

JOINT MEETING OF THE BOARD OF DIRECTORS FOR THE  
METROPOLITAN TRANSIT SYSTEM (MTS),  
SAN DIEGO TRANSIT CORPORATION (SDTC),  
AND SAN DIEGO TROLLEY, INC. (SDTI)

January 13, 2005

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

MINUTES

**Finance Workshop – 8:00 a.m.**

1. Roll Call

Budget Committee Chairman Rindone called the meeting to order at 8:13 a.m. A roll call sheet listing Board member attendance is attached.

2. a. MTS: Operators Budget Status Report for October 2004 (FIN 310.1, PC 30100)

Mr. Jablonski, MTS Chief Executive Officer (CEO), stated that last year was a transition year with a unique budget process, and staff plans to have a more thorough process this year involving the Board and possibly a budget committee. He anticipated that the Board would approve the budget in late May or early June. He stated that the Finance Workshop today will consist of a review of October 2004 results followed by a discussion of preliminary projections through the end of the current fiscal year. He added that staff will then present a schedule for budget development along with recommendations for Board involvement.

Staff reviewed October financial results as outlined in the agenda item. Staff stated that the receipt of revenues from the semester pass program one month early made October look more favorable than usual and will make November look less favorable than usual. Staff also provided the Board with information on the impact of energy costs on operations. In response to a statement by Mr. Monroe, MTS Interim Chief Financial Officer Cliff Telfer reported that security expenses exceeded budget because of increased security needs related to PETCO Park service and other incidents. Staff explained why pass revenues are not passed to MTS in a more timely fashion by SANDAG, the clearing house for the allocation and disbursement of these revenues. Mr. Monroe questioned why SANDAG was handling these revenues, which he considers an operational

function. Mr. Mathis stated that MTS and the Board should make it a priority to push for a more expeditious procedure.

Mr. Monroe also asked questions regarding the reasons that ridership did not normalize after the last fare increase as was projected by staff. MTS Planning Director, Conan Cheung, stated that his staff is collecting and analyzing data by route, type of service, geographic area, etc. in an effort to determine where ridership changes are occurring and why. He anticipated having a report for the Board within a month or two. Mr. Monroe asked that this report include a comparison between current ridership levels and staff's projection for the rebound of ridership after the last fare increase. Mr. Jablonski stated that ridership projections may have been overly optimistic. Mr. Cheung stated that preliminary analysis indicates that Centre City ridership seems to be more affected than other areas, in particular with express routes down I-15 to downtown. He stated that parking increased by about 4,000 parking spaces in downtown in 2003 and 2004. He stated that this increase in parking availability along with a Transportation Demand Management (TMD) program that provides a subsidy to individuals who do not drive alone, appears to be having a negative impact on ridership. He reported that the subsidy per individual exceeds the cost of a parking space. Mr. Cheung added that his staff is also evaluating the productivity of current services, and the Board will have to address policy issues during the Comprehensive Operational Analysis (COA) regarding productivity elements. Mr. Rindone stated that efforts to encourage people to use transit aren't very effective when employers are encouraging employees to drive.

Mr. Williams stated that, for the record, the Board now has a quorum present.

Mr. Lewis stated that, at one time, Hawaii had a very simple fare structure (\$1 per ride). He stated that this fare was simple for the public to understand, simple from an operations aspect, and encouraged the public to ride. He spoke in favor of lowering fares. Mr. Jablonski stated that most of MTS's riders use monthly passes, which are deeply discounted, and the average fare per passenger is closer to \$1. Ms. Rose stated that Atlanta has an employer program that provides subsidies to employees who use transit and they charge higher rates for parking. Mr. Lewis recommended caution in make policy decisions in this area. He stated that taking away parking subsidies increases the cost for those individuals who cannot use public transit because it doesn't go where they need to go or doesn't provide the level of service they need.

#### Action Taken

Ms. Atkins moved to receive the MTS Operators Budget Status Report for October 2004. Mr. Lewis seconded the motion and the vote was 10 to in favor.

b. MTS: Combined FY 1006 Finance Workshop (FIN 310.1, PC 30100)

Mr. Tom Lynch, MTS Controller, reviewed FY 2005 projections, summarizing his presentation by reporting that net operating subsidy needed was under budget by \$1,318,000 or 1.2 percent. He stated that staff is currently looking for ways to

close this gap and will be presenting a mid-year budget amendment for Board approval in February. In response to a question from Mr. Monroe, Mr. Cheung reported that staff is looking at some bus-service refinements connected with Mission Valley East that are estimated to yield a \$526,000 savings. He stated that these refinements would occur in June 2005. The Board and staff briefly discussed diesel fuel costs and the benefits of seeking fuel contracts. Mr. Telfer reported that staff continually reviews the benefits of entering into fuel contracts. He pointed out that, in most cases, fuel contracts don't yield savings; instead, what they offer is the stabilization of fuel costs to the user.

Action Taken

Ms. Atkins moved to receive the report on combined MTS FY 2005 year-end projections (Attachment A of the agenda item) and a time line of the budgetary process (subject to change by the budget development committee) (Attachment B of the agenda item), and approve staff's recommendation to institute a five-member budget development committee. Ms. Sterling seconded the motion and the vote was 11 to 0 in favor.

Public Comments: There were no public comments during the Finance Workshop.

**Board Meeting – 9:00 a.m.**

Roll Call

Chair Williams called the meeting to order at 9:06 a.m. A roll call sheet listing Board member attendance is attached.

3. a. Approval of Minutes

Mr. Lewis moved to approve the minutes of the December 9, 2004, Board of Directors meeting. Emery seconded the motion and the vote was 10 to 0 in favor with Mr. Jones abstaining.

b. Public Comment

*Clive Richard:* Mr. Richard stated that people might be more inclined to use public transit services if there were adequate restroom facilities available along their route. He stated that the system provides coke machines, coffee kiosks, etc. to generate revenue but does not provide adequate restroom facilities.

*David Harmer:* Mr. Harmer registered complaints regarding the mechanical reliability of bus equipment; in particular on the Route 936 through Lemon Grove, which is operated by ATC Vancom. He stated that many times wheelchair lifts are broken. He stated that ATC has not been responsive to his complaints. He also complained that operators do not wait for passengers trying to make connections. Chairman Williams asked staff to work with Mr. Harmer to resolve his difficulties. Mr. Lewis requested that staff report back to the Board on this item. Mr. Jablonski stated that he is considering, as part of the reorganization, the establishment of a single source point for customer complaints and

information. He stated that this will allow a more unified reporting and understanding of complaints. He added that MTS takes customer complaints very seriously.

4. Presentation of Employee Awards

- a. Mr. Steve St. Pierre, Manager of Benefits and Compensation, presented a service award to Twylla Hobb, SDTC Operations Supervisor, for 25 years of service.
- b. MTS: Election of Vice Chair and Chair Pro Tem and Appointments to Committees for 2005 (LEG 410, PC 30100)

Action Taken

Mr. Emery moved to appoint representatives to the MTS Committees as listed in Attachment A of the agenda item; and (2) appoint Jerry Rindone as Chairman, and Mr. Williams, Mr. Ryan, Mr. Emery, and Mr. Young as members of the Budget Development Committee. Ms. Sterling seconded the motion, and the vote was 12 to 0 in favor.

5. Closed Session Items (ADM 122)

The Board convened to Closed Session at 9:24 a.m. for:

- a. MTS: Public Employee Performance Evaluation – Chief Executive Officer (Government Code Section 54957)
- b. MTS: Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation Pursuant to Subdivision (b) of Government Code Section 54956.9 (One Potential Case)

The Board reconvened to Open Session at 10:32 a.m.

Oral Report of Final Actions Taken in Closed Session

- a. The Board authorized a salary increase of \$20,000 and a bonus of \$10,000 for the MTS Chief Executive Officer.
- b. The Board received a report and gave direction to staff.

CONSENT ITEMS

6. MTS: Contract Amendment for The Ticket Factory (FIN 330.3, PC 40060)

Recommend that the Board of Directors authorize the CEO to exercise a second option year with The Ticket Factory for printing of 17,701,100 Universal Daily-Dated Transfer Slips at a cost not to exceed \$84,497.97 (including tax and delivery), in substantially the

same form as Attachment A of the agenda item. This price represents a cost of \$4.77 per 1,000 slips.

7. MTS: Contract Amendment to Extend and Increase Authorization of Liability Claims Management Services (LEG 491, PC 30100)

Recommend that the Board of Directors authorize the CEO to enter into a contract amendment with McDowell Adjusting Company (MTDB Doc. No. G0848.1-03, Attachment A of the agenda item) to provide liability claims administration services and supervision and support of the self-insurance program. The total contract cost is not to exceed \$427,500. The term of the contract extension is for a period of one year with options for two additional years.

8. SDTI: Mission Valley East Equipment Procurement: Contract Award (OPS 970.6, PC 30102)

Recommend that the Board of Directors authorize the President and General Manager to execute a Standard Procurement Agreement (Attachment A of the agenda item) with Altec Industries, Inc. for supplying one hi-rail and insulator washer-equipped bucket truck for a total cost (including delivery, license, and tax) not to exceed \$117,578.05.

9. MTS: Disadvantaged Business Enterprise Semiannual Report (LEG 430, PC 30100)

Recommend that the Board of Directors receive the second semiannual FY 05 Disadvantaged Business Enterprise reports for Federal Highway Administration- and Federal Transit Administration-assisted projects (Attachments A and B of the agenda item).

10. MTS: FY 05 Vendomat Tickets: Exercise of Contract Option (FIN 330.3, PC 40060)

Recommend that the Board of Directors authorize the Chief Executive Officer to exercise the third of four options with Digital Printing Systems, in substantially the same form as Attachment A of the agenda item, to produce and deliver a total of 8,366,240 vendomat tickets, for a total cost not to exceed \$33,792.68 (including tax and shipping), based on a \$2.21 unit price per 1,000 for rolled stock and \$4.66 unit price per 1,000 for thermal stock.

11. MTS: Contract Amendment for Increased Authorization for Legal Services (LEG 491, PC 30100)

Recommend that the Board of Directors (1) authorize the Chief Executive Officer (CEO) to enter into a contract amendment with J. Rod Betts of the law firm Paul, Plevin, Sullivan & Connaughton for employment practices liability services and employment legal advice, in substantially the same form as attached (MTDB Doc. No. G0920.2-04, Attachment A of the agenda item and MTDB Doc. No. G0924.3-04, Attachment B of the agenda item); and (2) ratify prior amendments entered into under the CEO's and/or previous General Manager's authority(ies).

12. MTS: January 2005 Service Changes (SRTP 830, PC 20287)

Recommend that the Board of Directors receive this information on service changes scheduled for January 2005 implementation.

13. MTS: San Diego Gas and Electric Company Requests for Easement (CIP 10426.6)

Recommend that the Board of Directors authorize the Chief Executive Officer to execute easements to San Diego Gas and Electric Company for utility facilities within the Mission Valley East Light Rail Transit Project and approve easements executed by the previous General Manager during the years 2001, 2002, and 2003.

14. MTS: Taylor/Major Irrigation Sewer Easement (CIP 10426.6)

Recommend that the Board of Directors authorize the Chief Executive Officer to execute an easement to Arthur Samuel Taylor and Maria Ann Taylor, joint trustees for the Taylor Family Trust, for maintenance, repair, and replacement of a private sewer line located within MTS-owned property at the Grantville Station, located on Assessor Parcel No. 461-320-29, in substantially the form attached (Attachment A of the agenda item).

Motion on Recommended Consent Items

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

NOTICED PUBLIC HEARINGS

There were no Noticed Public Hearings.

DISCUSSION ITEMS

30. MTS: Grievance and Hearing Procedure for Nonunion Employees (ADM 128, PC 30100)

MTS Director of Human Resources Mr. Jeff Stumbo provided the Board with an overview of the recommended procedure and also reviewed its pros and cons. Mr. Stumbo pointed out that the proposed procedure will apply to all nonunion employees at all three agencies and does not apply to unionized employees who are covered by a collective-bargaining agreement. He added that each of the individual agencies had separate policies for resolving employee conflicts that were not effective and resulted in costly and time consuming litigation. He also advised the Board that the recommended procedure should protect MTS from frivolous lawsuits and mirrors the procedure used by the University of California. Mr. Betts stated that many public agencies have similar internal procedures. He added that the recommended procedure allows employees 90 days to file a writ challenging the administrative decision of the Grievance Committee, and the court will then rule on whether or not the employee received a fair hearing. He added that Grievance Committee meetings will be tape recorded, and the court would be provided with that tape recording. Mr. Betts stated that if the court rules that the employee did not receive a fair hearing, that employee can proceed with a law suit. Mr. Stumbo added that the employee will have to demonstrate that the Grievance

Committee abused its discretion in making its decision. He stated that this particular court process involves no formal discovery as the proceedings are based on the administrative record developed by the Grievance Committee. It was further explained that, during the grievance and hearing process, there are no attorneys present for either side, and there are no formal depositions. It was added that employees can request documents, view the contents of their personnel file, and call witnesses.

In response to a question from Mr. Ryan, Mr. Rod Betts, MTS Labor Counsel, stated that public employees are not at-will employees and have due-process rights. He added that MTS, SDTC, and SDTI employees are given Skelly rights. He also stated that employees who are terminated currently have no option other than to file a lawsuit. He added that under this procedure, they are given an internal procedure that can be used to resolve disputes. Mr. Betts also explained that, if this process is approved by the Board, all nonunion employees will be notified that they will be required to follow this process as a condition of employment. Mr. Stumbo stated that current employees as well as any new employees hired will be automatically covered by this process and will not be asked to sign any type of authorization.

Mr. Stumbo advised Mr. Ryan that employees have not been given an opportunity for input, and that it is management's right to implement such a procedure. Mr. Ryan stated that this process significantly reduces the employee's right to pursue a dispute through the court system. Mr. Betts stated that, from a standpoint of filing law suits, it does because it shortens the time an employee can pursue action and limits that action to a review of the administrative process. In response to a question from Mr. Lewis, Mr. Betts stated that workers' compensation and unemployment disputes will not be covered by this procedure. Mr. Lewis stated that employees may not feel that this procedure gives them an opportunity for a fair hearing. Mr. Monroe expressed concern that employees have not been notified that this issue was going before the Board and have not been given an opportunity to speak to this issue. Mr. Emery pointed out that many people present in the Board room are employees who will be affected by this procedure, and none of these employees have requested an opportunity to speak under the Public Comment portion of the Board agenda. In response to a question from Mr. Zucchet, Mr. Betts stated that nonunion employees can only pursue a lawsuit through the court system if they go through this process, receive an unfavorable decision from the Grievance Committee, and the court subsequently determines that the Committee abused its discretion. Mr. Zucchet asked if the employee loses the right to have the court hear the facts of the case, and staff stated that the court will only review the Grievance Committee's decision. Mr. Jones stated that he didn't see anything in the procedure that would deny an employee due process, and the procedure actually provides them with a more accessible and easier approach to resolving disputes. Mr. Morrison stated that he does view this procedure as infringing on an employee's rights to pursue legal action. He also stated that he felt that employees should be notified and they have not been. Mr. Monroe stated that he was uncomfortable with the fact that employees cannot go to court to present the merits of their case. He stated that, while he thinks it is a great plan, he is concerned that employees have not been notified. Mr. Ryan stated that employees lose many rights - amount of time to file with the court, ability to have interrogatories, discovery, and depositions. He stated that it is important to be sensitive and respectful to the employees, and that MTS has a duty to provide this information to its employees. He stated that he would not support this procedure without

notification of employees prior to approval of the Board. Ms. Sterling stated that she felt the procedure was not right for the employee and that, before the Board makes a decision, employees should be notified. Staff provided the Board with a clarification on the types of positions that would be affected.

In response to a question from Ms. Sterling, Mr. Betts stated that the employee would be served with the Grievance Committee's decision along with a letter advising them of their rights to file a Writ and the time period for doing so. He stated that the 90-day period for filing a Writ would begin at the date of service. The Board briefly discussed the merits of continuing this item to allow employee input. Mr. Zucchet supported employee notification but felt that staff/legal counsel's recommendation for this item may still not change. He stated that this is a typical procedure and management employees may not be inclined to speak out against a management recommendation.

#### Action Taken

Mr. Emery moved to approve the Grievance and Hearing Procedure for Nonunion Employees of the MTS, SDTC, and SDTI (Attachment A of the agenda item). Mr. Roberts seconded the motion.

Mr. Lewis made a substitute motion to continue this item for 30 days in order to allow for notification of employees that will be affected by this procedure and giving them an opportunity to make comments. Those comments are to be brought back to the Board. Mr. Monroe seconded that motion, and the vote was 8-6 in favor with Emery, Jones, Rindone, Roberts, Williams, and Zucchet casting the dissenting votes.

31. MTS: Issue 25 Additional City of San Diego Taxicab Permits to Eligible Individual Taxicab Drivers (TAXI 500, 290.10, AG 250.1, PC 30110)

Ms. Susan Hafner, MTS Director of Multimodal Operations, provided the Board with the background on this project and reviewed the Request for Proposal (RFP) process. She also reviewed the ranking criteria and evaluation process for this project. She reported that the remainder of the permits will be issued by December 2005.

In response to Mr. Zucchet's question, Ms. Hafner reported that they have not yet determined how they will break ties on the alternate list. She advised Mr. Lewis that this program does not fall under MTS's Disadvantaged Business Enterprise (DBE) policy but would have no difficulty meeting the criteria if it did.

#### Public Comment

Ms. Margo Tanguay expressed her support of this item.

#### Action Taken

Mr. Emery moved to approve the recommendations of the Taxicab Driver Request for Proposals Selection Committee (Attachments A and B of the agenda item). Mr. Zucchet seconded the motion, and the vote was 14 to 0 in favor.



32. SDTI: Mission Valley East Final Operating Plan and Light Rail Vehicle Deployment (OPS 970.2, PC 30102)

Mr. Peter Tereschuck, President-General Manager of SDTI, provided an overview of the Mission Valley East (MVE) Final Operating Plan and Light Rail Vehicle Deployment Report. He reviewed the proposed final operating plan (including evaluation elements that were applied to develop the plan), described headways and hours of service, and described light rail vehicle deployment issues and car availability. Mr. Tereschuck pointed out that the recommended plan provides a significant estimated cost savings of \$956,417 over the full plan as originally approved by the Board.

Mr. Tereshuck briefly discussed compatibility issues between the SD-100s and S-70s and indicated that staff is still working on this element of the plan. He also reviewed vehicle assignment by line and LRV fleet deployment. He reported that the trolley-car requirement for meeting all service plus maintenance spares at a 20 percent ratio is 133.

Mr. Tereschuck then reviewed different approaches that could be taken to ensure that an adequate number of trolley cars are available for special events and briefly touched on options for purchasing additional trolley cars. He stated that options for increasing fleet size will be brought back to the Board as a separate item as recommended by the Executive Committee. Mr. Williams stated that the Board should also, at that time, discuss the ramifications of its decision to purchase low-floor trolley cars. Mr. Jablonski stated that staff intends to make a very comprehensive presentation to the Board, particularly regarding the significant outlay of capital and operational issues that are impacted by that decision. In response to a question from Mr. Emery, Mr. Tereschuck reported that this presentation would be made at the last Board meeting in February or the first meeting in March, and that the used cars available through Sacramento/Utah should still be available at that time.

In response to a question from Mr. Emery, Mr. Tereschuck anticipated that staff will need a six- to eight-month period to fully review the new trolley service prior to making any adjustments. He stated that it will be very important to include a full SDSU school year in the evaluation period.

Action Taken

Mr. Emery moved to approve the Mission Valley East Final Operating Plan, which includes headways, hours of service, and restricting Blue Line Mission Valley West service to operate only during limited peak-period intervals. Mr. Rindone seconded the motion, and the vote was 11 to 0 in favor.

REPORT ITEMS

45. MTS: Freeway Shoulder Lanes Demonstration Project (CIP 11481)

Ms. Toni Bates, SANDAG Director of Planning, provided the Board with an overview of Minneapolis's shoulder lane system including how it developed and operates. She reported that shoulder lane systems are low-cost improvements (\$100,000 per-mile average). She showed pictures of Minneapolis highways with these types of lanes, and

then explained where the San Diego demonstration project would occur. She reported that, since California law prohibits moving vehicles in shoulder lanes, they are turning the shoulder lane in the demonstration project into a transit-only lane.

Action Taken

Mr. Emery moved to receive this report for information. Mr. Monroe seconded the motion, and the vote was 11 to 0 in favor.

46. MTS: Access/ADA Suburban Paratransit Operations (OPS 980.8, PC 30117)

Ms. Hafner advised the Board that this report is being given because MTS has been receiving requests from Americans with Disabilities Act (ADA) passengers for services that exceed ADA requirements.

Mr. Max Calder, Associate Transit Operations Specialist, provided the Board with an overview of how this service is currently being provided with regard to subscription service, curb-to-curb vs. door-to-door, and the reservation process. Mr. Calder stated that MTS strives to offer a service that is provided in an equitable manner, that adheres to budget, and complies with ADA requirements.

Action Taken

Ms. Atkins moved to receive this report as an update on paratransit issues. Ms. Rose seconded the motion, and the vote was 11 to 0 in favor.

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

Chairman Williams advised the Board that the February 10, 2005, Board meeting conflicts with the SANDAG retreat, which is being held February 9, 10, and 11. He recommended that the February 3 Executive Committee and February 10 Board meeting be cancelled. Mr. Rindone requested that the February 3 Executive Committee be held and that the February 17 Executive Committee meeting be cancelled instead, still providing the Board with one Executive Committee and one Board meeting during the month of February.

Action Taken

Mr. Rindone moved to cancel the February 10, 2005, Board meeting and the February 17, 2005, Executive Committee meeting. Ms. Atkins seconded the motion, and the vote was 11 to 0 in favor.

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

There was no discussion of this item.

62. Board Member Communications

There were no Board Member communications.

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 Thursday, January 27, 2005, at 9:00 a.m. in the same location.

65. Adjournment

Chairman Williams adjourned the meeting at 12:03 p.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

Attachment: A. Roll Call Sheet

gail.williams/minutes