

REVISED
SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

Minutes- Board of Directors

February 23, 2007

A Regular Meeting of the Board of Directors of the Santa Cruz Metropolitan Transit District met on Friday, February 23, 2007 at the Santa Cruz City Council Chambers, 809 Center Street, Santa Cruz, CA

Chair Tavantzis called the meeting to order at 9:01 a.m.

SECTION 1: OPEN SESSION

1. ROLL CALL:

DIRECTORS PRESENT

Jan Beautz
Dene Bustichi
Donald Hagen
Michelle Hinkle
Kirby Nicol
Emily Reilly
Mike Rotkin
Dale Skillicorn
Pat Spence
Mark Stone
Marcela Tavantzis
Ex-Officio Donna Blitzer

DIRECTORS ABSENT

None

STAFF PRESENT

Ciro Aguirre, Operations Manager
Pat Aviles, Asst. HR Manager
Frank Cheng, MetroBase Project Manager
Mark Dorfman, Asst. General Manager
Mary Ferrick, Base Superintendent

Margaret Gallagher, District Counsel
Steve Paulson, Paratransit Administrator
Robyn Slater, Human Resources Manager
Tom Stickel, Maintenance Manager
Les White, General Manager

EMPLOYEES AND MEMBERS OF THE PUBLIC WHO VOLUNTARILY INDICATED THEY WERE PRESENT

Eileen Pavlik, SEA/SEIU
Amy Weiss, Spanish Interpreter

Bob Yount, MAC

2. ORAL AND WRITTEN COMMUNICATION

Written:

- | | | | |
|----|---------------------------|-----|--------------------------|
| a. | Niro Mudra | Re: | Letter of gratitude |
| b. | Celia Brown, County of SC | Re: | Irrigation water run-off |

- | | | | |
|-----------|-------------------------------------|------------|--------------------------|
| c. | Tom Stickel, SCMTD | Re: | Irrigation water run-off |
| <u>d.</u> | <u>Lynn Gallagher</u> | <u>Re:</u> | <u>Service Request</u> |
| <u>e.</u> | <u>Ryan McKowan</u> | <u>Re:</u> | <u>Service Request</u> |
| <u>f.</u> | <u>Leslie Shipley</u> | <u>Re:</u> | <u>Service Request</u> |
| <u>g.</u> | <u>Diane O'Rourke & Ed Poty</u> | <u>Re:</u> | <u>Service Request</u> |
| <u>h.</u> | <u>Ernestina Zolorzano</u> | <u>Re:</u> | <u>Service Request</u> |

Director Spence pointed out that the first name listed for Item # 2-e on today's Agenda is incorrect and should be Roger.

3. LABOR ORGANIZATION COMMUNICATIONS

None.

4. ADDITIONAL DOCUMENTATION TO SUPPORT EXISTING AGENDA ITEMS

Chair Tavantzis reported that the Board would hold a Special Meeting immediately following today's Regular Meeting to consider authorizing the General Manager to execute an agreement with PG&E for the MetroBase Project and that this issue came up after the posting of the Regular Agenda and there is a need to take action prior to the next Regular Board Meeting. Margaret Gallagher added that the Special Meeting Agenda was properly posted.

SECTION I:
OPEN SESSION:

ADD TO ITEM #2

ORAL AND WRITTEN COMMUNICATION
(Insert additional written communication)

CONSENT AGENDA:
REVISE ITEM #5-1

APPROVE REGULAR BOARD MEETING MINUTES OF JANUARY 12 & 26, 2007 AND REVISED PAGES 11 & 12 OF APRIL 28, 2006 MINUTES

(Replace page # 5-1.12 with REVISED page)

ADD TO ITEM #5-3

ACCEPT AND FILE JANUARY 2007 RIDERSHIP REPORT AND PAGE 1 OF THE DECEMBER 2006 RIDERSHIP REPORT

(Insert page 1 of the January 2007 Ridership Report)

INSERT ITEM #5-4

CONSIDERATION OF TORT CLAIMS

(Insert Claim)

REVISE ITEM #5-5

ACCEPT AND FILE THE METRO ADVISORY COMMITTEE (MAC) AGENDA FOR FEBRUARY 21, 2007 AND MINUTES OF DECEMBER 20, 2006

(Replace Agenda with REVISED Agenda)

INSERT ITEM #5-6

ACCEPT AND FILE MONTHLY BUDGET STATUS REPORT FOR OCTOBER 2006 AND APPROVAL OF BUDGET TRANSFERS

(Insert Staff Report)

INSERT ITEM #5-7

ACCEPT AND FILE HIGHWAY 17 STATUS REPORT FOR NOVEMBER 2006

(Insert Report)

REVISED

- INSERT ITEM #5-9** ACCEPT AND FILE UNIVERSITY OF CALIFORNIA, SANTA CRUZ SERVICE UPDATE FOR MONTH OF DECEMBER 2006
(Insert Staff Report)
- ADD TO ITEM #5-13** CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT RENEWAL WITH SEDGWICK CMS, PREVIOUSLY OCTAGON RISK SERVICES FOR THIRD PARTY ADMINISTRATION OF WORKERS COMPENSATION CLAIMS
(Insert Supplemental Staff Report)
- ADD ITEM #5-18** ACCEPT AND FILE OMNIBUS HISTORY INFORMATION INTRODUCED AT THE JANUARY 26, 2007 BOARD MEETING WHICH WAS REQUESTED TO BE INCLUDED IN A FUTURE BOARD OF DIRECTORS AGENDA PACKET
(Insert Staff Report)
- ADD ITEM #5-19** ACCEPT AND FILE EQUAL EMPLOYMENT OPPORTUNITY PLAN STATISTICAL INFORMATION
(Insert Staff Report)
- ADD ITEM #5-20** CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH PAT PIRAS CONSULTING FOR CONSULTANT SERVICES SPECIFICALLY FOR ADA/504 MATTERS
(Insert Staff Report)
- ADD ITEM #5-21** ACCEPT AND FILE INFORMATION REGARDING SECURITY AT WATSONVILLE TRANSIT CENTER
(Insert Staff Report)
- REGULAR AGENDA:**
INSERT ITEM #7 CONSIDERATION OF APPROVAL OF **RESOLUTION** MODIFYING METRO'S BYLAWS TO ELIMINATE MASTF AS AN ADVISORY GROUP AND TO USE IRS PUBLICATION 463 TO DETERMINE MILEAGE REIMBURSEMENT
(Insert Staff Report)
- REPLACE ITEM #9** CONSIDERATION OF **RESOLUTION** REVISING FY 06-07 BUDGET
(Replace Staff Report with REVISED Staff Report)
- REPLACE ITEM #10** CONSIDERATION OF **RESOLUTION** AUTHORIZING A DEPOSIT ACCOUNT AND FACSIMILE SIGNATURE AGREEMENT WITH COAST COMMERCIAL BANK
(Replace Staff Report with REVISED Staff Report)
- DELETE ITEM # 11** CONSIDERATION OF **RESOLUTION** AUTHORIZING ADDITION AND DELETION OF SIGNERS ON THE DEPOSIT ACCOUNT FOR THE ADMINISTRATION OF APPROVED WORKERS' COMPENSATION CLAIMS WITH COMERICA BANK
(Deleted: Action taken at the February 9, 2007 Board Meeting)
- REPLACE ITEM #13** CONSIDERATION OF AN AMENDMENT TO THE CONTRACT WITH ARNTZ BUILDERS, INC. EXTENDING THE CONTRACT EXPIRATION DATE FOR THE METROBASE SERVICE BUILDING TO ~~JUNE 30~~ **JULY 31**, 2007, WHILE MAINTAINING THE CONSTRUCTION COMPLETION DATE OF JANUARY 9, 2007
(Replace Staff Report with REVISED Staff Report)

REVISED

- ADD ITEM #14** **CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH ATCHISON, BARISONE, CONDOTTI & KOVACEVICH FOR LEGAL SERVICES IN THE ACQUISITION OF REAL PROPERTY AND RELATED ISSUES SUCH AS RELOCATION SERVICES, AS THEY RELATE TO THE METROBASE PROJECT**
(Insert Staff Report)

CONSENT AGENDA

- 5-1. **APPROVE REGULAR BOARD MEETING MINUTES OF JANUARY 12 & 26, 2007 AND REVISED PAGES 11 & 12 OF APRIL 28, 2006 MINUTES**
- 5-2. **ACCEPT AND FILE PRELIMINARILY APPROVED CLAIMS FOR THE MONTH OF JANUARY 2007**
- 5-3. **ACCEPT AND FILE JANUARY 2007 RIDERSHIP REPORT AND PAGE 1 OF THE DECEMBER 2006 RIDERSHIP REPORT**
- 5-4. **CONSIDERATION OF TORT CLAIMS: DENY THE CLAIM OF EVA GUEVARA-FIERRO, CLAIM #07-0007**
- 5-5. **ACCEPT AND FILE THE METRO ADVISORY COMMITTEE (MAC) AGENDA FOR FEBRUARY 21, 2007 AND MINUTES OF DECEMBER 20, 2006**
- 5-6. **ACCEPT AND FILE MONTHLY BUDGET STATUS REPORT FOR OCTOBER 2006 AND APPROVAL OF BUDGET TRANSFERS**
- 5-7. **ACCEPT AND FILE HIGHWAY 17 STATUS REPORT FOR NOVEMBER 2006**
- 5-8. **ACCEPT AND FILE PARACRUZ OPERATIONS STATUS REPORT FOR THE MONTH OF NOVEMBER 2006**
- 5-9. **ACCEPT AND FILE UNIVERSITY OF CALIFORNIA, SANTA CRUZ SERVICE UPDATE FOR MONTH OF DECEMBER 2006**
- 5-10. **ACCEPT AND FILE MINUTES REFLECTING VOTING RESULTS FROM APPOINTEES TO THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION FOR THE DECEMBER 2006 MEETING(S)**
- 5-11. **ACCEPT AND FILE METROBASE STATUS REPORT**
- 5-12. **CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT RENEWAL WITH ORTHOPAEDIC HOSPITAL FOR REVIEW OF PARACRUZ ELIGIBILITY SCREENING PROGRAM**
- 5-13. **CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT RENEWAL WITH OCTAGON RISK SERVICES FOR THIRD PARTY ADMINISTRATION OF WORKERS COMPENSATION CLAIMS**
- 5-14. **CONSIDERATION OF AN AGREEMENT WITH SANTA CRUZ SEASIDE COMPANY FOR THE PROVISION OF LATE NIGHT SERVICE**
- 5-15. **CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH BATTERIES USA, INC. FOR HEAVY DUTY COACH AND AUTOMOTIVE BATTERIES**

(Moved to Consent Agenda at the February 9, 2007 Board Meeting. Retained original numbering as Item #8)

REVISED

- 5-16. CONSIDERATION OF RESOLUTION AUTHORIZING A DEPOSIT ACCOUNT AND FACSIMILE SIGNATURE AGREEMENT WITH COAST COMMERCIAL BANK
(Moved to Consent Agenda at the February 9, 2007 Board Meeting. Retained original numbering as Item #10)
- 5-17. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH FOLSOM LAKE FORD FOR THE PURCHASE OF SEVEN COMPACT SEDANS
(Moved to Consent Agenda at the February 9, 2007 Board Meeting. Retained original numbering as Item #12)
- 5-18. ACCEPT AND FILE OMNIBUS HISTORY INFORMATION INTRODUCED AT THE JANUARY 26, 2007 BOARD MEETING WHICH WAS REQUESTED TO BE INCLUDED IN A FUTURE BOARD OF DIRECTORS AGENDA PACKET
- 5-19. ACCEPT AND FILE EQUAL EMPLOYMENT OPPORTUNITY PLAN STATISTICAL INFORMATION
- 5-20. CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH PAT PIRAS CONSULTING FOR CONSULTANT SERVICES SPECIFICALLY FOR ADA/504 MATTERS
- 5-21. ACCEPT AND FILE INFORMATION REGARDING SECURITY AT WATSONVILLE TRANSIT CENTER

ACTION: MOTION: DIRECTOR REILLY SECOND: DIRECTOR SKILLICORN

Approve the Consent Agenda

Motion passed by unanimous affirmative voice vote in lieu of a roll call vote for Item #5-16 with all Directors present.

REGULAR AGENDA

6. PRESENTATION OF EMPLOYEE LONGEVITY AWARDS

The following employees were awarded longevity certificates for their years of service:

TEN YEARS

Carol Moore, Bus Operator
Tyrone A. Phillips, Bus Operator
Michael L. Reynolds, Bus Operator

7. CONSIDERATION OF APPROVAL OF RESOLUTION MODIFYING METRO'S BYLAWS TO ELIMINATE MASTF AS AN ADVISORY GROUP AND TO USE THE IRS PUBLICATION 463 TO DETERMINE MILEAGE REIMBURSEMENT

Summary:

Margaret Gallagher reported that, generally, on an annual basis, the Board reviews its Bylaws to determine if any modifications are warranted. Staff is recommending two modifications: 1) Remove MASTF as an advisory group because it no longer exists; and 2) Change mileage

reimbursement from a hard number to be pursuant to IRS Publication 463, which is updated annually.

ACTION: MOTION: DIRECTOR ROTKIN SECOND: DIRECTOR HAGEN

Approve Resolution modifying METRO’s Bylaws to remove MASTF from Section 14.01(b) and allow mileage reimbursement in Exhibit B, pursuant to IRS Publication 463, updated annually

Discussion:

Margaret Gallagher reported that Director Spence **had contacted her and** suggested the following additional modifications:

- 1) In Section 11.01c, include that remarks shall not be addressed to METRO Staff; and
- 2) In Section 15.01(b), change Santa Cruz Metro Center to Pacific Station.

As the maker of the motion, Director Rotkin stated that he ~~accepts~~ **considers** Director Spence’s 2nd recommendation as **to be** a friendly amendment, but not the 1st. Director Spence clarified that her concern was with the public verbally addressing Staff at Board meetings.

Several Directors, including the second of the motion, Director Hagen, agreed with Director Rotkin to accept the Pacific Station name change today, but not the suggestion to include Staff in Section 11.01c and the motion was amended as follows:

ACTION: MOTION: DIRECTOR ROTKIN SECOND: DIRECTOR HAGEN

Approve Resolution modifying METRO’s Bylaws to remove MASTF from Section 14.01(b) and allow mileage reimbursement in Exhibit B, pursuant to IRS Publication 463, updated annually. Change Santa Cruz Metro Center to Pacific Station in Section 15.01(b).

Discussion:

Director Spence suggested the following additional modification:

- 3) In Section 13.03, include that if a conflict of interest is disclosed, a Director must completely leave the room, rather than abstain from voting, according to Ethics training.

Direction: Chair Tavantzis directed Staff to bring back recommendations for other modifications to the Bylaws at a later date. Including in Section 13.03 that it must be consistent with AB 1234 would address this specific issue.

Motion passed by unanimous affirmative voice vote in lieu of a roll call vote with all Directors present.

9. CONSIDERATION OF RESOLUTION REVISING FY 06-07 BUDGET

Summary:

Mark Dorfman reported that this Revised Staff Report states that the current Sales Tax revenue trend has shown significant increase, which will be sufficient to cover the budget revision on a long-term basis for the salary adjustments the Board approved in January 2007.

ACTION: MOTION: DIRECTOR ROTKIN SECOND: DIRECTOR REILLY

Approve Resolution revising the FY 06-07 budget in accordance with Exhibit A

Motion passed by unanimous affirmative voice vote in lieu of a roll call vote with all Directors present.

13. **CONSIDERATION OF AN AMENDMENT TO THE CONTRACT WITH ARNTZ BUILDERS, INC. EXTENDING THE CONTRACT EXPIRATION DATE FOR THE METROBASE SERVICE BUILDING TO JUNE 30 JULY 31, 2007, WHILE MAINTAINING THE CONSTRUCTION COMPLETION DATE OF JANUARY 9, 2007**

Summary:

Les White reported that METRO should have constructed the contract in a manner that identified a construction completion date, with the accompanying liquidated damages penalties, and a later contract expiration date for the close-out of all outstanding cost issues and release of any retained funds. This amendment extends the contract completion date in order for METRO to be able to pay the invoices for construction costs submitted after January 9, 2007.

Staff is currently negotiating with Arntz Builders, Inc. to determine how many days of justified delay will be allowed for the completion of construction. A Change Order revising the date for the completion of construction and the assessment of liquidated damages will be presented to the Board for consideration once the negotiations with Arntz Builders, Inc. are complete.

ACTION: MOTION: DIRECTOR ROTKIN SECOND: DIRECTOR BEAUTZ

Authorize an amendment to the contract with Arntz Builders, Inc. that extends the contract expiration date to July 31, 2007, while maintaining the construction completion date of January 9, 2007

Motion passed unanimously with all Directors present.

14. **CONSIDERATION OF AUTHORIZING THE GENERAL MANAGER TO EXECUTE A CONTRACT WITH ATCHISON, BARISONE, CONDOTTI & KOVACEVICH FOR LEGAL SERVICES IN THE ACQUISITION OF REAL PROPERTY AND RELATED ISSUES SUCH AS RELOCATION SERVICES, AS THEY RELATE TO THE METROBASE PROJECT**

Summary:

Margaret Gallagher reported that METRO is in the process of negotiating land purchase for the MetroBase Project and is in need of outside counsel to assist METRO in the acquisition of real property and related issues such as relocation services related to current tenants of properties being acquired by METRO. The City Attorney's office is well qualified and METRO has worked with them in the past.

ACTION: MOTION: DIRECTOR REILLY SECOND: DIRECTOR SKILLICORN

Authorize the General Manager to execute a contract with Atchison, Barisone, Condotti & Kovacevich for legal services in the acquisition of real property and related issues such as relocation services, as they relate to the MetroBase Project

Motion passed unanimously with all Directors present.

Director Spence asked if the Board should reconsider Item #10 because the revised Staff Report has two names rather than one. Chair Tavantzis informed Director Spence that the Item had been moved to Consent as Item #5-16 and was approved with the Consent Agenda.

Les White reported that METRO has employed an Assistant Finance Manager, whose name had been added to the revised Staff Report. Mr. White explained that when the Board approved moving the Staff Report from the Regular Agenda to the Consent Agenda at the last meeting, it was not approving the Staff Report, but simply moving its position on the Agenda and by taking action as part of the Consent Agenda today, the Board has recognized the revised Staff Report.

Chair Tavantzis adjourned to Special Open Session at 9:22 a.m. and reconvened to Open Session at 9:25 a.m.

15. REVIEW OF ITEMS TO BE DISCUSSED IN CLOSED SESSION: District Counsel

Margaret Gallagher reported that the Board would be having a conference with its Real Property Negotiators regarding the price and terms of property at 110 Vernon Street, Santa Cruz, CA.

16. ORAL AND WRITTEN COMMUNICATIONS REGARDING CLOSED SESSION

None.

SECTION II: CLOSED SESSION

Chair Tavantzis adjourned to Closed Session at 9:26 a.m. and reconvened to Open Session at 9:45 a.m.

SECTION III: RECONVENE TO OPEN SESSION

17. REPORT OF CLOSED SESSION

Margaret Gallagher reported that the Board gave instructions to its Property Negotiators and that the Board took no reportable action in Closed Session.

ADJOURN

There being no further business, Chair Tavantzis adjourned the meeting at 9:45 a.m.

Respectfully submitted,

CINDI THOMAS
Administrative Services Coordinator