

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

September 12, 2024

[Clerk's note: Except where noted, public, staff and board member comments are paraphrased. The full comment can be heard by reviewing the recording at the [MTS website](#).]

1. Roll Call

Chair Whitburn called the Board meeting to order at 9:01 a.m. A roll call sheet listing Board member attendance is attached as Attachment A.

2. Public Comment

Peggy J. Carlson-Mathis – Provided a verbal statement to the Board during the meeting. Peggy expressed dissatisfaction with MTS staff and spoke about struggles boarding the bus on her scooter.

Justin Kehr – Provided a verbal statement to the Board during the meeting. Justin expressed frustration with the Trolley's restrictions on surfboards.

Alex Wong – Provided a verbal statement to the Board during the meeting. Alex expressed opposition with the Trolley to the airport proposal.

Truth – Provided a verbal statement to the Board during the meeting. Truth expressed frustration with MTS Trolley operations.

CONSENT ITEMS:

3. Approval of Minutes

Action would approve the July 18, 2024 Board of Directors meeting minutes.

4. Chief Executive Officer's (CEO) Report

5. Fiscal Year (FY) 2025 Transportation Development Act (TDA) Claim

Action would adopt Resolution Nos. 24-09, 24-10, and 24-11 approving FY 2025 TDA Article 4.0, 4.5, and 8.0 claims allocating \$135,306,066 in TDA revenues for MTS.

6. East County Division (ECD) Zero Emission Bus (ZEB) Overhead Charging System Layout and Design – Work Order Agreement

Action would authorize the Chief Executive Officer (CEO) to execute Work Order WOA353-AE-26 under MTS Doc No. PWL353.0-22, with Dokken Engineering (Dokken), in the amount of \$396,837.52 to provide engineering planning services for the ECD ZEB master planning.

7. Blue Line Right of Way Retaining Wall – Construction Change Order

Action would authorize the Chief Executive Officer (CEO) to execute Construction Change Order (CCO) 3 to Work Order No. MTSJOC348-01 under Job Order Contract (JOC) MTS Doc. No. PWG348.0-22, with Veterans Engineering Inc. (Veterans), in the amount of \$308,522.52 for unforeseen conditions discovered during the installation of the new sheet pile retaining wall near Switch 85 along the Blue Line Right of way.

- 8. Clean Natural Gas (CNG) Fueling Station Equipment Replacement – Contract Amendment**
Action would authorize the Chief Executive Officer (CEO) to execute Amendment No. 4 to MTS Doc. No. B0729.4-21, with Trillium, for Imperial Avenue Division (IAD) CNG dryer replacement at \$480,154.14; and South Bay Maintenance Facility (SBMF) CNG dryer B Replacement at \$492,113.02, for a total of \$972,267.16.
- 9. Orange Line Variable Message Sign (VMS) Replacements – Contract Award**
Action would authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWL393.0-24, with Balfour Beatty Infrastructure, Inc. (Balfour Beatty), for Orange Line VMS replacements in the amount of \$237,200.00.
- 10. Kearny Mesa Division (KMD) Administration Building Stucco Replacement – Work Order Agreement**
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. MTSJOC324-34 under MTS Doc. PWG324.0-21, with ABC General Contractor, Inc. (ABCGC), in the amount of \$275,796.40 for the replacement and repair of the existing exterior stucco for the KMD Administrative Building.
- 11. Imperial Avenue Division (IAD) Zero Emission Bus (ZEB) Overhead Charging Phase I – Work Order Amendment**
Action would 1) Ratify \$50,226.85 that was added to Work Order Amendment WOA353-AE-01.02 under MTS Doc No. PWL353.0-22 with Dokken Engineering, Inc. (Dokken) following Board approval of Amendment No. 1 on January 26, 2023 (Agenda Item (AI) 14). The funds were added for professional services for Envision Verification; and 2) Authorize the Chief Executive Officer (CEO) to execute Work Order Amendment No. WOA353-AE-01.04 under MTS Doc. No. PWL353.0-22, with Dokken, to provide additional engineering and design support during construction services for Phase 1 of the IAD electric bus charging infrastructure project in the amount of \$503,269.57.
- 12. Social Equity Listening Tour (SELT) Orange Line Lighting Upgrades – Work Order Agreement**
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. MTSJOC324-42 under Job Order Contract (JOC) to MTS Doc. No. PWG324.0-21, with ABC General Contractor, Inc. (ABCGC), in the amount of \$801,575.13 for upgrades to lighting at various Orange Line Trolley Station platform and parking lot locations.
- 13. Proposed Revisions to MTS Board Policy No. 48 “Transit Service Discrimination Complaints Procedures”**
Action would approve the proposed revisions to MTS Board Policy No. 48 “Transit Service Discrimination Complaint Procedures”.
- 14. Kearny Mesa Division (KMD) HVAC Replacement – Work Order Agreement**
Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. MTSJOC324-57 under MTS Doc. No. PWG324.0-21, with ABC General Contractor, Inc. (ABCGC), in the amount of \$684,882.39 for replacing all existing Heating, Ventilation, and Air Conditioning (HVAC) at the KMD bus maintenance and administration buildings.

15. Investment Report – Quarter Ending June 30, 2024

16. Central Control Heating, Ventilation and Air Conditioning (HVAC) Replacement – Award Work Order Under a Job Order Contract (JOC)

Action would authorize the Chief Executive Officer (CEO) to execute Work Order MTSJOC324-39 under JOC to MTS Doc. No. PWG324.0-21, with ABC General Contractor, Inc. (ABCGC), in the amount of \$799,965.83 for the HVAC replacement in Building A at MTS Facilities.

17. Elevator Maintenance and As-Needed Repairs Contract No. PWG281.5-19 – Contract Amendment

Action would 1) Ratify Amendment No. 4 to MTS Doc No. PWG281.4-19, with KONE Inc. (KONE) Elevator Maintenance contract, for the addition of two elevators at the University Towne Center (UTC) station, a price reduction related to the Nobel Drive Station elevators, the addition of a subcontractor, and the addition of wireless emergency call monitoring services to the Fashion Valley Station in the amount of \$56,157.69; and 2) Authorize the Chief Executive Officer (CEO) to execute Amendment No. 5 to MTS Doc. No. PWG281.5-19, with KONE, to add as-needed repair funds in the amount of \$305,373.40.

18. Lemon Grove Depot Rehabilitation – Award Work Order Under a Job Order Contract (JOC)

Action would authorize the Chief Executive Officer (CEO) to execute Work Order No. MTSJOC324-52 under Job Order Contract (JOC) to MTS Doc. No. PWG324.0-21, with ABC General Contractor, Inc. (ABCGC), in the amount of \$424,994.06 for the Lemon Grove Depot Rehabilitation.

19. E Street Chula Vista Murals – Contract Award

Action would: 1) Authorize the Chief Executive Officer (CEO) to execute MTS Doc. No. PWL386.0-24, with Michelle Guerrero, DBA Mr. B Baby, a Small Business (SB), for artistic services, inclusive of conceptualization, design and installation and an as-needed five-year maintenance plan for Mural 1 located on the retaining wall North of the E. Street Transit Center in Chula Vista in the amount of \$207,575.25; and 2) Authorize the CEO to execute MTS Doc. No. PWL416.0-24, with Farallon Design Inc., DBA Rainforest Art Project, for artistic services inclusive of conceptualization, design and installation and an as-needed five-year maintenance plan for Mural 2 located on the retaining wall of the Eastbound, Bayfront, E Street Transit Center platform in Chula Vista in the amount of \$407,910.00.

20. Federal Transit Administration Section 5310 Grant Application

Action would 1) Adopt Resolution No. 24-12 agreeing to comply with all terms and conditions of the Federal Transit Administration (FTA) Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities program as set forth by the FTA and the San Diego Association of Governments (SANDAG); 2) Authorize the Chief Executive Officer (CEO) to submit the following applications and execute any grant agreements awarded by SANDAG: a) \$600,000 in Federal Fiscal Year (FFY) 2023 FTA Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities funding for paratransit vehicle replacement; and b) \$600,000 in FFY 2024 FTA Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities funding for paratransit vehicle replacement; and 3) Authorize the commitment of up to \$300,000 in local matching funds to fully fund the purchase of seven (7) paratransit vehicles.

21. Fiscal Year (FY) 2023-2024 and FY 2024-2025 California Senate Bill (SB) 1 State of Good Repair (SGR) Funding

Action would approve Resolution No. 24-13 in order to: 1) Authorize the use of, and application for \$5,815,604 in FY 2024-25 SGR funding to be used for the FY26 Bus Procurement Project; and 2) Approve the acceptance of additional \$183,001 in FY 2023-24 SB1-SGR funding to bring the total FY 2023-24 allocation to \$5,455,018.

22. Adoption of 2024 Conflict of Interest Code – Amendment

Action would 1) Adopt Resolution No. 24-14 amending the MTS Conflict of Interest Code pursuant to the Political Reform Act of 1974; 2) Adopt the amended 2024 MTS Conflict of Interest Code; and 3) Forward the amended 2024 MTS Conflict of Interest Code to the County of San Diego (the designated code-reviewing body).

23. Equity Statement and Policy Development – Contract Award

Action would authorize the Chief Executive officer (CEO) to: 1) Execute MTS Doc. G2900.0-24, with Keen Independent Research LLC (Keen), for Equity Statement and Policy Development for a two (2) year base period with three (3) 1-year options, for a total of five (5) years, at a cost of \$829,274.50; and 2) Exercise the option years at the CEO's discretion.

Public Comment

Truth – Provided a verbal statement to the Board during the meeting. Truth commented on items: 6, 12, 17, 18, 19 and 22.

Board Comment

Board Member Montgomery Steppe thanked staff for bringing forward items 12, 18 and 23. She noted the benefits these items will bring to various communities.

Action on Recommended Consent Items 3 - 23

Board Member Hall moved to approve Consent Agenda Item Nos. 3 to 23. Board Member Montgomery Steppe seconded the motion, and the vote was 13 to 0 in favor with Board Member Bush and Board Member Gloria absent.

DISCUSSION ITEMS:

24. Senate Bill (SB) 125 Funding Update (Mike Thompson)

Mike Thompson, MTS Deputy Chief Financial Officer, presented on SB 125 Funding Update. He outlined: SB125 funding update, capital & operations funding (original plan), SB 125 revised approach, Transit and Intercity Rail Capital Program (TIRCP), Zero-Emission Transit Capital Program (ZETCP) and staff's recommendation.

Public Comment

Alex Wong – Provided a written and verbal statement to the Board both during and prior to the meeting. Alex advocated for 7.5-minute frequencies.

Andrew Nathenson – Provided a written statement to the Board prior to the meeting. Andrew advocated for 7.5-minute frequencies. The written comment is provided in the September 12, 2024, Final Meeting Packet.

Matthew Tillyer – Provided a written statement to the Board prior to the meeting. Matthew advocated for 7.5-minute frequencies. The written comment is provided in the September 12, 2024, Final Meeting Packet.

Evan Burke – Provided a written statement to the Board prior to the meeting. Evan advocated for 7.5-minute frequencies. The written comment is provided in the September 12, 2024, Final Meeting Packet.

Board Comment

Board Member Moreno noted that under the SB 125 revised funding package proposal, several projects and services were able to be fully funded to the original planned amount. She expressed excitement for the projects anticipated to begin because of the funding. Board Member Moreno acknowledged several topics the Budget Development Committee discussed during the August 7, 2024 meeting, including the revised SB125 funding proposal. She noted that the revision excluded the Otay Mesa service and bus stop improvements projects. She noted that staff will work to identify additional grant options to fund the services. As the Budget Development Committee Chair, she recognized that the agency had a structural deficit but nonetheless urged staff and the Board to follow through on the projects. She highlighted the importance of ridership to gain additional revenue.

Board Member Elo-Rivera asked if in the future, the timing of SB125 could coincide with the annual budget. Sharon Cooney, MTS Chief Executive Officer, replied that since the SB 125 funding is linked to ongoing yearly state budget negotiations, they could not anticipate a timeline. Ms. Cooney replied that when the budget is proposed by the Governor, staff will monitor whether the payment is accounted for in the January budget, the May revise, and finally, when the legislature adopts the budget and approves it in the summer. Ms. Cooney acknowledged that due to this uncertain timeline, MTS will be fluid with budgeting this funding. Mr. Thompson added that the pending payment is for the FY24 budget, and once additional details are known, it will be easier to anticipate the FY 25 budget.

Action Taken

Board Member Moreno moved to approve the revised SB 125 allocation package. Chair Whitburn seconded the motion, and the vote was 13 to 0 in favor with Board Member Bush and Board Member Gloria absent.

25. Fiscal Year (FY) 2025 Capital Improvement Program (CIP) Update (Mike Thompson)

Mr. Thompson presented on FY 2025 CIP update. He presented on: FY 2025-29 CIP unconstrained project list, approved budget by year, five-year summary, revenue vehicles, facility & construction projects, rail infrastructure projects, other equipment & installation projects, other initiatives, FY 2025 operating budget structural deficit strategies, FY 2025 CIP impact structural deficit strategies, FY 2026-29 CIP impact structural deficit strategies, FY 2026-29 CIP impact structural deficit strategies and a fiscal year CIP summary.

Public Comment

There were no Public Comments.

Board Comment

Vice Chair Goble acknowledged that there were two kinds of capital improvements, one that would create future operation expenses, and the other that addresses maintenance operations. He made the Board aware of the two types of improvements to be funded in the future, when the agency is experiencing a structural deficit. He used the zero-emission bus transition plan as an example of a future expense in electricity that is not being accounted for currently.

Board Member Moreno added that the \$300 million dollars is not included in the FY 24 state of good repair budget and that the ZEB program is flexible. Ms. Cooney added that to increase flexibility, the agency could ask the state to delay ZEB purchase requirements. Board Member Moreno clarified that she was not proposing changes to the program at this time, but rather made the statement to clarify the Board's perspective.

Action Taken

No action taken. Informational item only.

26. Transit Operations Insourcing Feasibility Study Project Update (Mike Wygant, Mike Daney, and Russ Chisolm with Transportation Management and Design)

Mike Wygant, MTS Chief Operation Officer for Bus, and Russ Chisolm, with Transportation Management and Design, presented on the transit operations insourcing feasibility study project update. They provided details on: the project team, project overview, key focus areas, work plan, schedule, Board updates and next steps.

Public Comment

There were no Public Comments.

Board Comment

Board Member Elo-Rivera did not believe that a feasibility study was necessary, since these were already existing employees. He stated that he believed that public agencies should not contract out their services and should bring all employees in-house. He was wary of an extended timeline to make the decision.

Vice Chair Goble asked what the baseline would be compared to as he was concerned about whether these would be current or aspirational program projections. Mr. Wygant noted that a predominant portion of service is run in-house, the per hour cost of the vehicle, labor and maintenance for contracted service is easily comparable to MTS's in-house costs. He assured the Board that the consultants were analyzing the current contracted model and MTS's culture. He noted that the analysis could address turnover impacts and KPI performance of contracted employees versus in-house employees. Vice Chair Goble appreciated the distinction for the Board to decide.

Board Member Donovan asked staff to state the cost of the study. Mr. Wygant replied that the study was approved for approximately \$500,000 to complete. Board Member Donovan asked if that figure accounted for MTS staff time, or just the contract cost. Mr. Wygant confirmed that figure was the approved budgetary amount for the contractor.

Board Member Moreno noted that the historical background of the study as an effort to address the 2023 strike, and the inequalities that contracted employees felt, compared to in-house

employees. Board Member Moreno asked if the agency has assessed the cost of litigation related to contracted transit services. Karen Landers, MTS General Counsel, replied that the agency has historically not paid a Transdev or First Transit claim. Ms. Landers added that if the agency were to absorb contracted employees as MTS employees, the agency would also absorb accident or claims costs associated with the added service. Mr. Wygant agreed that risk liability would be an additional cost that the agency would absorb. Board Member Moreno asked about the study's timeline. Mr. Wygant replied that the details would be available by January 2026. Board Member Moreno believed that the Audit Oversight Committee should conduct a peer assessment on how other transit agencies operate their bus and Trolley services.

Chair Whitburn agreed that public agencies should predominantly employ public employees. He found it appropriate that the consultant's strategy is to assess processes and wanted to understand the implications of the study.

Action Taken

No action taken. Informational item only.

27. Non-Fare Operating Revenue Report (Mark Olson)

Mark Olson, MTS Director of Marketing and Communications, presented on non-fare operating revenue. He provided details on: the background, historical non-fare revenue, non-fare revenue growth focus, naming rights, vehicle advertising, bus shelter advertising, bus bench advertising, Gaslamp Quarter Digital information board, property activations, billboard revenue, new opportunities (growth in advertising), expansion of downtown digital board network, large format digital billboards, naming rights, vehicle advertising, upgrade in current billboard network, small format digital, other opportunities, peer review and potential revenue areas.

Public Comment

There were no Public Comments.

Board Comment

Board Member Gonzalez highlighted the Transit Oriented Development (TOD) market rate revenue as opportunity sites. Ms. Landers added that coupled with the Surplus Land Act requirements and Board Policy 18, the MTS TOD program is structured to prefer affordable housing development projects. Board Member Gonzalez understood the restrictions and asked if there were efforts to identify prospective sites. Sean Myott, Manager of Real Estate Assets, noted that MTS has identified several sites where TOD would be optimal, and that list is posted on the MTS website. Board Member Gonzalez asked if some small transit service facilities had commercial tenants. Ms. Landers replied that the kiosks in the system are through a separate master concessionaire contract, and it is not considered part of surplus land. She further explained that kiosks are part of operations that enhance transit. If a developer were to come and build a new structure, the agency would have to analyze if it would qualify as an MTS operational use. Unfortunately, the Surplus Land Act revisions that were made in 2020 carved out transit as one of the uses that is not allowed to use surplus land solely to generate revenue for the public agency. To change that requirement, it would need to be done at the legislative level.

Vice Chair Goble asked staff to confirm if there were close to 5,000 bus stops on the system. Mr. Olson confirmed and clarified that at a minimum, bus stops are identified by a pole. Vice

Chair Goble noted that bus poles could be used for signage and an opportunity for revenue space.

Board Member Elo-Rivera stated that advertisements can strengthen the MTS community-oriented narrative. He supported Vice Chair Goble's idea for small dollar opportunities, and he redefined revenue to include money that flows from additional riders due to better amenities.

Action Taken

No action taken. Informational item only.

28. Transit Amenities Study (Beverly Neff)

Beverly Neff, MTS Senior Planner, presented on the transit amenities study. She discussed: the background, current amenities, current Trolley station amenities, current MTS and bus stop furniture, other bus stop furniture, bus stop amenity challenges, scope of work and Executive Committee feedback.

Public Comment

There were no Public Comments.

Board Comment

There were no Board Member Comments.

Action Taken

No action taken. Informational item only.

OTHER ITEMS:

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

Chair Whitburn advertised the Copper Line, which would be launching September 29th, operating daily, from 5am to 11pm. He invited the remainder of the Board to the media event on Friday September 27th. Chair Whitburn also advertised Free Ride Day, taking place on October 2nd, coinciding with California Clean Air Day. He urged each jurisdiction to promote this to their communities to participate in Free Ride Day. Ms. Cooney recognized various MTS staff that worked on the Board Room upgrade project. Board Member Dillard commended MTS staff for the recently completed murals at Grossmont Trolley Station.

30. Remainder of Public Comments Not on the Agenda

There were no additional public comments.

CLOSED SESSION:

The Board convened to Closed Session at 11:06 a.m.

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

Lourdes Maria Guerra, et al. vs. Metropolitan Transit System, et al. San Diego Superior Court Case No. 37-2022-00023104-CU-PA-CTL

Closed Session Reconvening

The Board reconvened to Open Session at 11:15 a.m.

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

ADJOURNMENT

32. Next Meeting Date

The next regularly scheduled Board meeting is October 17, 2024 at 9:00 a.m.

33. Adjournment

The meeting was adjourned at 11:16 a.m.

/S/ Stephen Whitburn
Chairperson
San Diego Metropolitan Transit System

Filed by:

Approved as to form:

/S/ Dalia Gonzalez
Clerk of the Board
San Diego Metropolitan Transit System

/S/ Karen Landers
General Counsel
San Diego Metropolitan Transit System

Attachment: A. Roll Call Sheet

SAN DIEGO METROPOLITAN TRANSIT SYSTEM
BOARD OF DIRECTORS
ROLL CALL

MEETING OF (DATE): September 12, 2024 CALL TO ORDER (TIME): 9:01 a.m.
 RECESS: _____ RECONVENE: _____
 CLOSED SESSION: 11:06 a.m. RECONVENE: 11:15 a.m.
 PUBLIC HEARING: _____ RECONVENE: _____
 ORDINANCES ADOPTED: _____ ADJOURN: 11:16 a.m.

JURISDICTION	BOARD MEMBER		ALTERNATE		PRESENT (TIME ARRIVED)	ABSENT (TIME LEFT)
City of Chula Vista	Gonzalez	<input checked="" type="checkbox"/>	Chavez	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of Chula Vista	McCann	<input checked="" type="checkbox"/>	Chavez	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of Coronado	Donovan	<input checked="" type="checkbox"/>	Duncan	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
County of San Diego	Montgomery Steppe	<input checked="" type="checkbox"/>	Vargas	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of El Cajon	Goble (Vice-Chair)	<input checked="" type="checkbox"/>	Ortiz	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of Imperial Beach	Leyba-Gonzalez	<input checked="" type="checkbox"/>	Aguirre	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of La Mesa	Dillard	<input checked="" type="checkbox"/>	Arapostathis	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of Lemon Grove	Gastil	<input checked="" type="checkbox"/>	Mendoza	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of National City	Bush	<input type="checkbox"/>	Rodriguez	<input type="checkbox"/>	ABSENT	ABSENT
City of Poway	Frank	<input checked="" type="checkbox"/>	Pepin	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of San Diego	Moreno	<input checked="" type="checkbox"/>	Campbell	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of San Diego	Elo-Rivera	<input checked="" type="checkbox"/>	LaCava	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of San Diego	Gloria	<input type="checkbox"/>	Campillo	<input type="checkbox"/>	ABSENT	ABSENT
City of San Diego	Whitburn (Chair)	<input checked="" type="checkbox"/>	Lee	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
City of Santee	Hall	<input checked="" type="checkbox"/>	Koval	<input type="checkbox"/>	9:01 a.m.	11:16 a.m.
			Minto	<input type="checkbox"/>		

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