

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

November 16, 2006

MTS
1255 Imperial Avenue, Suite 1000, San Diego

MINUTES

1. Roll Call

Chairman Harry Mathis called the meeting to order at 9:02 a.m. A roll call sheet listing Board member attendance is attached.

2. Public Comment

Don Stillwell: Mr. Stillwell stated that buses and trolleys are not making efficient connections at Fashion Valley. Mr. Monroe stated that, at special meetings, public comment is limited to the subject of the meeting. Chairman Mathis stated that since general public comment was listed on the agenda, he would rule that Mr. Stillwell be allowed to speak. Mr. Stillwell added that bus drivers cannot get from 70th to College in the time allowed within the schedule.

DISCUSSION ITEMS

30. MTS: Transferring Operational Responsibility for National City Transit (NCT) Service
(FIN 3402, PC 50601)

Mr. Paul Jablonski, MTS Chief Executive Officer (CEO), provided an overview of this item. He provided the Board with information regarding the structure of NCT and reported that it operates nine buses with five spares on three routes. He advised the Board that MTS provides the funding for National City's budget and that NCT provides good customer service and has an excellent farebox recovery rate. Mr. Jablonski then reported that NCT's bus maintenance facility, which was purchased by the City in 1995 using Transportation Development Act (TDA) funds, has no compressed natural gas (CNG) infrastructure and one would have to be built before CNG-powered buses could be used in National City. He then reviewed NCT's relationship with MTS and pointed out that the contract with McDonald Transit is with NCT, not MTS. He reported that MTS, because of continuing budget deficits, embarked on an effort to identify efficiencies while attempting to deliver more service at less cost for the taxpaying public through a Comprehensive Operational Analysis (COA). He reported that staff's recommendation regarding the transfer of operational responsibility of NCT services was part of that effort. He also reported that NCT submitted an increase in overhead of \$120,000 for the FY 2006 budget, which caused the MTS Budget Development Committee to take a closer look at the relationship between NCT and MTS.

Mr. Jablonski then reviewed a chronology of events, which included meetings with National City representatives in which there were discussions about the savings that would result from a

transfer of operational responsibility to MTS and a reinvestment of those savings in additional transit service for National City. Mr. Jablonski stated that, by reinvesting the savings in additional transit service for National City, there should be a corresponding increase in revenues. He reported that a White Paper that presented a completed detailed analysis on this issue was delivered to National City representatives in early March 2006. Mr. Jablonski pointed out that MTS can absorb NCT service into its existing structure with a net savings of \$565,200 and reviewed the elements included in that savings. Mr. Jablonski added that, through the COA, MTS was able to identify a 41 percent increase in transit services for National City.

He then outlined the benefits of the recommended transfer, which include better service at lower cost, reduced MTS oversight requirements, construction of CNG infrastructure would be unnecessary and CNG buses could be operated in National City sooner, a property asset would be freed up for National City's use with potential use as a major transit center, and NCT's employees' jobs would be protected.

In response to a question from Mr. Lewis regarding the job security of the McDonald Transit employees, Mr. Jablonski stated that most employees would go to work for Veolia; however, if NCT employees want to work for San Diego Transit, they will be accommodated. He pointed out that employees who transfer would receive the same or better wages. He advised Mr. Lewis that operators may not retain the particular route they are driving. He added that transferring employees would be handled in accordance with the labor contract provisions at the respective property into which they transfer. Mr. Jablonski further advised Mr. Lewis that the transfer of operational responsibility was discussed by the Budget Development Committee in the spring and by the Board shortly after that.

Public Comment

Ron Morrison, Councilmember and Mayor-Elect of National City and Former MTS Board Member: Mr. Morrison stated that National City requested the special meeting of the MTS Board in order to cure Brown Act violations and added that this is the first time this issue has been discussed in public. He stated that the reports in the agenda item, including the letter dated September 2006, are filled with assertions and assumptions that National City disagrees with and that words from conversations between MTS and National City representatives were used out of context. Mr. Morrison added that he is very proud of NCT and its performance indicators. He stated that, while most properties have farebox recovery rates of 20-25 percent, NCT has a recovery rate above 60 percent.

Mr. Morrison added that there were discussions of this matter in 2005 and he received the White Paper in March and he thought discussions were proceeding in an amicable fashion. He stated that, on August 22, 2006, he met with the CEO and Chairman who informed him that MTS was serving notice of the recommended transfer and that there had been a unanimous vote by the Board to discontinue TDA funding for National City Transit. He added that there has never been a "public" vote on National City's TDA funding. He stated that he was quite surprised. He stated that they had been working in good faith to determine how this issue could be handled amicably. He added that he was told that National City's reception of MTS's recommendation would depend on how he "spun" the message to his city council. He added that National City is the most transit friendly city in the County. He stated that the City is considering increasing transit service at its own expense to include a feeder system to serve downtown. He added that NCT ridership is two million passengers per year. He also

maintained that the COA's purpose was to analyze the productivity of each route and had nothing to do with the transfer of National City service to MTS. He stated that there was never any quid pro quo saying that this transfer had to occur before National City would be provided with an increase in transit service.

Mr. Morrison stated that he believes in a regional outlook. He said that local governments give up control to a regional agency, but it's done on the basis of working for a common good and is not done arbitrarily and unilaterally. He objected to the way National City has been treated. Mr. Morrison stated that this decision merits further discussion and should not be made arbitrarily and unilaterally. He suggested that this issue be revisited and that McDonald Transit be involved in those discussions. He stated that if these discussions end with the same conclusion, he would be okay with that. He stated that National City wants to have the best transit system possible.

In response to a question from Mr. Allan, Mr. Jablonski stated that, if the decision on this matter is not made today, the implementation of the COA January 1 changes will be delayed. Mr. Jablonski added that McDonald Transit's contract expires June 30. Mr. Mathis stated that McDonald Transit's contract can be automatically extended for five years, and it was MTS's intent not to provide the means for that to happen.

In response to a question from Mr. McLean, Mr. Morrison explained that National City Transit recovers 65 percent of its budget from the farebox and MTS provides the TDA funding for the remaining 35 percent. He added that the only profit to the City of National City comes from rent that McDonald Transit pays for the land on which the maintenance facility stands. He also explained to Mr. McLean that though National City would not lose transit service if the recommended action is taken, it will lose the flexibility it currently enjoys in adapting service for community events and other purposes.

In response to a question from Chairman Mathis, Mr. Morrison stated that the \$150,000 charge to MTS for overhead is comprised of \$28,000 for ongoing management information system services and \$92,000 is for National City oversight of McDonald Transit. Mr. Mathis questioned why that cost is passed on to MTS.

Mr. Jablonski stated that NCT's operating farebox recovery rate, based on a comparison of NCT's total budget to operating revenue, is 43 percent, which means that MTS provides 57 percent of the funding for NCT operations or \$1,720,000. Mr. Monroe stated that when the oversight function was transferred to the City, the corresponding decrease in NCT's budget should have gone to the City to cover its increased cost. He stated that, instead it has been added to MTS's subsidy for NCT. Mr. Monroe requested that staff look into why it was handled this way.

John Webster, General Manager, National City Transit: Mr. Webster provided the Board with information on his involvement within the National City community. He stated that he was not involved in the decision-making process. He stated he would have liked an opportunity to respond to the White Paper. He also stated that National City Transit could take on another 40 buses. He suggested that MTS clone NCT service, not break it up. He stated that operators may be guaranteed jobs but might choose instead to continue to work for NCT. He talked briefly about the quality of the service provided by NCT. He also pointed out that NCT was able to return unspent funding to MTS in the amount of \$125,000 in FY 04, \$75,000 in FY 2005, and

\$95,000 in FY 2006. He added that NCT could cut \$300,000 from its budget by reducing staff but was never given an opportunity to present that idea.

Kevin Kane, National City Transit: Mr. Kane stated that the CNG fueling concept could be used to save rather than cost money. He pointed out that MTS never asked NCT to review its budget and service in an attempt to reduce costs. He added that the oversight of NCT relates to a recommendation made by TDA auditors that oversight of NCT be transferred to the City of National City. He also suggested using NCT's resources to cover more service. He referred to the Los Angeles Metropolitan Transit Authority where they recently split operations into five parts in order to reduce bureaucracy.

Robert Babbitt, President, McDonald Transit: Mr. Babbitt stated that everyone involved in this issue works for the taxpayers. He added that McDonald Transit has never been asked to remove the automatic five-year renewal option from their contract with NCT and added that they would be willing to do so. He added that NCT is run by many talented people, and the Board is being lead to a false assumption that they are inefficient. Mr. Monroe congratulated McDonald on doing such a good job and thanked them for offering to remove the five-year option. He requested that they not exercise that option on June 30.

Steve Alcove, Business Agent, Amalgamated Transit Union, Local 1309: Mr. Alcove pointed out that he received information regarding this issue via e-mail and was not involved in discussions of this matter. Mr. Alcove added that he appreciated that the employees will be taken care of. He stated that employees are currently uncertain about their future and are understandably concerned. He requested that the Board consider making him a member of the transition team. Chairman Mathis advised Mr. Alcove that the detail Mr. Alcove is looking for regarding the future of employees is part of the transition process. He also pointed out that both he and the CEO had met face to face with Alcove regarding this matter. Mr. Alcove stated that he was referring to not being included in the initial discussions.

Clive Richard: Mr. Richard was not present to make comments.

A chart provided by National City representatives showing performance indicators for NCT was distributed.

Mr. Jablonski advised the Board that the contract with McDonald Transit can be cancelled with a one-year notice or a 30-day notice if funding is eliminated. He stated that the COA was going to be implemented in January 2007, and McDonald Transit was going to be given a 30-day notice. In response to a question from Mr. Lewis, Mr. Jablonski explained that the Federal Transit Administration (FTA) is recommending that MTS increase its oversight of NCT's Americans with Disabilities as well as Drug & Alcohol compliance.

Mr. Lewis stated that he could understand the positions of both MTS and NCT, and he would like to see an amicable agreement reached. He suggested that the Board not take action until the questions raised could be answered and suggested that the union representative be included on the transition team. He also felt that the operators should have been brought in at the beginning of discussions. Mr. Mathis pointed out that MTS considers the \$565,200 an unnecessary expense for an operation that can be folded into an existing structure. He agreed that NCT is a good system, and, in recognition of the demand for transit in National City, MTS has included a service increase of 41 percent for National City as part of the COA. He stated

that the MTS Board has a fiduciary responsibility to absorb this much smaller operation in order to eliminate an unnecessary expense.

Mr. Emery agreed that it is desirable to reach an amicable agreement and added that he thinks that can happen. He stated that MTS is not criticizing NCT's system, and that the decision was based on MTS bearing an unnecessary expense in order to have this separate system. He stated that MTS has to operate the entire MTS system as economically as it possibly can. He stated that if staff's figures are correct, and he felt comfortable that they were, then he would vote in support of the recommendation.

Mr. Allan stated that he understood Mr. Morrison's desire to do what is best for National City. He added that he did not feel comfortable with voting in favor of the recommendation. He added that he thought the Union should have representation on the transition team.

Ms. Atkins stated that it is key that MTS pay attention to service for the transit rider. She added that Mr. Morrison made some serious statements and charges regarding MTS's communication with the City of National City, and she would like to hear responses to those charges. She stated that adequate dialogue between the parties is very important to this type of process. She added that she also understands that the business aspect of this action needs to be given consideration. She asked how some jurisdictions could have separate transit services. She stated that if MTS can increase service, save money, pay fair wages to and take care of the employees, and have adequate dialogue with member agencies, then she will rely on the numbers presented by staff to make a decision. She also stated that the COA is designed to maximize MTS's responsibility for providing equitable service for the greater good. She also stated that the process itself and the dialogue that occurs are very important. She added that she would like it to be made part of the record that employees will be taken care of.

Mr. Mathis stated that this meeting doesn't acknowledge any errors on the part of MTS and its Board, but addresses concerns of those who want to speak to this issue. He stated that in any dialogue, people form different impressions of what occurred. He stated that Mr. Morrison's objections related to the way this matter was handled rather than the end result, and stated that he regretted that. He apologized for any role he had in that. He stated that National City is a partner in the MTS organization.

In response to a question from Ms. Atkins, Mr. Jablonski responded that initial discussions on May 26, 2005, with Mr. Morrison were conducted from a win/win perspective under which MTS would absorb NCT and reinvest the savings in an increase in service for National City. He added that they also spoke about NCT being able to use the maintenance facility property for other uses or it could be turned into a major transit facility according to their wishes. He added that National City was involved in the Capital Improvement Program process during which building a new facility in a different location was discussed. He added that National City asked in July if MTS would buy that property. He added that, in October of 2005, he and two staff members met to discuss property issues and to review service increases for National City and the absorption of NCT. He added that a White Paper was finalized and provided to Mr. Morrison in the spring of 2006.

Mr. Parra felt that having a transparent process had not been done in this case. He also pointed out that McDonald Transit has offered to identify a savings of \$300,000 and give up their automatic five-year contract extension. He added that NCT employees are very happy,

asked if they would retain their seniority when they transfer, and asked how they would be treated. He also stated that there needed to be a clarification on the use of the property in question.

Mr. Parra moved to delay the recommended action, form a committee to further address these issues, and bring this issue back to the Board. Mr. Lewis seconded the motion.

Mr. Clabby stated that he was involved in the COA process, and that much consideration was given to how to most effectively use the available funding while addressing budget deficits. He reminded everyone that San Diego County does not have a dedicated tax base for transportation. He stated that absorbing NCT in order to complete a regional organization was discussed, and that the COA Committee on which he sat looked at the savings that would result from taking that action. He added that it makes sense from a business standpoint and that there is no need for an additional management structure. He stated that the entire COA concept was presented and discussed with transit riders during many public meetings with MTS customers. He stated that the action recommended by staff is the right thing to do. He stated that being more efficient lets MTS better serve its customers with increased service levels and stated that he felt very strongly about this issue. He also stated that he took exception to the comments that there was not enough communication. He stated that a lack of continuity in National City representation on the Board may have contributed to that feeling. He also stated that he served on the Budget Development Committee when these discussions were taking place and felt that these overhead expenses for such a small organization were not necessary. He added that some employees of NCT may even improve their employment situation by taking advantage of the transfer opportunity that results from approval of this action. He added that delaying this action will delay the entire implementation process for the COA. He stated that MTS has already spent thousands of dollars on a process that is ready to move forward in January 2007. He stated that to not approve this action will also delay the savings that MTS will realize from the implementation of the COA.

Mr. Cox stated that, on the surface, the Board's choice should be obvious given the savings that can be realized by absorbing NCT. He added that there are definitely differences of opinion and he would prefer to err on the side of giving NCT the opportunity to dispute the information presented or offer alternatives. He stated that the overriding issue is providing as much service as possible with the available funding.

Mr. Monroe stated that when the Board takes a vote that affects another city, it is very difficult to do. He stated that he was willing to delay the vote on this item but maintained that MTS, whatever the outcome is, must still realize the \$565,200 savings. He added that he was in favor of McDonald Transit participating in the process to review this issue. He reminded the Board that there would be an added cost for creating CNG infrastructure in National City. He stated that CNG is very important and that any report back to the Board should address that issue. Mr. Monroe stated that he did not feel that he was completely briefed for the Closed Session discussions of this issue. He also stated that he thought the staff's recommendation had been developed cooperatively.

Mr. Rindone stated that the Board needs to be cognizant of the savings and its impact on the budget. He asked General Counsel to address the allegations regarding violation of the Brown Act. Ms. Tiffany Lorenzen, General Counsel, referred to her letter to National City. She paraphrased the pertinent points of the letter for the Board and stated that there was no

violation at any time by the Board. In response to a question from Mr. Parra, Ms. Lorenzen stated that there were no public meetings regarding the decision to absorb NCT.

Mr. Emery agreed that National City should be given the opportunity to rebut staff's figures and that the parties should meet to discuss these issues. He stated that the group should work toward a result that is mutually beneficial, has the needed cost savings, and ensures efficient bus service in National City. Mr. Jablonski stated that it is his recommendation that implementation of the COA be delayed until the June 1 shakeup. He stated that any decisions made will affect NCT, Veolia Transportation, and SDTC. Mr. Mathis stressed that MTS has a fiduciary responsibility to address inefficiencies in its operation and that the issues raised during the meeting could be addressed during the transition process. He stated that the management structure for NCT is redundant and should be absorbed. He also stated that National City has known for a long time that this was the direction in which MTS was moving even if they didn't like the way the process unfolded. He stated that approving staff's recommendation gives National City improved service and provides them with the opportunity to utilize the property in question for whatever purpose it chooses. He pointed out that approving the recommendation would be of significant benefit to National City and fulfills the Board's fiduciary responsibility.

Ms. Atkins stated that she would like to move forward on this action today, but that National City is a member agency of this Board and she would like to offer National City additional opportunity for input. She suggested that this item be deferred to the Board's December 14, 2006, agenda. She stated, however, that she did not want MTS to wait until June to implement the COA. Mr. Cox stated that some of the comments today were extreme and everyone needed to take a step back. He also stated that staff had done a great job. He agreed with Ms. Atkins' suggestion that this item be deferred to the next Board meeting. He stated that his instinct was to support staff's recommendation. Mr. Monroe pointed out that delaying the COA would also have a negative impact on the projected savings for that project. Ms. Claire Spielberg, Chief Operating Officer – Bus, and Mr. Conan Cheung, Director of Planning & Performance Monitoring, provided the Board with an overview of the administrative details that have to be handled as part of service changes. Mr. Jablonski stressed that this is a very large effort and preparation is weeks long. Ms. Spielberg stated that shake-up dates are established within the collective bargaining agreement and cannot be arbitrarily changed.

Mr. Rindone reiterated previous comments about the benefit to National City, the cost savings, McDonald Transit's offer regarding the five-year contract extension, and their offer to try to identify savings. He stated that the bottom line for him is that everyone should work together on this matter and suggested a compromise. Mr. Jablonski stated that MTS could ask the Union for a delay in the date for the next shakeup.

Action Taken

Ms. Atkins made a substitute motion that representatives from MTS, National City Transit, McDonald Transit, and ATU meet to discuss this matter, pursue a delay in the scheduled January 1, 2006, shakeup, consider counterproposals, and report back at the December 14, 2006, Board meeting. Mr. Emery seconded the motion, and the vote was 11 to 0 in favor.

CLOSED SESSION:

40. Closed Session Items (ADM 122)

The Board convened to Closed Session at 11:22 a.m.

- a. MTS: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(a) Wooten v. San Diego Trolley, Inc., Et AL. (Superior Court Case No. GIC 853080)
- b. MTS: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to California Government Code Section 54956.9(a) (Stella Reed v. MTS, Et AL.) (Claim No. Unassigned)

The Board reconvened to Open Session at 11:32 a.m.

Oral Report of Final Actions Taken in Closed Session

Ms. Tiffany Lorenzen, MTS General Counsel, reported the following:

- a. The Board received a report and gave direction to outside counsel.
- b. There was no discussion of this item. The item was continued to the next Board meeting.

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 scheduled Board meeting will be Thursday, December 14, 2006, at 9:00 a.m. in the same location.

65. Adjournment

Chairman Mathis adjourned the meeting at 11:33 a.m.

Filed by:

Approved as to form:

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

Office of the General Counsel
San Diego Metropolitan Transit System

Attachment: A. Roll Call Sheet

gail.williams/minutes