

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

November 14, 2024

[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

Chair Whitburn called the Board meeting to order at 9:05 a.m. A roll call sheet listing Board member attendance is attached as Attachment A.

2. Public Comment

Kamran Hamidi – Provided a verbal statement to the Board during the meeting. Kamran expressed dissatisfaction with the taxi fees and the imposition on the industry.

Flavio Oliveira – Provided a verbal statement to the Board during the meeting. Flavio expressed dissatisfaction with the taxi fees.

Truth – Provided a verbal statement to the Board during the meeting. Truth expressed frustration with safety on the system.

CONSENT ITEMS:

3. Approval of Minutes

Action would approve the October 17, 2024 Board of Director meeting minutes.

4. Chief Executive Officer (CEO) Report

5. Regional Transit Management System (RTMS) Mount Woodson Radio Tower – Site Lease Amendment

Action would authorize the Chief Executive Officer (CEO) to execute Amendment No. 1 to MTS Doc. No. G1332.0-10, with American Tower Corporation, to accept the renewal of the remaining five (5) year term, for a total cost of \$167,001.84.

6. Adoption of the 2025 San Diego Metropolitan Transit System (MTS) Executive Committee and Board of Directors Meeting Schedule

Action would adopt the 2025 Executive Committee and Board of Directors meeting schedule

7. Construction Management (CM) Services for South Bay Zero Emission Bus (ZEB) Overhead Charging Infrastructure Installation – Work Order Agreement

Action would authorize the Chief Executive Officer (CEO) to execute Work Order WOA2501-CM012 under MTS Doc. No. G2501.0-21, with TRC Engineers Inc. (TRC), for CM services for the Imperial Avenue Division (IAD) ZEB Overhead Charging Infrastructure Construction Project in the amount of \$1,317,825.71.

8. Social Equity Listening Tour (SELT) Bus Stop Shelter Upgrades Design Services – Work Order Agreement

Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. WOA353-AE-34 under MTS Doc. No. PWL353.0-22, with Dokken Engineering (Dokken), in

the amount of \$688,221.76 to provide design services for upgrading twenty-eight (28) existing bus stops to accommodate shelters.

9. On-Board Video Surveillance System (OBVSS) Services for San Diego Metropolitan Transit System Bus Fleet – Contract Amendment

Action would authorize the Chief Executive Officer (CEO) to execute Amendment No. 2 to MTS Doc. No. B0733.0-, with Luminator Technology Group (LTG), for a sole source amendment for the migration from the current Vehicle Information Management (VIM) software to the Managing Safety Efficiency in Transit (mSET) software for a total cost of \$623,436.00.

10. San Diego and Arizona Eastern Railway Company (SD&AE) – Quarterly Reports from the SD&AE Board of Directors Meeting on October 8, 2024

Action would receive the reports to the SD&AE Board of Directors at its meeting on October 8, 2024, for the San Diego and Imperial Valley Railroad (SD&IV), Pacific Southwest Railway Museum Association (Museum), and Desert Line activities for information.

11. Kearny Mesa Division (KMD) Chassis Wash Lift Replacement – Contract Award

Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc No. PWB402.0-24, with Southwest Lift & Equipment, Inc., in the amount of \$356,908.00 for the replacement of the existing chassis wash lift for KMD.

12. Light Rail Vehicle (LRV) Digital Monitor Display Program – Contract Award

Action would authorize the Chief Executive Officer (CEO) to: 1) Execute MTS Doc. No. G2899.0-24, with Maestronic USA Inc. (Maestronic), for a LRV Digital Monitor Display Program for a two (2) year base period with three (3) 1-year options, for a total of five (5) years, at a cost of \$1,708,591.05 (inclusive of CA 7.750% tax); and 2) Exercise the option years at the CEO's discretion.

13. Investment Report – Quarter Ending September 30, 2024

14. On-Call Card Access Reader Services – Amendment

Action would authorize the Chief Executive Officer (CEO) to: 1) Ratify Amendment No. 1 to MTS Doc. PWG340.0-22, with Electro Specialty Systems (ESS), for additional new installations (contract years 1-3) and maintenance funding (all contract years) in the amount of \$82,478.76; and 2) Execute Amendment No. 2 to MTS Doc. No. PWG340.0-22, with ESS, in the amount of \$240,000.00 for estimated new installation funding and maintenance for the remainder of the contract.

15. Board Policy No. 30 (Investment Policy) – Policy Revision

Action would approve and adopt the updated Board Policy No. 30 (Investment Policy).

16. Orange Line Improvement Project Phases 1 & 2 – Overhead Contact System (OCS) Poles – Contract Award

Action would authorize the Chief Executive Officer (CEO) to: 1) Execute MTS Doc. No. L1688.0-25, with Balfour Beatty Infrastructure, Inc (Balfour), for the purchase of OCS Poles for Orange Line Phases 1 and 2 at a cost of \$291,998.66, plus an option to purchase additional poles in 2025 at a cost of \$27,201.40 for a total cost of \$319,200.06 (inclusive of 7.75% CA Sales Tax); and 2) Exercise the option purchase at the CEO's discretion.

17. 66th Street Track Repair – Work Order Agreement

Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. MTSJOC348-15, under Job Order Contract (JOC) MTS Doc. No. PWG348.0-22, with Veterans Engineering Inc. (Veterans), for the undercutting and replacement of track between 66th and 68th Streets on the Orange Line in the amount of \$955,931.49.

18. Operations Budget Status Report for September 2024

Board Comment for item 8:

Board Member Moreno stated that she was supportive of the SELT bus stop shelter upgrades design services work order agreement. She stated it represented a crucial step in addressing identified needs.

Action on Recommended Consent Items 3-18

Vice Chair Goble moved to approve Consent Agenda Item Nos. 3 to 18. Board Member Hall seconded the motion, and the vote was 10 to 0 in favor with Board Member Frank, Board Member McCann, Board Member Bush, Board Member Elo-Rivera and Board Member Gloria absent.

PUBLIC HEARINGS

19. Hearing to consider adoption of a Resolutions of Necessity and authorization of condemnation proceedings to acquire Assessor's Parcel Nos. 541-611-27 and 541-611-31 in the City of San Diego for the Clean Transit Advancement Campus (CTAC) Project (Project). (2/3 Vote Required by Code Civil Procedure section 1245.360) (Karen Landers)

Karen Landers, MTS General Counsel, and David Skinner, with Meyers Nave, led the hearing to consider adoption of Resolutions of Necessity and authorization of condemnation proceedings to acquire Assessor's Parcel Nos. 541-611-27 and 541-611-31 in the City of San Diego for the CTAC Project. She provided details on: the project, the site selection process, property acquisition, Lone Oak property, Bayshore property, property owner due process, resolution of necessity findings and staff's recommendation.

Public Comment

David Fults – A property owner for Bayshore Group made a verbal statement to the Board during the meeting. David expressed disappointment with the property acquisition.

Truth – Provided a verbal statement to the Board during the meeting. Truth expressed various concerns with the acquisition.

Board Comment

Board Member Hall asked if there had been thorough, collaborative purchase negotiations. Ms. Landers explained that Lone Oak, represented by their legal counsel, has been cooperating with MTS. They have hired their own appraiser and waiting for that appraisal to be completed so that both parties can begin negotiations. Ms. Landers is hopeful that similar discussions will occur with the Bayshore Group. Board Member Hall believed that additional time for negotiations was necessary. Ms. Landers advocated for action at today's meeting to stay on track with the project timeline. She expressed that MTS was comfortable delaying the filing of eminent domain actions

if the owner believed it would allow them additional time to acquire an appraisal and make a demand with MTS. Board Member Hall asked how the agency assesses relocation costs and other factors. Ms. Landers replied that the agency has a relocation consultant that meets with tenants, identifies their needs and begins a search for similar property estimates. Board Member Hall continued to believe that additional time for negotiation was needed.

Board Member Montgomery Steppe was concerned about additional impacts to surrounding community members in the area based on a change in Lone Oak's use of the property. Ms. Landers replied that there was not since Lone Oak hoped to use the site for potential expansion, not current operations.

Board Member Elo-Rivera asked for additional clarification on the agreement timeline and how the agency is not precluding an amicable resolution by taking action on today's recommendations. Ms. Landers clarified that the agency's goal is not to file eminent domain or extensively litigate value. Under the law, MTS is required to pay for the portion of an appraisal that the property owner commissions and for the agency to consider it in negotiations. She stated that in eminent domain context, benefit of the doubt is often given to property owners and the valuations that they come with. She stated that the appraisal will be considered and negotiated, with a future discussion of any price and terms negotiations in closed session. She re-stated that the goal was to achieve an agreed upon value that both sides were comfortable with. Board Member Elo-Rivera agreed that there is room in the process for an amicable outcome.

Action Taken

Board Member Montgomery Steppe moved to adopt the Resolutions of Necessity, authorizing the commencement of eminent domain proceedings to acquire the private property interests necessary for the Project, as follows: 1) Open hearing and receive property owner and public testimony; 2) Determine that offers to acquire the necessary real property were made to the owners of the subject properties pursuant to Section 7267.2 of the Government Code; 3) Adopt Resolutions of Necessity No. 24-15 and No. 24-16 pertaining to the acquisition of 2.41-acres (APN 541-611-27) and 1.35-acres (APN 541-611-31) in support of the CTAC Project, and find that: a) the public interest and necessity require the Project; b) the Project is planned or located in a manner that will be the most compatible with the greatest public good and least private injury; and c) the interests in the property sought to be acquired is necessary for the Project; d) MTS has complied with the requirements of Government Code § 7267.2 to the extent applicable to the subject property, made the required offers to acquire the property together with the accompanying statement of and summary of the basis for the amount established as just compensation to the owner or owners of record, which offers and accompanying statement/summary were in a form and contained all of the factual disclosures required by law, and complied with all conditions and statutory requirements necessary to exercise of the power of eminent domain to acquire the property; and 4) Authorize the General Counsel and staff, through outside counsel, to proceed with condemnation proceedings necessary to acquire the private property interests in the subject public street right of way property parcels. Board Member Elo-Rivera seconded the motion, and the vote was 10 favor (Board Member: Gonzalez, Gastil, Leyba-Gonzalez, Donovan, Montgomery Steppe, Dillard, Elo-Rivera, Whitburn, Goble, Moreno) with 1 opposed (Board Member Hall) and 4 members absent (Board Member Frank, Board Member McCann, Board Member Bush and Board Member Gloria).

DISCUSSION ITEMS:

20. Audit Results and Draft of Fiscal Year 2024 Annual Comprehensive Financial Report (ACFR) (Erin Dunn with Coley Delaney of The Pun Group)

Erin Dunn, MTS Controller, along with Coley Delaney, with The Pun Group, presented on Audit Results and Draft of Fiscal Year 2024 ACFR. They outlined: management's and auditors' responsibilities, overview of the financial statements, key pension and OPEB information, and audit results.

Public Comment

There were no Public Comments.

Board Comment

Board Member Moreno asked a series of questions related to the audit process. She directed the following questions to the auditor: during the audit, were you given access to any employee you needed to talk to for the purposes of preparing the audit? Mr. Delaney responded yes, the auditors were provided full access to anyone that they asked to speak to. She asked: did you ever ask for access to an employee that you felt necessary to complete your audit and were denied access to that employee? Mr. Delaney responded that did not occur. She asked: were you given full access to any documents including ledgers, financial statements, and financial documents for the purpose of conducting the audit? Mr. Delaney responded yes and MTS also provided read-only access to the accounting system. She asked: did you ever ask for any documents, ledgers, or financial documents from staff or executives that were refused to be provided to you? Mr. Delaney responded no. She asked: did you find any financial practices being used by staff or executives to not be consistent with the best practices of accounting? Mr. Delaney responded no. She asked: what is the overall assessment of the quality of accounting internal controls and competency of staff. Mr. Delaney responded that overall MTS does an excellent job in designing, implementing and maintaining internal controls with staffing shortages or department turnover. She asked: how did the auditors maintain independence during the course of the audit? Mr. Delaney assured that objectivity, and skepticism is maintained and independent from MTS. They do not provide any non-audit services for MTS and they refrain from participating in management decisions. They have no financial or employment interests in MTS. In 2024, the agency changed the assigned audit team to avoid a familiarity threat, along with a quality control reviewer who is not part of the audit team. She asked: were there any accounting issues on which you sought advice of another audit firm or regulatory body? Mr. Delaney replied that there were none. She asked: is it your opinion that this audit and MTS's financial record keeping deserves an unmodified opinion? Mr. Delaney responded yes. She asked: what is the alternative to an unmodified opinion? Mr. Delaney responded that if he was not able to issue an unmodified opinion, there would be either a qualified opinion, adverse opinion, or disclaimer of an opinion. Mr. Delaney assured the Board that MTS received an unmodified opinion, which means that the financial reporting is in accordance with general accounting principles. She asked: how many years has your company been conducting financial audits for MTS? Mr. Delaney responded since approximately 2012. Lastly, she asked: have you ever found an MTS audit that you did not ultimately conclude that it

would be an unmodified opinion? Mr. Delaney responded no. She asked: are there any new pronouncements/risks affecting future financial statements which the Board should be aware of? Mr. Delaney stated that there is one Governmental Accounting Standards Board (GASB) statement that will be issued next year.

Action Taken

No action taken. Informational item only.

21. Fiscal Year (FY) 2024 Final Operating Budget Results (Gordon Meyer)

Gordon Meyer, MTS Manager of Financial Planning, presented on the FY 2024 final operating budget results. He provided details on: total operating: revenues, expenses, activities, subsidy revenue category, descriptions, total non-operating revenues and expenses, total revenues less expenses, contingency reserve balance and staff's recommendation that \$8,392,000 in excess revenue be allocated as follows: Allocate \$2,084,000 in land sale proceeds to MTS Capital Improvement Program (CIP) for programming in FY 2026; allocate \$2,500,000 to increase Self-Insured Retention (SIR) from \$5,000,000 to \$7,500,000 in accordance with MTS' Excess General Liability Insurance program; and allocate remaining \$3,807,000 to contingency reserve.

Public Comment

There were no Public Comments.

Board Comment

Board Member Moreno asked that in the future, this item be brought to the BDC for recommendation first before coming to the Board. Chair Whitburn confirmed that the item will be taken to the BDC for recommendation in the future.

Action Taken

Board Member Moreno moved to receive the MTS operations budget status report for FY 2024 and approve staff recommendations for programming excess revenues less expenses. Board Member Montgomery Steppe seconded the motion, and the vote was 12 to 0 in favor with Board Member Frank, Board Member McCann and Board Member Gloria absent.

22. America Plaza Pedestrian Enhancements – Contract Award (Heather Furey)

Denis Desmond, MTS Director of Planning and Scheduling, presented on America Plaza Pedestrian Enhancements. They outlined: the background, project history, cost adjustment, and staff's recommendation.

Public Comment

Truth – Provided a verbal statement to the Board during the meeting. Truth expressed dissatisfaction with the proposed project.

Board Comment

Chair Whitburn thanked staff for the safety prioritization for pedestrians.

Board Member Leyba-Gonzalez recused himself from participating on a vote for the item.

Action Taken

Chair Whitburn moved to 1) Authorize the Chief Executive Officer (CEO) to execute MTS Doc No. PWB403.0-24, with De La Fuente Construction Inc. (DLF), in the amount of \$6,170,714.35 (\$5,609,740.32 plus 10% contingency of \$560,974.03) for America Plaza Pedestrian Enhancements; and 2) Approve the transfer of \$4,000,000 from the Capital Improvement Program (CIP) account 100913301 – Pending Transfer to account 2009108001 – American Plaza Pedestrian Enhancements. Board Member Gastil seconded the motion, and the vote was 9 to 0 in favor with Board Member Leyba-Gonzalez recusing himself and Board Member Frank, Board Member McCann, Board Member Bush, Board Member Dillard, and Board Member Gloria absent.

23. Appointment of Ad Hoc Nominating Committee for Recommending Appointments to MTS Committees for 2025 (Sharon Cooney)

Public Comment

Truth – Provided a verbal statement to the Board during the meeting. Truth suggested appointments to the 2025 slate.

Board Comment

Chair Whitburn explained that the ad hoc committee would make internal and external appointments to committees, which will forward recommendations to the Board. The nominating committee can have up to seven members. He stated that he will request nominations from the floor, typically Board Members who would like to serve nominate themselves by volunteering. If the Board has more than seven members nominated, then the Board will vote on each candidate. He encouraged those who are interested in the committee but who don't have time to serve to share their appointment interests with the committee ahead of time.

Action Taken

Chair Whitburn moved to solicit committee volunteers. Board Member: Moreno, Montgomery Steppe, Elo-Rivera, Dillard, Goble, Whitburn, and Hall volunteered to participate in the Ad Hoc Nominating Committee to make recommendations to the Board with respect to the appointment of the Chair Pro-Tem as well as MTS and non-MTS committees for 2025. Vice Chair Goble seconded the motion, and the vote was 12 to 0 in favor with Board Member Frank, Board Member McCann and Board Member Gloria absent.

OTHER ITEMS (ITEMS TAKEN OUT OF ORDER):

26. Chair, Board Member and Chief Executive Officer's (CEO's) Communications

Chair Whitburn thanked Denis Desmond, Retiring Director of Planning and Scheduling, for his 25-years at MTS. Chair Whitburn commended Mr. Desmond's leadership, mentorship and various projects that have impacted the lives of the community.

Vice Chair Goble commended Kena Teon, MTS Grants Administrator, for receiving the Rosa Parks diversity leadership award by Women's Transportation Seminar (WTS).

Board Member Gastil invited members to participate in the Facilitating Access to Coordinated Transportation (FACT) annual meeting on December 4, 2024.

27. Remainder of Public Comments Not on The Agenda

There were no additional public comments.

CLOSED SESSION (ITEMS TAKEN OUT OF ORDER):

The Board convened to Closed Session at 10:39 a.m.

24. Public Comment for Closed Session

Truth – Provided a verbal statement to the Board during the meeting. Truth commented on the closed session item.

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

San Diego Gas & Electric Company vs. Metropolitan Transit System et al.
(San Diego Superior Court (SDSC) Case No. 37-2021-00006190-CU-EI-CTL and consolidated cases SDSC Case Nos. 37-2021-00007680-CU-EI-CTL and 37-2021-00007619-CU-EI-CTL)

Closed Session Reconvening

The Board reconvened to Open Session at 11:13 a.m.

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

ADJOURNMENT

28. Next Meeting Date

The next regularly scheduled Board meeting is December 19, 2024 at 9:00 a.m.

26. Adjournment

The meeting was adjourned at 11:13 a.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: A. Roll Call Sheet

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS
ROLL CALL

MEETING OF (DATE): November 14, 2024 CALL TO ORDER (TIME): 9:05 a.m.
 RECESS: _____ RECONVENE: _____
 CLOSED SESSION: 10:39 a.m. RECONVENE: 11:13 a.m.
 PUBLIC HEARING: 9:15 a.m. RECONVENE: 9:40 a.m.
 ORDINANCES ADOPTED: _____ ADJOURN: 11:13 a.m.

JURISDICTION	BOARD MEMBER		ALTERNATE		PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
City of Chula Vista	Gonzalez	<input checked="" type="checkbox"/>	Chavez	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of Chula Vista	McCann	<input type="checkbox"/>	Chavez	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of Coronado	Donovan	<input checked="" type="checkbox"/>	Duncan	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
County of San Diego	Montgomery Steppe	<input checked="" type="checkbox"/>	Vargas	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of El Cajon	Goble (Vice-Chair)	<input checked="" type="checkbox"/>	Ortiz	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of Imperial Beach	Leyba-Gonzalez	<input checked="" type="checkbox"/>	Aguirre	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of La Mesa	Dillard	<input checked="" type="checkbox"/>	Arapostathis	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of Lemon Grove	Gastil	<input checked="" type="checkbox"/>	Mendoza	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of National City	Bush	<input checked="" type="checkbox"/>	Rodriguez	<input type="checkbox"/>	9:42 a.m.	11:13 a.m.
City of Poway	Frank	<input type="checkbox"/>	Pepin	<input type="checkbox"/>	ABSENT	ABSENT
City of San Diego	Moreno	<input checked="" type="checkbox"/>	Campbell	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of San Diego	Elo-Rivera	<input checked="" type="checkbox"/>	LaCava	<input type="checkbox"/>	9:25 a.m.	11:13 a.m.
City of San Diego	Gloria	<input type="checkbox"/>	Campillo	<input type="checkbox"/>	ABSENT	ABSENT
City of San Diego	Whitburn (Chair)	<input checked="" type="checkbox"/>	Lee	<input type="checkbox"/>	9:05 a.m.	11:13 a.m.
City of Santee	Hall	<input checked="" type="checkbox"/>	Koval Minto	<input type="checkbox"/> <input type="checkbox"/>	9:05 a.m.	11:13 a.m.

SIGNED BY THE CLERK OF THE BOARD: /S/ Dalia Gonzalez