

**EXECUTIVE COMMITTEE MEETING FOR THE  
METROPOLITAN TRANSIT SYSTEM (MTS),  
SAN DIEGO TRANSIT CORPORATION (SDTC),  
AND SAN DIEGO TROLLEY, INC. (SDTI)**

**December 6, 2007**

**MTS  
1255 Imperial Avenue, Suite 1000, San Diego**

**MINUTES**

**A. ROLL CALL**

Chairman Mathis called the meeting to order at 9:05 a.m. A roll call sheet listing Executive Committee member attendance is attached.

**B. APPROVAL OF MINUTES**

Mr. Rindone moved approval of the minutes of the November 1, 2007, Executive Committee meeting. Mr. Emery seconded the motion, and the vote was 3 to 0 in favor.

**C. COMMITTEE DISCUSSION ITEMS**

**1. MTS: Legislative Update and Proposed Federal and State Legislative Goals (LEG 410)**

Ms. Sharon Cooney, MTS Director of Government Affairs and Community Relations, provided the Committee with a legislative update and an overview of MTS's proposed federal and state legislative goals. During her review of state legislation, she pointed out that SB 717 (Perata) funnels 50 percent more Public Transportation Accounting money into the State Transit Assistance (STA) Program, which goes directly to agencies, versus the State Transportation Improvement Program (STIP), which is governed by the California Transportation Commission. She added that this will be a 75 percent increase in MTS's STA. Mr. Paul Jablonski, MTS CEO, stated that this is the only good news relative to MTS's FY 2009 budget and the balance of its FY 2008 budget. He stated that MTS is facing a shortage of \$8.9 million in its FY 2009 budget, and these new STA funds would offset 50 percent of that shortfall.

Ms. Tiffany Lorenzen, MTS General Counsel, reported that the California Transit Association (CTA) filed a lawsuit against the state of California for its recent decision to divert spillover funds that were supposed to be spent on transit. She reported that this case was heard on November 30, and the judge discussed the matter with the attorneys and reviewed the briefings that were submitted. She stated that a written opinion is expected either this week or next.

Action Taken

Mr. Rindone moved to (1) receive a report on 2007 legislative and intergovernmental activities; (2) accept the proposed MTS 2008 Federal Legislative Program; (3) accept the proposed MTS 2008 State Legislative Program; (4) authorize the CEO to direct MTS's Sacramento and Washington, D.C. representatives to advocate the state and federal legislative programs; and (5) forward this matter to the Board. Mr. Ewin seconded the motion, and the vote was 4 to 0 in favor.

2. MTS: Fiscal Year 2009 Capital Improvement Program (FIN 340)

Mr. Jablonski advised the Committee the, once again, there are more projects than funding and that the current program allocates a significant portion for the purchase of buses. He stated that, at the time of replacement, MTS's articulated buses will be 16 years old. He added that, after this year, the system will be in a much better position than it has been for a long time in terms of the age of its fleet. He added that MTS currently has 100 CNG coaches bought in 1995 that should be replaced by 2010. He reported that CNG tanks are only rated for 15 years and that, at a cost of \$75,000 for tank replacement, it doesn't make sense to replace tanks on 15-year-old vehicles.

Mr. Jablonski also reported that TransNet and state bond funding will be used to rehabilitate the Blue Line, which will cost around \$300 million.

Mr. Jablonski advised the Committee that MTS will come under increasing pressure because of shortfalls in sales tax, and staff is exploring an option for moving funding out of capital to bolster operations.

Mr. Larry Marinesi, MTS Budget Manager, reviewed capital funding levels for FY 2009. He also reviewed the process that was used to develop the FY 2009 capital project list and the highlights of the results. In response to a question from Mr. Ewin, Mr. Jablonski reported that MTS's fleet size is 725. Mr. Marinesi then reviewed FY 2009 unfunded projects and stated that MTS may be able to apply some portion of the \$1 million to \$3 million that will be available for security programs through the state bond issue to the CIP. He added that there may be more potential revenue from federal security programs. He then reviewed a five-year projection for capital improvements. In response to a question from Ms. Atkins, Mr. Jablonski reported that federal section 5307 funds are considered to be "legacy" funding because MTS's share (75 percent) of those funds for planning were transferred to SANDAG when planning functions were assumed by them. Ms. Cooney pointed out that SANDAG also takes three percent from TDA for administration purposes before it is allocated. Ms. Atkins stated that she would like to see how these funds are being used and suggested that this may be something that should be negotiated.

In response to an observation by Mr. Ewin regarding the "cost" of deferred maintenance, Mr. Jablonski stated that MTS was in a fairly good position for addressing maintenance needs one year ago. He added that the loss of spillover funds seriously compromised that position and added that about \$40 million per

year is needed. He stated that if the expected \$50 million to \$57 million from TransNet and the state bond program is realized, MTS may be able to hold on until the state is in a better position. He added that MTS has 71 rail cars that can be maintained another ten years, at which time they will be in excess of 35 years old. He stated that it will cost \$300 million to replace them, and MTS anticipates having only \$30 million to spend.

Mr. Jablonski advised the Committee that the reinstatement of spillover funding for transit would help. He also stated that SANDAG is discussing the possibility of introducing a tax initiative in 2010 for transit (1/4 cent). He added that MTS and SANDAG have been discussing the possibility of using TransNet funding for maintenance of infrastructure rather than for new projects. He stated that if funding for these issues is not realized, dramatic service cuts would have to be made and the resulting savings used to meet capital needs.

Mr. Rindone stated that this topic is on the agenda for the SANDAG Board retreat, which presents an opportunity for MTS to make SANDAG Board members aware of this issue. Chairman Mathis suggested that MTS prepare a White Paper on this topic and that this paper be distributed to SANDAG Board members in advance of the retreat. Mr. Ewin stated that he would like copies of this paper to present to his city council and that he would like to attend the retreat the day this matter is discussed. Mr. Rindone suggested that all MTS Board members be alerted. Chairman Mathis indicated that agenda items are already being added to the agenda for the retreat, which will reduce the amount of time that can be spent on this topic. Mr. Emery suggested that the White Paper include the table (five-year projection for CIP) from staff's Power Point presentation and that staff highlight the primary issues. He stated that the Paper should be easy to read and very clear.

Ms. Atkins expressed concern that any consideration that is currently being given to quality-of-life issues will detract from efforts to maximize capital funding and will confuse voters when they are asked to vote on a transit initiative. Ms. Cooney briefly discussed previous retreats where staff was successful at pushing for transit funding.

Mr. Rindone suggested that the White Paper be presented at the next SANDAG Transportation Committee meeting and stated that the Board should have an opportunity to review the Paper before it is presented. The Committee agreed. Chairman Mathis stated that the White Paper could be revised as needed based on the reaction of the Transportation Committee. Mr. Ewin mentioned that having the Paper ready this early would give him an opportunity to present it twice to his city council before the SANDAG Board retreat.

#### Action Taken

Mr. Rindone moved to (1) approve the fiscal year 2009 Capital Improvement Program (CIP) with the estimated federal and nonfederal funding levels. As the federal appropriation figures are finalized and/or other project funding sources become available, allow the CEO to identify and adjust projects for the adjusted funding levels; (2) recommend that the SANDAG Board of Directors approve the

submittal of federal Section 5307 and 5309 applications for MTS's fiscal year 2009 CIP (as shown in Attachment A in the agenda item) after the federal appropriations are finalized; (3) recommend that the MTS and SANDAG Boards of Directors approve the transfers of \$748,200 from the indicated projects to the fiscal year 2009 CIP; and (4) recommend that the SANDAG Board of Directors approve the amendment of the Regional Transportation Improvement Program in accordance with the fiscal year 2009 CIP recommendations. Ms. Atkins seconded the motion, and the vote was 4 to 0 in favor.

3. MTS: Status Report on Right of Entry for Third-Party Carriers at the El Cajon Transit Center (LEG 461)

Mr. Paul Jablonski, MTS CEO, reminded the Committee that the Budget Development Committee, and subsequently the Board of Directors, approved a variety of measures to reduce expenses and enhance revenues in an effort to address MTS's budget deficit for FY 2008. He added that generating revenues through MTS's real estate was one of the ideas proposed, and that charging right of entry fees for the El Cajon Transit Center was identified as one of the options MTS should pursue. He stated that staff has been involved with the tribes who run about 50 to 70 vehicles per day in and out of this center. He stated that, because of the center's heavy usage by heavy over-the-road coaches, the pavement has deteriorated, and MTS had to spend \$35,000 to repair the lot.

Ms. Cooney introduced Kim Hale of Barona, Robert Vint of Sun Diego Charter, and Mitch Bradley of Sycuan. She advised the Committee that MTS received a counterproposal from this group late the day before the Executive Committee's meeting. Ms. Cooney briefly discussed how the El Cajon Transit Center is currently being used and what MTS's objectives are in connection with this issue. She reviewed MTS's proposal and then the tribal counterproposal, which was placed at each Committee members place prior to the start of the meeting. It was clarified that the tribal proposal was for \$2.50 per bus per entry and that the sharing of future damages caused by casino bus operations would be shared between the tribal parties, not by MTS.

Chairman Mathis pointed out that the Executive Committee was not in a position to okay an agreement as part of the meeting. Ms. Hale stated that the tribal group is willing to meet as many times as is necessary in order to have an agreement in place by January 1, 2008. She stated that they have agreed to add MTS to the necessary insurance riders. Ms. Cooney stated that they are willing to add MTS to their insurance riders immediately.

In response to a comment from Mr. Emery, Ms. Cooney stated that it would be difficult for formulate a uniform policy to cover these types of matters at all transit stations since there are unique characteristics at each station that may necessitate different types of agreements. She cited examples to illustrate this point. Ms. Lorenzen reported that staff cannot find any other transit agencies that allow third-party carriers to use their facilities so no comparisons can be made.

In response to a question from Ms. Atkins regarding the cost of concrete instead of asphalt, which would hold up better under the heavier coaches used by the casinos, staff reported that cost would be about \$70,000.

Chairman Mathis stated that any agreement reached between the tribes and MTS staff would be considered tentative until approved by the Board. Mr. Jablonski pointed out that the per-entry fee being proposed by the tribes is only about ten percent of what MTS is proposing. Ms. Hale pointed out that if the casino buses are barred from entering the El Cajon Transit Center, MTS would be deprived of a source of revenue. She stated that their promotion of transit aligns with MTS's goals and stated that they have been promoting transit usage for a decade and has been reducing traffic congestion in the process.

Mr. Rindone pointed out that the Executive Committee was clear about the \$20 per-entry fee. Staff reported that this particular issues has been discussed for six to seven years and usage of the transit center by third parties has steadily increase during that time period. Mr. Jablonski stated that the only reason a counterproposal was received was because this item was appearing on the Executive Committee's agenda. Mr. Jablonski was not confident that an agreement could be reached given the fact that the tribal proposal was significantly less than staff's proposal. He stated that he was prepared to bar their use of the El Cajon Transit Center effective January 1, 2008 in order to prevent further deterioration of the station and associated liabilities. Ms. Lorenzen pointed out that this entire matter falls within the CEO's authority.

Ms. Atkins agreed that MTS should be making some revenue from the outside use of this facility and felt that the CEO should continue to work toward an agreement. Mr. Ewin did not feel comfortable with barring outside parties from using the transit center effective January 1. He stated that he would like to see an agreement reached prior to the December 13, 2007, Board meeting. Ms. Atkins stated that she felt comfortable with leaving this matter in the hands of the CEO and added that it was her intent to support the CEO. Mr. Rindone stated that he strongly supports staff's recommendation in this matter.

#### Action Taken

Mr. Rindone moved to authorize the CEO to continue negotiations abiding by the direction given by the Board to seek at \$20 per-entry fee from outside parties, with the understanding that failure to reach an agreement and achieve indemnification will result in a prohibition of third-party use of the El Cajon Transit Center effective January 1, 2008, at the discretion of the CEO. Chairman Mathis seconded the motion, which failed by a 2 to 2 vote, with Ms. Atkins and Mr. Ewin casting the dissenting votes.

Ms. Hale stated that a \$20 per-entry fee would be catastrophic to the tribes.

Mr. Ewin moved to authorize the CEO to continue negotiations with Baron, Sycuan, and Viejas, regarding right of entry into the El Cajon Transit Center and that the position of each party or a draft agreement be presented at the December 13,

2008, Board meeting. Ms. Atkins seconded the motion, and the vote was 4 to 0 in favor.

Mr. Rindone pointed out that this is the same motion that he originally made and that failure to reach an agreement would result in closure of the station to tribal buses effective January 1, 2008.

D. REVIEW OF DRAFT SEPTEMBER 27, 2007 BOARD AGENDA

***(Taken Out of Order)***

Recommended Consent Items

6. MTS: San Diego and Arizona Eastern (SD&AE) Railway Company Quarterly Reports and Ratification of Actions Taken by the SD&AE Railway Company Board of Directors at its November 5, 2007 Meeting (SDAE 710.1)

Recommend that the MTS Board of Directors receive the San Diego and Imperial Valley Railroad (SD&IV), Pacific Southwest Railway Museum Association (Museum), and Carrizo Gorge Railway, Inc. (Carrizo) quarterly reports (Attachment A of the agenda item) and ratify the 2008 meeting schedule (Attachment B of the agenda item); and (2) ratify actions taken by the San Diego and Arizona Eastern (SD&AE) Railway Company Board of Directors at its meeting on November 6, 2007.

7. MTS: Taxicab Committee Member Election Results (TAXI 585.3)

Recommend that the Board of Directors receive a report for information regarding election results of the election for new members to the Taxicab Committee.

8. MTS: Investment Report (FIN 300)

Recommend that the Board of Directors receive the investment report for information.

9. MTS: Amendment to Contract Assignment for On-Call Engineering Services (CIP 11222)

Recommend that the Board of Directors authorize the CEO to execute an amendment to assignment of contract Doc. No. G1127.0-08 (Attachment A of the agenda item) from SANDAG for on-call engineering services with Bureau Veritas/Berryman and Henigar.

10. MTS: Regional Transit Management System – Contract Amendments (CIP 10940)

Recommend that the Board of Directors (1) ratify Amendment No. 3 (Attachment A of the agenda item) to MTS Doc. No. G0867.0-03 (Motorola) as executed by the CEO for an amount not to exceed \$99,712 with an MTS cost of \$96,316 and a North County Transit District (NCTD) cost of \$3,396.90; (2) authorize the CEO to execute Amendment No. 4 (Attachment B of the agenda item) to MTS Doc. No. G0867.0-03 (Motorola) for a change order in an amount not to exceed \$119,461.50 with an NCTD

cost of \$119,461.50; (3) authorize the CEO to execute Amendment No. 2 (Attachment C of the agenda item) to Doc. No. G0868.0-03 (Funds Transfer Agreement with NCTD) for change orders in the amount of \$122,857.50 for a total adjusted amount not to exceed \$7,521,488.50; and (4) authorize a contract contingency of \$100,000 and authorize the CEO to execute future contract amendments not to exceed that amount.

Recommended Consent Items

In response to a question from Mr. Rindone regarding Consent Agenda Item No. 7, Taxicab Committee Member Elections, Ms. Lorenzen stated that some Taxicab Committee members are appointed and others are voted for by permit holders. She referred to Page A-1 of the agenda item, which is the election ballot that was used to select the nonappointed Committee members.

Public Comment

*Margo Tanguay:* Ms. Tanguay stated that staff did a fine job, and the procedure worked very well.

Recommended Board Discussion Items

There was no discussion of the recommended Discussion Items.

E. REVIEW OF SANDAG TRANSPORTATION COMMITTEE AGENDA

Chairman Mathis reported that the next Transportation Committee meeting will be held Friday, December 14, 2007, and Ms. Cooney will be issuing a summary sometime next week in advance of the meeting.

C. DISCUSSION ITEMS (Continued)

***(Taken Out of Order)***

The Committee convened to Closed Session at 10:40 a.m. to discuss the following item:

4. MTS: CLOSED SESSION: Conference with Legal Counsel – Anticipated Litigation Significant Exposure to Litigation Pursuant to California Government Code section 54956.9(b): (One Potential Case)

The Committee reconvened to Open Session at 11:29 a.m.

Oral Report of Final Actions Taken in Closed Session

Ms. Tiffany Lorenzen, MTS General Counsel reported the following action taken in Closed Session:

The Committee received a report from staff.

F. COMMITTEE MEMBER COMMUNICATIONS AND OTHER BUSINESS

LOSSAN: Mr. Rindone advised the Executive Committee that he would be attending a LOSSAN meeting for MTS on December 12.

G. PUBLIC COMMENTS

There were no Public Comments.

H. NEXT MEETING DATE:

The next meeting is scheduled for Thursday, January 10, 2008, in the Executive Conference Room.

I. ADJOURNMENT

Chairman Mathis adjourned the meeting at 11:30 a.m.

A handwritten signature in black ink, appearing to read "Mathis", is written over a horizontal line.

Chairman

Attachment: A. Roll Call Sheet

[gail.williams/minutes](#)