Truth – Provided a verbal statement to the Board during the meeting. Truth asked for a live video streaming platform during MTS meetings. Truth was concerned that Board Member Vargas could represent both SANDAG and MTS.

**SPECIAL ITEM**

**3. Chairperson and Board Leadership Nomination**

Vice Chair Whitburn explained that the vacancy in the Chair position was created by former Chair Nathan Fletcher's resignation. Three Board members have been nominated for the position of chair. The Executive Committee nominated Board Member Dillard, Board Member

Goble, and Vice Chair Whitburn. The Ad Hoc Nominating Committee nominated Vice Chair Whitburn as Chair. The election of a chair requires two thirds vote by the Board, and upon election of a Chair, additional leadership will be nominated as necessary.

### **Public Comment**

Gretchen Newsom – Representing IBEW 569, provided a live public comment during the meeting. On behalf of the organization, Newsom endorsed Board Member Patricia Dillard as the next MTS Chair.

Lori Saldana – Provided a verbal statement to the Board during the meeting. Saldana stated it is necessary that sexual assault citations are reported in a timely manner to ensure public trust. Saldana did not endorse a Board Member in particular and was concerned that California law was violated.

Truth – Provided a verbal statement to the Board during the meeting. Truth did not support Patricia Dillard or Stephen Whitburn, but voiced support for Steve Goble. Truth encouraged the membership to ride the system all throughout the County.

Danny Avitia – Provided a verbal statement to the Board during the meeting. Avitia asked that Patricia Dillard be nominated for MTS Chair and suggested that Vice Chair Whitburn was currently involved in a scandal.

Marko Solovan – Provided a verbal statement to the Board during the meeting. Solovan did not want a Chair with an existing lawsuit and supported Patricia Dillard.

Katheryn Rhodes – Provided a verbal statement to the Board during the meeting. Rhodes supported appointing Goble as the MTS Chair and was not in support of Stephen Whitburn.

The OriginalDra. – Provided a verbal statement to the Board during the meeting. They were not confident in any of the nominees.

### **Committee Comment**

Vice Chair Whitburn encouraged the nominees to each provide a statement on their nomination.

Board Member Dillard spoke about her experience with the City of La Mesa Community Police Oversight Board. She spoke about the various types of oversight she has been a part of including: community safety, police department restructuring, community trust through an independent audit of the police department, public meetings, and a task force. She assisted with ordinances that were passed by the City Council Community Place Oversight Board. She also noted her corporate management leadership skills to address complex challenges, organizational structure and leadership qualities to address problems.

Board Member Goble stated that the public expects and needs an experienced leader. He noted his membership with the Board for seven years and acknowledged that he was in the minority opinion and considers himself understanding the agency's blind spots. He highlighted his institutional knowledge, problem solving skills, the company he previously retired from and Chair of an Easy County Joint Powers Authority and Chair of SANDAG's Military Working Group. As Chair, he would advocate for financial solvency, and to collaborate and focus the agency's efforts on delivering the best public transportation system to benefit the people of San Diego.

Vice Chair Whitburn acknowledged the circumstances that the agency has been put in a situation that constitutes a critical moment for the Board. He noted the independent investigation that the agency will oversee, along with the budget and other accessibility projects. He noted his duties as Vice Chair and hoped that the Board was satisfied with his leadership thus far.

Board Member Bush asked Vice Chair Whitburn to explain the voting process. Vice Chair Whitburn explained that the Board will consider the three nominations, including Patricia Dillard, Steve Goble and Stephen Whitburn. The Board will also make additional leadership nominations as necessary. The election of Chair requires a two-thirds vote. All other leadership elections require a majority vote. Board Member Bush asked what happens if the Board fails to meet two thirds majority. Karen Landers, MTS General Counsel, clarified that a two-thirds majority is a 10-vote affirmative, and if a weighted vote is called, then 67% is needed for the motion to pass. The first candidate that reaches that count, becomes Chair. If no candidate reaches that count, the Board would continue as is with the current Vice-Chair acting as Chair and the Board would vote on this at a later meeting. Sharon Cooney, MTS Chief Executive Officer, also stated that the Board could nominate additional members from the floor and make a nomination today. Ms. Landers continued that an absent member counts as a no vote.

**Action Taken – Executive Committee Nomination Vote to Elect Board Member Dillard as Chair until December 31, 2023**

The motion failed with the vote of 5 in favor (Board Member Dillard, Board Member Bush, Board Member Montgomery Steppe, board Member Elo-Rivera, Board Member Moreno) and 7 opposed (Board Member Chavez, Board Member McCann, Board Member Donovan, Board Member Goble, Board Member Leyba-Gonzalez, Board Member Frank, Board Member Hall) with Board Member Vargas absent, Board Member Gastil and Vice Chair Whitburn abstaining.

**Action Taken – Executive Committee Nomination Vote to Elect Board Member Goble as Chair until December 31, 2023**

The motion failed with the vote of 3 in favor (Board Member Donovan, Board Member Frank, Board Member Hall) and 7 opposed (Board Member Chavez, Board Member Leyba-Gonzalez, Board Member Dillard, Board Member Bush, Board Member Montgomery Steppe, Board Member Elo-Rivera, Board Member Moreno) with Board Member Vargas absent and Board Member McCann, Board Member Goble, Board Member Gastil and Vice Chair Whitburn abstaining.

**Action Taken – Executive Committee Nomination Vote to Elect Vice Chair Whitburn as Chair until December 31, 2023**

The motion failed to meet the two thirds threshold with the vote of 9 in favor (Board Member Chavez , Board Member McCann , Board Member Donovan , Board Member Goble , Board Member Leyba-Gonzalez , Board Member Gastil , Board Member Frank , Vice Chair Whitburn , Board Member Hall) and 5 opposed (Board Member Dillard , Board Member Bush , Board Member Montgomery Steppe , Board Member Elo-Rivera , Board Member Moreno), with Board Member Vargas absent.

**Committee Comment**

Board Member Moreno stated that her priority was to establish stable and new leadership at the Board of Directors. She wanted to take all the necessary steps to respond to Nathan Fletcher's misconduct and believed that Board Member Dillard could fulfil that as Chair. She highlighted

Board Member Dillard as a business professional who has the skills and time necessary to fill the role. She stated that men have occupied the Chair and Vice Chair leadership roles and believed that a woman representative was necessary. She also stated the importance of having an African American Chairperson since historically, the agency has not had one. Finally, she stated the importance to appoint a smaller city as the Chair representative.

Board Member Hall nominated Board Member Goble as Chair due to his experience and stated that Board Member Dillard would be an exceptional Vice Chair since she was a new addition to the Board.

Board Member Bush supported Board Member Dillard's nomination because he believed that her representation reflects the community at the leadership level. He stated that she would make up for her lack of tenure with her leadership qualities. He stated he would vote against the substitute motion to nominate Board Member Goble but recognized his leadership. He suggested that the Board could help the Chair lead. Board Member Montgomery Steppe clarified that there was no substitute motion on the floor. Vice Chair Whitburn clarified that floor nominations did not require a second.

Board Member Chavez nominated Vice Chair Whitburn for the position of Chair.

Board Member Moreno stated her respect for Board Member Goble and stated that she would be supporting Board Member Dillard and opposing his nomination. She also urged the Board to vote against the appointment of Vice Chair Whitburn because the Board and the agency will need to rebuild trust with the public and its employees. She believed that the agency needed an entirely new leadership on the Board to reignite trust in the current leadership. She also restated the importance of small city representation. At the beginning of the year, both SANDAG and MTS had county and city Chairs and Vice Chairs. She stated that before a Chair appointment is made, the Board should make sure there are no outstanding sexual harassment allegations in future leadership. She stated she would be opposing appointing Vice Chair Whitburn as Chair.

Board Member Elo-Rivera supported the nomination of Board Member Dillard. He agreed that many types of experience were necessary and stated that Board Member Dillard had both business and community experience. He stated that the Board was too dependent on the previous Chair. He believed that Board Member Dillard was the correct person to guide the agency through this time.

Board Member Gastil noted that Vice Chair Whitburn received nine votes from various endorsements of the region to elect him as Chair. He stated that his constituents want MTS to focus on operating the system and planning for the future. He stated that the agency needed to focus on moving people. He vouched for Vice Chair Whitburn's skillset to be a leader and acknowledged that a few months ago, the Board unanimously picked him to represent the agency as the Vice Chair.

Board Member Montgomery Steppe stated that the recent misconduct by the former Chair gives the agency additional perspective and continues to pay attention to the details and notes the ongoing investigation that may reveal new evidence. She believed that the agency will need to continuously work to build the trust through new leadership and perspective. She believed that the Patricia Dillard can perform the job well.

Board Member Chavez praised Board Member Goble and Board Member Dillard. She vouched for Vice Chair Whitburn's dedication to the Board and endorsed his appointment as Chair.

Vice Chair Whitburn stated that if a nominee receives 10 votes, then that nominee will become the Chair. If nobody receives 10 votes, then he would continue as acting chair in this role until the body takes another vote at the following meeting. He stated that he could provide the Board with stability during these times.

Board Member Hall asked if the rules allow the appointment of the top two candidates. Ms. Landers replied that there is no set procedure beyond voting on each motion until the Board agrees on a Chair.

**Action Taken – Board of Director Floor Nomination Vote to Elect Board Member Dillard as Chair until December 31, 2023**

Board Member Moreno moved to elect Board Member Patricia Dillard as Chair. The vote was 5 in favor (Board Member Dillard, Board Member Bush, Board Member Montgomery Steppe, Board Member Elo-Rivera, Board Member Moreno) to 8 opposed (Board Member Chavez, Board Member McCann, Board Member Donovan, Board Member Goble, Board Member Leyba-Gonzalez, Board Member Gastil, Board Member Frank, Board Member Hall) with Board Member Vargas absent and Vice Chair Whitburn abstaining.

**Action Taken – Board of Director Floor Nomination Vote to Elect Board Member Goble as Chair until December 31, 2023**

Board Member Hall moved to elect Board Member Steve Goble as Chair. The vote was 5 in favor (Board Member McCann, Board Member Donovan, Board Member Goble, Board Member Frank, Board Member Hall) to 8 opposed (Board Member Chavez, Board Member Leyba-Gonzalez, Board Member Dillard, Board Member Gastil, Board Member Bush, Board Member Montgomery Steppe, Board Member Elo-Rivera, Board Member Moreno) with Board Member Vargas absent and Vice Chair Whitburn abstaining.

**Action Taken – Board of Director Floor Nomination Vote to Elect Vice Chair Whitburn as Chair until December 31, 2023**

Board Member Chavez moved to elect Vice Chair Whitburn as Chair. The vote was 9 in favor (Board Member Chavez, Board Member McCann, Board Member Donovan, Board Member Goble, Board Member Leyba-Gonzalez, Board Member Gastil, Board Member Frank, Vice Chair Whitburn, Board Member Hall) to 5 opposed (Board Member Dillard, Board Member Bush, Board Member Montgomery Steppe, Board Member Elo-Rivera, Board Member Moreno) with Board Member Vargas absent.

**Committee Comment**

Vice Chair Whitburn stated that because the floor nominations failed to reach the two thirds threshold, he would continue as acting Chair until the May 18, 2023 meeting when the Board could consider this item again.

**CONSENT ITEMS:**

**4. Approval of Minutes**

Action would approve the March 16, 2023 Board of Director meeting minutes and the April 6, 2023 Special Board of Director meeting minutes.

**5. Fiscal Year (FY) 2022-2023 Low Carbon Transit Operations Program (LCTOP) Funding**

Action would: 1) Agree to comply with all conditions and requirements set forth in the Certification and Assurances Document, and applicable statutes, regulations, and guidelines for all LCTOP funded transit projects; and 2) Authorize the Chief Executive Officer (CEO), or designated representative, to execute all required documents of the LCTOP and any amendments thereto with the California Department of Transportation; and 3) Authorize the allocation of \$8,100,849 in Fiscal Year (FY) 2022-2023 LCTOP funding for the procurement of Battery Electric Buses (BEBs), which will reduce greenhouse gas emissions and improve mobility with a priority on serving Disadvantaged Communities (DAC); and 4) Certify that at least 50% of the total LCTOP funds received will be spent on projects or services that will benefit DACs identified in Section 39711 of the Health and Safety Code.

**6. San Diego Transit Enforcement (SDTE) Patio Upgrade – Work Order Agreement**

Action would authorize the Chief Executive Officer (CEO) to execute Work Order MTSJOC324-27 under Job Order Contract (JOC) to MTS Doc. No. PWG324.0-21 (in substantially the same format as Attachment A) with ABC General Contracting, Inc. (ABCGC), in the amount of \$149,913.51, for rehabilitating the patio area that is in use by SDTE officers adjacent to Building C.

**7. Design Services for South Bay Maintenance Facility (SBMF) Electric Bus Charging Project – Work Order Agreement**

Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. WOA353-AE-18 (in substantially the same format as Attachment A) under MTS Doc No. PWL353.0-22 with Dokken Engineering (Dokken) in the amount of \$16192.32, for the design of charging platforms, separate add alternate bid package, and additional design support during construction (DSDC) services.

**8. Special Trackwork Replacement – Work Order Agreement**

Action would authorize the Chief Executive Officer (CEO) to execute Work Order WOA352-AE-12 under MTS Doc. No. PWL352.0-22 (in substantially the same format as Attachment A) with HDR Inc. (HDR), in the amount of \$413,230.03 for design services for special trackwork replacement at the Yard A track and Newton crossover.

**9. Right-of-Entry Engineering Services – Work Order Agreement**

Action would authorize the Chief Executive Officer (CEO) to execute Work Order WOA355-AE-10 under MTS Doc. No. PWL355.0-22 (in substantially the same format as Attachment A) with Psomas in the amount of \$475,914.28 to perform right-of-entry (ROE) engineering review services for a period of one (1) year to support the MTS Land Management Department.

**10. Declaration of Surplus Property and Authorization of Transfer**

Action would declare the property located at the eastern corner of Camino de la Plaza and Interstate 5 in San Ysidro, San Diego, California (Assessor's Parcel Number 667-020-76-00) (Property) as "exempt surplus land" for purposes of Government code sections 54221, et seq, and approve the transfer of land to the United States Federal Government (USA).

### **Public Comment**

Truth – Provided a verbal statement to the Board during the meeting. Truth spoke on items 4, 5, 7, 10. Truth disagreed with the references made in item 4 about yearly increases in ridership and did not believe that the system was readily used. They did not support the open fare system when cash payments are not accepted. They also did not support the purchase of electric vehicles in item 5. They also did not support the electric charging stations as proposed by item 7.

The OriginalDra. – Provided a verbal statement to the Board during the meeting. They did not support fleet electrification.

### **Action on Recommended Consent Items**

Board Member Hall moved to approve Consent Agenda Item Nos. 4 to 10. Board Member McCann seconded the motion, and the vote was 14 to 0 in favor with Board Member Vargas absent.

### **DISCUSSION ITEMS AND REPORT ITEMS:**

#### **13. Imperial Avenue Terminal (IMT) Transit Center Expansion and Joint Development Project – Exclusive Negotiation Agreement (TAKEN OUT OF ORDER)**

Karen Landers, MTS General Counsel, presented on IMT Transit Center Expansion and Joint Development Project – Exclusive Negotiation Agreement. She outlined the following information: MTS TOD program, San Diego Foundation, 12th & Imperial Transit Center Expansion & TOD project, 12th & Imperial area, overall project need/concept, project funding, project concept, current status, conceptual site plan, massing studies for TOD project, MTS seeking joint development partner and San Diego Foundation seeking a project, and the proposed action. Mark Stuart, President and Chief Executive Officer of the San Diego Foundation, used Vienna Austria as a case study for innovative social housing developments. He stated that non-owned land along with private and public partnerships and developer competitions created the livable model that the Foundation strives to support in the San Diego region.

### **Public Comment**

Truth – Provided a verbal statement to the Board during the meeting. Truth was concerned about the potential disruptions that the trolley would cause, along with encampments throughout the area and were concerned about the size of the housing units.

Lori Saldana – Provided a verbal statement to the Board during the meeting. Saldana commented on the history of flooding in the area and asked that future projects prepare for sea level rise.

Katheryn Rhodes – Provided a verbal statement to the Board during the meeting. Rhodes was concerned about the low water table in the downtown bus yard. Rhodes supported the project and endorsed a full affordable housing project along with a disclosure that residents will not have car accommodations. Rhodes also cautioned the Board about an active fault line along 13<sup>th</sup> Street.

The OriginalDra. – Provided a verbal statement to the Board during the meeting. They did not support the project.

### **Committee Comment**

Board Member McCann supported the partnership for the project. He believed that mixed used housing was the best approach for this project.

Board Member Goble noticed that the Surplus Land Act declaration was conducted in August 2020 and asked staff if the declaration had an expiration date to recertify. Ms. Landers confirmed that there was not a re-certification requirement as of now. He asked if staff anticipated the need for gap financing and if so, where that may come from. Ms. Landers replied that the agency will clarify with the Foundation during negotiations of the minimum project components which will meet Policy 18 priorities. She continued that the agency wanted developer competition to entice creativity. She assured the Board that staff would bring back the item to receive direction about the minimum level of affordability and density. The agency does anticipate that buildings over seven stories become expensive, and thus, an increase in gap financing if the entire project is affordable. The Foundation would provide some gap funding to make the project financially feasible along with helping pursue loans and grants to support the project. Board Member Goble asked about childcare and commended the agency as a retention incentive for workers. Ms. Landers stated that staff understands this to be a policy priority for the Board, so the agency is having the conversation at the beginning of the project and but acknowledged regulations that might impact the feasibility of a childcare facility at this site.

Board Member Elo-Rivera praised the agency for its commitment to building more housing. He supported the partnership with the San Diego Foundation as a crucial first step to bringing philanthropic dollars to the region. He stated that the total number of affordable homes take precedent over the percentage of homes. He said that he would rather lower the percentage of affordability and have a higher total number of homes rather than saying that the project was approved as 100% affordable. He supported a high rise building to take advantage of the market rate view the top floors could offer. He also encouraged that the agency continues its commitment to its workforce. The City is soon acting to declare a property near this project as surplus land and encouraged a partnership between the City and MTS to maximize the project's impacts. He also expressed excitement over the construction and maintenance of restrooms in La Mesa and urged staff to incorporate bus benches, shade structure and active transportation amenities that promote multiple modes of mobility and transportation for prospective residents.

Board Member Moreno asked about the Greyhound bus facility. Ms. Landers explained that the bus stop has always functioned under a short-term lease and conditional use permit with the City of San Diego. They are re-evaluating their model and looking at additional locations. MTS staff did not receive direction from the City that space should be reserved for the Greyhound bus.

Board Member Bush supported additional housing units in the region. He asked if the ENA will have public restrooms available. Ms. Landers stated that now was the time to capture the Board's priority list; however, there will be additional opportunities for the Board to identify wish list and priority amenities once there is a final agreement. Ms. Cooney clarified that the Board has not directed staff to include a restroom at the location. Ms. Cooney clarified that there is a public restroom in the current building that would be adjacent to the new structure. If the Board does want the agency to include another bathroom, staff should be advised today. Board Member Bush asked that staff explore the addition. He also asked that local hire and skilled and trained workforce be included for the project. Ms. Landers confirmed that requirements of Policy 18 would apply to the project. Board Member Bush asked about home ownership opportunities.



Ms. Landers explained that the agency participates in ground leases because the agency wants continuing control of the land. This helps the agency with maintenance or other issues related to the project with the contractual ability to enforce it. Construction defect liability, prices, and insurance are different for rental versus condo/owned projects, which could impact the financial feasibility of the overall project. Board Member Bush acknowledged that home ownership opportunities for condos or town homes does increase the cost of the unit, and the return is community wealth building. He asked staff to explore the opportunity for home ownership. Board Member Bush asked why the building was capped at a 500ft restriction. Ms. Landers could not provide an answer for that question, and clarified that the analysis was done between 2018-2020. Ms. Cooney added that the height limit included all the zoning restrictions and density bonuses allowed under City and State laws. She noted that these limitations could have changed since the study was conducted. Board Member Bush asked staff to reach out to whatever regulatory Board enforces that limitation to negotiate those restrictions. Ms. Cooney added that the 47 floors include the density bonuses, but clarified that this was a conceptual design. He encouraged staff to explore additional density options for the project, along with restroom availability for the site.

#### **Action Taken**

Board Member Hall moved to authorize the Chief Executive Officer to 1) enter into an Exclusive Negotiation Agreement with the San Diego Foundation for a potential joint development project at 1313 National Avenue and 1344 National Avenue 2) have staff explore bathroom and home ownership opportunities for the site. Board Member McCann seconded the motion, and the vote was 13 to 0 in favor with Board Member Vargas and Board Member Moreno absent.

#### **11. Fiscal Year (FY) 2024 Operating Budget Discussion (Mike Thompson)**

The Board deferred the staff report for this item to the Budget Development Committee.

#### **12. Fiscal Year (FY) 2024 Capital Improvement Program (CIP) (Mike Thompson)**

Mike Thompson, MTS Director of Finance presented on the FY 2024 CIP. He presented on: Development of the FY 2024 CIP: Guiding Principles, Development of the FY 2024 CIP, FY 2024-28 CIP unconstrained project list, capital funding levels proposed FY 2024, capital project summary proposed Fiscal Year 2024, FY 2024 CIP project highlights for: bus revenue vehicles, rail revenue vehicles, facility & construction projects, rail infrastructure projects, other equipment & installation projects, five year forecast – SGR, FY 2024 CIP initiatives, FY 2024 CIP – Five Year Summary, takeaways and staff recommendation.

#### **Public Comment**

Lori Saldana – Provided a verbal statement to the Board during the meeting. Saldana noted that the budget did not include a public restroom and cited a City of San Diego park survey and asked for new or upgraded bathrooms. Saldana added the Board to budget for additional restrooms and ADA upgrades for bathrooms.

Truth – Provided a verbal statement to the Board during the meeting. Truth was unsatisfied by the funding allocations.

Katheryn Rhodes – Provided a verbal statement to the Board during the meeting. Rhodes cautioned the Board about active fault lines. Rhodes also stated that the 500ft height limit is an FAA part 77 directive for all of downtown. Rhodes also noted the COVID-19 ARPA funds.

The OriginalDra. – Provided a verbal statement to the Board during the meeting. They expressed weariness about the funding allocations.

### **Committee Comment**

Board Member Goble asked staff to explain how the bus type is chosen for the different route lines. Ms. Cooney explained that staff anticipates peak ridership, and two different contractors provide service with either the shorter or longer vehicles. The agency also assesses the least expensive way to operate the service. He encouraged staff for fleet replacement to use mini buses if the current service can be supported on a mini bus.

Board Member Bush encouraged staff to make sure they are meeting the challenges at the moment. He asked staff about the budget for bathrooms. Ms. Cooney stated that the agency is currently trying to work with the Adult School to open the bathroom at 24<sup>th</sup> Street as they are contractually obligated to maintain it. San Diego State University (SDSU) refuses to open their bathroom due to ongoing issues they have experienced. The 12<sup>th</sup> and Imperial bathrooms are now opened until 6:00pm at no cost to the agency. Spring Street and El Cajon TOD are in negotiations. Board Member Bush asked if the agency had a timeline for the SDSU bathroom reopening. Ms. Cooney clarified that the agency does not have any control over that bathroom. Ms. Landers added that the 24<sup>th</sup> Street bathroom is contractually obligated to keep the facility open but they have not done so. He asked about the ability to influence SDSU. Ms. Cooney replied that the University historically maintained the bathroom. Board Member Bush asked that staff report back on the SDSU and 24th Street bathrooms and any other existing facilities throughout the system at a future Board meeting.

Board Member Hall asked for the agency to look into the ability to televise or live stream the meetings.

Board Member Elo-Rivera asked if it was typical for MTS to make a recommendation to the SANDAG Board of Directors. Mr. Thompson clarified that this has been the historical language used in the action for this item. Ms. Cooney added that the agency needs to go through SANDAG to have the CIP shown in the Regional Transportation Improvement Plan.

### **Action Taken**

Board Member Bush moved to 1) Approve the FY 2024 CIP with the estimated federal and nonfederal funding levels (Attachments A and B). As the federal appropriation figures are finalized and/or other project funding sources become available, allow the Chief Executive Officer (CEO) to identify and adjust projects for the adjusted funding levels; 2) Recommend that the San Diego Association of Governments (SANDAG) Board of Directors approve the submittal of Federal Section 5307, 5337, and 5339 applications for the MTS FY 2024 CIP (shown in Attachment A); and 3) Recommend that the SANDAG Board of Directors approve amendment number 3 of the 2023 Regional Transportation Improvement Program (RTIP) in accordance with the FY 2024 CIP recommendations 4) and have staff report back on the SDSU, 24th street and any other existing bathrooms throughout the system. Board Member Elo-Rivera seconded the motion, and the vote was 14 to 0 in favor with Board Member Vargas absent or abstaining.

OTHER ITEMS:

**14. Chair Report**

There was no Chair report.

**15. Chief Executive Officer's Report**

There was no Chief Executive Officer's Report.

**17. Additional Public Comments on Items Not on the Agenda**

Lori Saldana – Provided a verbal statement to the Board during the meeting. Saldana acknowledged the state training requirements on sexual harassment prevention for the California Department of Civil Rights. Saldana encouraged that everyone completes the training.

Truth – Provided a verbal statement to the Board during the meeting. Truth voiced dissatisfaction about Nathan Fletcher.

Katheryn Rhodes – Provided a verbal statement to the Board during the meeting. Rhodes gave recommendations for closed session items.

**16. Board Member Communications**

Board Member Goble suggested that the agency start collecting copies of the City mandated Sexual Harassment Training certifications for Board Members.

**21. Next Meeting Date**

The next regularly scheduled Board meeting is May 18, 2023 at 9:00am.

[Clerk's Note: the meeting time for the May 18, 2023 Board meeting was subsequently changed to 8:00am.]

CLOSED SESSION:

The Board convened to Closed Session at 10:58 a.m.

**18. Closed Session – Conference with Legal Counsel – Existing Litigation Pursuant to California Government Code Section 54956.9(d)(1)**

Grecia Figueroa v Nathan Fletcher, San Diego Metropolitan Transit System, et al. San Diego Superior Court Case No. 37-2023-00012828-CU-OE-CTL

Karen Landers, General Counsel, reported the following oral report of final actions taken in Closed Session: The Board received a report from legal counsel and gave instructions.

**19. Closed Session – Conference with Legal Counsel – Anticipated Litigation**

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Claimant: Veda Short; bus incident 3-19-2023)

Karen Landers, General Counsel, reported the following oral report of final actions taken in Closed Session: The Board received a report from legal counsel.

**20. Closed Session – Conference with Legal Counsel – Existing Litigation Pursuant to California Government Code Section 54956.9(d)(1)**

Adan Soto vs Metropolitan Transit System, et al.

San Diego Superior Court Case No. 37-2021-00027416-CU-PA-CTL

Karen Landers, General Counsel, reported the following oral report of final actions taken in Closed Session: The Board received a report from legal counsel and gave instructions.

The Board reconvened to Open Session at 12:15 p.m.

**ADJOURNMENT**

**22. Adjournment**

The meeting was adjourned at 12:16 p.m.

/S/ Stephen Whitburn

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

Attachment: Roll Call Sheet

SAN DIEGO METROPOLITAN TRANSIT SYSTEM  
BOARD OF DIRECTORS  
ROLL CALL

MEETING OF (DATE): April 20, 2023 CALL TO ORDER (TIME): 8:04am  
 RECESS: \_\_\_\_\_ RECONVENE: \_\_\_\_\_  
 CLOSED SESSION: 10:58am RECONVENE: 12:15pm  
 PUBLIC HEARING: \_\_\_\_\_ RECONVENE: \_\_\_\_\_  
 ORDINANCES ADOPTED: \_\_\_\_\_ ADJOURN: 12:16pm

JURISDICTION	BOARD MEMBER		ALTERNATE		PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
City of Chula Vista	Chavez	<input checked="" type="checkbox"/>	Cardenas	<input type="checkbox"/>	8:04am	12:16pm
City of Chula Vista	McCann	<input checked="" type="checkbox"/>	Cardenas	<input type="checkbox"/>	8:04am	12:16pm
City of Coronado	Donovan	<input checked="" type="checkbox"/>	Duncan	<input type="checkbox"/>	8:04am	12:16pm
County of San Diego		<input type="checkbox"/>	Vargas	<input type="checkbox"/>	ABSENT	ABSENT
City of El Cajon	Goble	<input checked="" type="checkbox"/>	Ortiz	<input type="checkbox"/>	8:04am	12:16pm
City of Imperial Beach	Leyba-Gonzalez	<input checked="" type="checkbox"/>	Aguirre	<input type="checkbox"/>	8:04am	12:16pm
City of La Mesa	Dillard	<input checked="" type="checkbox"/>	Arapostathis	<input type="checkbox"/>	8:04am	12:16pm
City of Lemon Grove	Gastil	<input checked="" type="checkbox"/>	Mendoza	<input type="checkbox"/>	8:04am	12:16pm
City of National City	Bush	<input checked="" type="checkbox"/>	Rodriguez	<input type="checkbox"/>	8:04am	12:16pm
City of Poway	Frank	<input checked="" type="checkbox"/>	Pepin	<input type="checkbox"/>	8:04am	12:16pm
City of San Diego	Montgomery Steppe	<input checked="" type="checkbox"/>	Von Wilpert	<input type="checkbox"/>	8:04am	12:16pm
City of San Diego	Elo-Rivera	<input checked="" type="checkbox"/>	LaCava	<input type="checkbox"/>	8:04am	12:16pm
City of San Diego	Gloria	<input type="checkbox"/>	Moreno	<input checked="" type="checkbox"/>	8:04am 10:30am	10:05am 12:16pm
City of San Diego	Whitburn (Vice-Chair)	<input checked="" type="checkbox"/>	Campillo	<input type="checkbox"/>	8:04am	12:16pm
City of Santee	Hall	<input checked="" type="checkbox"/>	Koval	<input type="checkbox"/>	8:04am	12:16pm

SIGNED BY THE CLERK OF THE BOARD:

/S/ Dalia Gonzalez