

JOINT MEETING OF THE BOARD OF DIRECTORS FOR THE METROPOLITAN TRANSIT  
DEVELOPMENT BOARD, SAN DIEGO TRANSIT CORPORATION, AND SAN DIEGO  
TROLLEY, INC.

May 27, 2004

BOARD OF DIRECTORS MEETING ROOM, 10<sup>TH</sup> FLOOR  
1255 IMPERIAL AVENUE, SAN DIEGO

MINUTES

1. Roll Call

Chairman Williams called the meeting to order at 9:04 a.m. A roll call sheet is attached listing Board member attendance.

2. Approval of Minutes

Mr. Mark Lewis moved to adopt the revised agenda for this meeting. Mr. Maienschein seconded the motion and the vote was 11-0 in favor.

Mr. Mark Lewis moved to approve the minutes of the May 13, 2004, Board of Directors meeting and the Saturday, May 8, 2004, Finance Workshop. Mr. Emery seconded the motion and the vote was 11-0 in favor.

3. Public Comment

There were no Public Comments

4. Presentation of Employee Awards

The following San Diego Trolley, Inc. employees were presented with years of service awards: For 10 years of service: Mark Owens, Train Operator. For 15 years of service: Alan Baier, Train Operator; Cecilio Flores, Facilities Supervisor; and Fred Kroner, Assistant Supervisor of Transportation.

5. Closed Session Items (ADM 122)

The Board convened to Closed Session at 9:10 a.m. for **(a)** MTDB CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Tim Allison and Chip Willett, Government Code Section 54956.8: Regarding Lease of a Billboard on Assessor Parcel No. 340-050-14 (San Diego Metropolitan Transit Development Board) Located in the City of San Diego. Negotiating Parties: State Department of Transportation. Instruction to Negotiators Will Include Price and Terms of Payment; **(b)** MTDB CONFERENCE WITH LEGAL COUNSEL – Government Code Section 54956.9(a): Existing Litigation, MTDB v. Alpine Stained Glass, San Diego Superior Court Case No. GIC 814724; and **(c)**

MTDB: CONFERENCE WITH LEGAL COUNSEL – Government Code Section 54956.9(a): Existing Litigation, MTDB v. Maxwell, San Diego Superior Court Case No. GIC811775-1.

The Board reconvened to Open Session at 9:26 a.m.

Oral Report of Final Actions Taken in Closed Session

Ms. Lorenzen reported the following. Item No. 5a – The Board received a report and gave direction to real property negotiators. Item No. 5b – The Board received a report and gave direction to outside counsel. Item No. 5c – The Board received a report and gave direction to outside counsel.

CONSENT ITEMS

6. SDTI: Financial Report For February 2004 (OPS 970.5, PC 30102)

That the Board of Directors receive the following SDTI reports: Summary of cash in Treasury, Status of Revenue, Summary of FY 04 Appropriations and Expenditures, and San Diego Association of Governments (SANDAG) Ridership Summaries.

7. SDTI: Financial Report for March 2004 (OPS 970.5, PC 30102)

That the Board of Directors receive the following SDTI reports: Summary of cash in Treasury, Status of Revenue, Summary of FY 04 Appropriations and Expenditures, and San Diego Association of Governments Ridership Summaries.

8. SDTI: Operations Status Report for February 2004 (OPS 970.2, PC 30102)

That the Board of Directors receive the following SDTI reports: Transportation Department Summary, Monthly Performance Statistics for February 2004, Light Rail Vehicle Maintenance Department Summary, and Wayside Maintenance Department Summary.

9. SDTI: Operations Status Report for March 2004 (OPS 970.2, PC 30102)

That the Board of Directors receive the following SDTI reports: Transportation Department Summary, Monthly Performance Statistics for February 2004, Light Rail Vehicle Maintenance Department Summary, and Wayside Maintenance Department Summary.

10. MTDB: MTS Operators Budget Status Report for March 2004  
(FIN 310, PC 30100)

That the Board of Directors receive the MTS Operators Budget Status Report for the month of March 2004.

11. MTDB: General Engineering Consultant (GEC) Contract Extension  
(ADM 130, PC 10900)

That the Board of Directors authorize the CEO to execute an extension of the General Engineering Consultant contract with Berryman & Henigar (MTDB Doc. No. L0606.0-02), in substantially the same form as shown in Attachment A of the agenda item. This will allow Berryman & Henigar to continue to serve the needs of MTDB for the total contract amount within the five-year duration of the contract.

12. SDTI: Light Rail Vehicle Gear Box Bearings Procurement: Contract Award  
(OPS 970.6, PC 30102)

That the Board of Directors authorize the Chief Executive Officer to execute a Standard Procurement Agreement with Applied Industrial Technologies, Inc., contingent upon Federal Transit Administration approval of Buy America waiver, for LRV gear box bearings, in an amount not to exceed \$122,266.49.

13. SDTC: Financial Report Through March 2004 (OPS 960.3, PC 30101)

That the Board of Directors receive the SDTC Financial Report Through March 2004.A

14. MTDB: MTS Sorrento Valley Coaster Connection and Reverse Commute Poway Express Contract Amendments (OPS 920.5, PC 30132)

That the Board of Directors authorize the Chief Executive Officer to execute amendments with: **(a)** Laidlaw Transit Services, Inc. (Laidlaw), for the operation of two new Caltrans-funded routes, 981 and 982, part of MTS's Sorrento Valley Coaster Connection (SVCC) service; and **(b)** Coach USA to provide reverse commute express service between Poway and San Diego.

15. SDTI: First Quarter 2004 MTS Security Report (OPS 970.11, PC 30102)

That the Board of Directors receive the SDTI First Quarter 2004 MTS Security Report.

Motion on Recommended Consent Items

Mr. Emery moved to approve Consent Agenda Item Nos. 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15.  
Mr. Rindone seconded the motion and the vote was 13-0 in favor.

Mr. Emery called attention to the reverse express commute route to the Poway business park detailed in Agenda Item #14 and stated that it looks like an interesting route.

Mr. Monroe stated that performance-related agenda items are on the Consent Agenda and no staff presentation is made. He suggested that staff give a 10-minute brief highlighting any significant changes from month to month. He stated that he felt this is important given that MTDB is more of an operating board now and needs to be cognizant of these types of details. Mr. Jablonski stated that it is his intent, as indicated in previous meetings, to present performance-related/financial information to the Board in a unified format and that report will be a monthly Board Discussion Item. He stated that, until that report has been developed, staff can comply with Mr. Monroe's request.

NOTICED PUBLIC HEARINGS

There were no public hearing items.

#### DISCUSSION ITEMS

30. MTDB: MTS Operators FY 05 Budget Workshop Follow-Up  
(FIN 310, PC 30100)

Ms. Susan Hafner, MTS Director of Multimodal Operations, advised the Board that certain follow-up items were identified by Board members at the May 8 Finance Workshop. She stated that staff's purpose in giving this report is to cover those items and bring Board members who were not present at the workshop up to date.

She reviewed the breakdown of the types of expenses within the operating budget pointing out that over 84 percent of the budget is comprised of the costs for personnel, purchased transportation, and energy. She also reviewed operating deficit projections, best case and worst case, through FY 09. She stated that the worst-case scenario for FY 09 assumes that Transnet is not reauthorized. MTDB CEO Paul Jablonski indicated that the use of \$5.2 million in reserves to cover MTDB's current deficit was approved one year ago when the five-year budget plan was reviewed.

Ms. Hafner also reviewed MTDB's sources of operating revenues and related funding. She pointed out that expenses are rising faster than revenues primarily because of increases in costs for energy and health insurance. She also reviewed general and administrative expenses and pointed out that the effects of the consolidation are reflected in this chart. She added that while personnel-related expenses have decreased as a result of the consolidation, there has been an even larger decrease in associated funding. She stated that this decrease is the result of the transfer to SANDAG of employees whose wages are eligible to be subsidized by capital grants.

Ms. Hafner reviewed fixed-route ridership trends, explaining causes of the ridership reduction over the last three years and stated that trolley ridership is resurging and is causing a more positive trend in ridership. She added that the Trolley is carrying 26 percent of the gate for PETCO Park. Ms. Hafner reviewed fare revenues, farebox recovery, operating projections, operating budget reductions for each of the agencies, cost changes, and fuel prices. She advised the Board that the assumption for fuel prices will continue to be refined until the budget process closes. She further stated that for every penny increase in the cost of diesel, CNG, and electricity, MTS's costs increase \$30,000 and \$75,000 and \$500,000, respectively.

Mr. Jablonski stated that the SANDAG Transportation Committee has approved his request that \$3.5 million in BRT funding be reallocated back to MTS. Mr. Limber stated that this request will be brought back to the Transportation Committee as part of the final budget for adoption in June and does not have to go to the full SANDAG Board.

Ms. Hafner provided the Board with an overview of the five options outlined in the agenda item and added that staff recommends adoption of Option 4. She stated that staff will be developing a series of policy scenarios for review at a future MTS Board meeting, including TransNet options for dealing with the structural deficit.

In response to a question from Mr. Emery regarding the breakdown of farebox recovery rates, Ms. Hafner responded that the FY 05 budget projects a recovery rate of 37.4 percent system wide, 39.0 percent for fixed-route service, and 14.5 percent for paratransit. She stated that the volume of service in the first two categories dominates the calculation of the average and diminishes the impact of the low farebox recovery for paratransit services.

Ms. Hafner also reported, in response to a question from Mr. Emery, that staff has not identified any specific service changes but is simply projecting the dollar amount of service that would have to be cut under various budget scenarios. Mr. Rindone spoke out in favor of a Comprehensive Operational Analysis (COA) as referred to by Mr. Jablonski over doing incremental changes that can cause problems with connections, etc. He favored approval of Option 4 as an interim measure predicated on Mr. Jablonski's commitment to carrying out a COA. He stated that the Board cannot continue to use nonrecurring revenue sources to fund the budget.

Mr. Jablonski stated that MTDB's funding problems will be exacerbated with Mission Valley East after CMAQ funding ends in 2008. He stated that, at that time, MTDB will have to assume the cost for MVE, which could be approximately \$2.3 million. He added that, unless MTDB wants to eventually exhaust its supply of reserves, additional revenues have to be identified or service changes will have to be implemented. He stated that he is not optimistic that MTDB will be able to identify additional revenues and explained why he is opposed to implementing service changes without first performing a COA. He stated that he will report back to the Board within a month on how to proceed with a COA and that he plans to start with an educational process. He stated that it will be difficult to complete a COA within the next budget cycle. Mr. Jablonski also advised the Board that the Executive Committee discussed the fact that there may be other options for addressing the deficit through TransNet funding.

Mr. Roberts expressed concern about MTDB's level of contingency reserves and reliance on nonrecurring revenue sources and spoke in favor of considering service cuts now rather than waiting for a COA. He also stated that he is not comfortable waiting and feels that there is a possibility that TransNet will not be reauthorized. He stated that North County seems to be more interested in new roads and highways than in public transportation. Ms. Hafner stated that, in addition to the reserves Mr. Roberts referred to, MTDB holds an additional \$2 million in liability reserves. Mr. Jablonski addressed Mr. Roberts' concern regarding the reallocation back to MTDB of BRT planning funds. He reported that MTDB was projected to receive \$15 million in TransNet funds for FY 05, but SANDAG reduced that amount to \$10 million by removing \$5 million for BRT planning. He reported that MTDB should receive the full \$15,000 for FY 06. Mr. Roberts stated that, based on these facts, he was less concerned about delaying service cuts. He added that it appears that a COA needs to be conducted to deal with long-term funding issues and requested that staff return to the Board as soon as possible regarding that study. Mr. Jablonski advised the Board that staff may be able to identify some cost-saving measures during the COA process that could be implemented before the completion of that process. He added that any changes made in this way would yield partial-year savings the first year. Mr. Williams stated that service cuts will have to be preceded by public hearings and stated that MTDB will have to make it clear at those hearings that it does not have adequate resources.

Mr. Monroe stated that he was against using reserves to balance the budget. He added that MTDB should be using the same fuel assumptions as North County Transit. He stated that he thinks fuel will remain high and should be watched very closely. He also stated that Mr. Jablonski provided the SANDAG Transportation Committee with a 10-year overview of very important and substantial MTDB capital projects, including replacement equipment, that are not currently funded. Mr. Jablonski advised the Board that only about 30 to 35 percent of MTDB's capital projects are currently funded. Mr. Monroe added that service cuts should be considered now and asked if that would have a positive or negative effect on the vote for TransNet. He stated that the experts working on TransNet may know the answer. He also expressed concerns about TransNet getting the necessary votes to reauthorize. Mr. Monroe suggested that Board members be provided with information on subsidy per passenger by route.

Mr. Emery stated that the COA puts into motion a process that will address Mr. Roberts' concerns. He stated that Option 4 gives the Board a year to develop that plan.

Mr. Rindone concurred with Mr. Emery's statements. He also stated that it will not be easy to carry out the COA. He stated that board members, even when routes are being cut in their districts, must be united and support the CEO's recommendations.

Mr. Jablonski stated that he had recently read articles about declining oil supplies and efforts that must be made to reduce the world's dependence on oil and on the automobile.

#### Action Taken

Mr. Emery moved to receive this report and adopt Option 4 as presented by staff in the agenda item. Ms. Atkins seconded the motion and the vote was 11-1 in favor with Mr. Monroe casting the opposing vote.

#### RECESS

A five-minute recess was taken at 10:35 a.m.

#### 31. SDTC: Retirement Plans Actuarial Valuation as of January 1, 2004 (OPS 960.5, PC 30301)

Mr. Cliff Telfer, SDTC Vice President of Finance & Administration, advised the Board that the purpose of the Actuarial Valuation Report for the SDTC pension plans is to compute the annual contribution required to fund the plans for FY 05 and to present those items required for disclosure by the Governmental Accounting Standards Board (GASB). He introduced Mr. Bob McCrory, a consulting actuary with EFI Actuaries, who reviewed the report.

Mr. McCrory reviewed the history of pension plan costs, the current plan cost and future plan costs. He stated that the Board's goals with respect to this process are to (a) ensure that pension benefits are secure; (b) have a premium as low possible; and (c) have a premium as stable as possible. He discussed these goals and how they can be

contradictory. He reported that from 1999 to 2001, bull markets pushed pension costs down. He added that the reversal of this market along with changes made as a result of an experience study more than doubled the plan costs in 2002 and 2003. He stated that there is a natural fluctuation in the market gains and losses and, therefore, SDTC adopted a smoothing process that spreads these fluctuations in market gains and losses over a five-year period. Mr. McCrory reported that, for January 1, 2004, cost as a percent of payroll is 19.69 percent. He projected costs to reach 25 percent of payroll in future years as a result of improved benefits, the realization of unrealized losses over the next five years, and the continued contraction of the workforce. He stated that contraction of the workforce usually means people with less seniority leave while more senior employees, who cost more, stay in place.

#### Action Taken

Mr. Lewis moved to receive the Actuarial Valuation as of January 1, 2004, and approve the annual contribution rate for the San Diego Transit Corporation pension plans in FY 05 at 19.69 percent of payroll. Ms. Atkins seconded the motion and the vote was 10-0 in favor.

32. MTDB: Update on Border Patrol Operations on MTS Services (OPS 970.6 , PC 30102)

MTDB Interim General Counsel Tiffany Lorenzen advised the Board that this report was being made at their request to present information on the authority of the Border Patrol to conduct inspections. She provided the Board with information on the structure of the U.S. Customs and Border Patrol as well as a broad view of their responsibilities. She also reviewed their statutory authority. San Diego Trolley, Inc. (SDTI) President-General Manager Peter Tereschuck reviewed SDTI's relationship and prior experience with the Border Patrol. He reported that no notice is typically given prior to inspections by the Border Patrol and complaints have been nonexistent to minimal. He reported that meetings were held after the incident in February 2002, and the Border Patrol pledged that future activities would be more professional and there would be no repeat of those types of problems.

#### Public Speakers:

*Marta Patricia, Human Rights Committee Barrio Logan:* Ms. Patricia stated that she considers these inspections to be a form of discrimination. She also stated that she hopes that the Border Patrol suspends these inspections because they have a negative impact on quality of life.

*Francisco Rojas, Human Rights Committee Barrio Logan:* Mr. Rojas stated he pays taxes. He also stated that riders who use the system have an expectation that they will be safe because they pay to ride. He said that they expect to be treated with respect and added that the Border Patrol is directing itself to people of color.

*Marta Ayala:* Ms. Ayala stated that the Border Patrol agents are criminalizing the community. She stated that she and others are in this country because they want to better their lives. She stated that these inspections are an injustice. She stated that

these inspections do not make the country secure and that fostering respect in relationships with other nations will bring security.

*Patricia Valenzuela, Human Rights Committee Barrio Logan:* Ms. Valenzuela stated that she recognizes the Border Patrol's inspections are not against the law and they have the authority to conduct the inspections. She stated that she speaks to the cause of justice, peace, reason and dignity. She stated that laws that discriminate have existed in this country and still do. She asked that the Board take a position and state if they support this type of activity or not. She stated that riders expect customer service and to get from one point to another.

*Juana Vaquero:* Ms. Vaquero reported on an incident that involved a student who was on the trolley without the proper documentation. She stated that the student was deported and missed her graduation ceremony.

Ms. Atkins stated that the Board has the ability to comment but does not have the authority to stop inspections by the Border Patrol. She stated that she understood the ramifications of wanting to secure our system for the public regardless of where the riders reside. She added that movement between the U.S and Mexican border has been important to the United State's economy and its relationship with Mexico, and the incident on September 11 did not do anything to foster either of those two factors. She stated that it is very important to find a proper balance between law enforcement and passenger rights. She stated that she did not feel that staff's report was balanced and that she would like more detail. She cited the recent truancy sweep, which was conducted during a time when students did baccalaureate testing and were not scheduled to be in classes. She stated that people should be properly approached and not mistreated. Mr. Tereschuck stated that SDTI makes every effort to ensure that riders on the MTS system are treated with respect.

Mr. David Brown, from the Border Patrol's Imperial Beach station stated that they take these issues very seriously. He reviewed the structure of an inspection crew, which includes seven agents and two supervisors, and stated that they are not allowed to do racial profiling. He stated that, when they board a conveyance, they request documentation from everyone – they are not allowed to pick and choose. He stated that, while riders in the communities they have inspected are primarily Hispanic, they are not being singled out. He stated that to do so would be against the oath they take as agents. He added that they conduct their operations in a professional manner and try to treat everyone with dignity. He added that they also try to conduct their operations in a way that won't delay service.

Ms. Atkins thanked Mr. Brown for speaking. She stated that national security is of utmost importance. She stated that these types of activities may not be popular but have to be tolerated and stressed the importance of maintaining an open dialogue. She added that she hoped staff would continue its regular updates to Board members regarding inspections by the Border Patrol. Mr. Williams stated that he also recognized the concerns voiced by the public speakers, but added that the agency wouldn't want to challenge the responsibility of the federal government to enforce the law and protect the public.



In response to a question from Mr. Monroe, a representative of the Border Patrol reported that, out of 7,000 inspections, over 200 undocumented individuals were identified.

Mr. Christian Ramirez, American Friends Services Committee stated that the complaint process should be provided in Spanish language. Mr. Tereschuck stated that SDTI has bilingual staff members that can provide that service to callers.

Action Taken

Mr. Emery made a motion to receive this report for information. Mr. Clabby seconded the motion and the vote was 9-0 in favor.

33. SDTI: Preliminary Petco Park/Padres Service Report (OPS 970-12, PC 30102)

This item was carried over.

Action Taken

No action was taken on this item.

34. SDTI: Request to Name the San Diego Trolley Building C Maintenance Facility in Honor of Langley C. Powell (OPS 970, PC 30102)

Mr. Mathis stated that he was pleased to present the proposal to name the LRV Maintenance Facility building in honor of Langley Powell. He referred Board members to the graphic depiction of how the building would look. He stated that he felt this would be a good way to recognize Langley's unique and lasting contribution.

Action Taken

Mr. Rindone made a motion to approve the request to name the San Diego Trolley Building C Maintenance Facility in honor of Langley C. Powell. Mr. Emery seconded the motion and the vote was 9-0 in favor.

44. Chairman's Report (ADM 121.7, PC 30100)

There was no Chairman's Report.

45. Chief Executive Officer's Report (ADM 121.7, PC 30100)

There was no Chief Executive Officer's Report.

46. Board Member Communications

There were no Board Member Communications.

47. Additional Public Comments on Items Not on the Agenda

There were no additional public comments.

50. Next Meeting Date

The next regularly scheduled Board meeting is Thursday, June 10, 2004, at 9:00 a.m. in the same location.

60. Adjournment

Chairman Williams adjourned the meeting at 11:38 a.m.

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Chairman  
San Diego Metropolitan Transit  
Development Board

Filed by:

Approved as to form:

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Office of the Clerk of the Board  
San Diego Metropolitan Transit  
Development Board

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Office of the General Counsel  
San Diego Metropolitan Transit  
Development Board

GWilliams

Attachments: A. Roll Call Sheet