

TRANSPORTATION COMMITTEE

March 7, 2008

AGENDA ITEM NO.: **1**

Action Requested: APPROVE

TRANSPORTATION COMMITTEE DISCUSSION AND ACTIONS MEETING OF FEBRUARY 15, 2008

The meeting of the Transportation Committee was called to order by Chair Jim Madaffer (City of San Diego) at 9:06 a.m. See the attached attendance sheet for Transportation Committee member attendance.

1. APPROVAL OF MEETING MINUTES

Action: Upon a motion by Chair Pro Tem Bob Emery (Metropolitan Transit System [MTS]) and a second by Mayor Jim Desmond (San Diego County Regional Airport Authority [SDCRAA]), the Transportation Committee approved the minutes from the January 18, 2008, meeting.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Clive Richard, a member of the public, stated that Beverly Walker, a member of the Transit Advisory Committee passed away and he commented on the activities she had undertaken for disabled in the region. He expressed his concerns regarding the current system for transit. He commented that it was a dual system with upgraded electronics at some of the stations and not at others and commented that we need to find funds to upgrade all the stations.

CONSENT ITEMS

3. FY 2009 TRANSIT CAPITAL IMPROVEMENT PROGRAM (RECOMMEND)

The Metropolitan Transit System (MTS) and the North County Transit District (NCTD) have developed their Capital Improvement Programs (CIPs) for FY 2009 which form the basis for the Federal Transit Administration (FTA) Section 5307 Urbanized Area formula fund grant, the Section 5309 Rail Modernization formula fund grant, and the Regional Transportation Improvement Program (RTIP) amendment for transportation projects. SANDAG is responsible for programming these funds and approving these grants. The Transportation Committee is asked to recommend that the Board of Directors approve: (1) the FY 2009 CIPs for the San Diego region (MTS and NCTD), including the transfer of funds from MTS to SANDAG for regional planning; (2) the submittal of FTA Sections 5307 and 5309 applications for the San Diego region (SANDAG, MTS, and NCTD); and (3) Resolution No. 2008-12 adopting Amendment No. 13 to the 2006 RTIP.

Action: Upon a motion by Chair Pro Tem Emery and a second by Councilmember Matt Hall (North County Coastal), the Transportation Committee approved Consent Item 3.

CHAIR'S REPORTS

4. STATE ROUTE 905 STATUS UPDATE (INFORMATION)

Chair Madaffer and Pedro Orso-Delgado, Caltrans District 11 Director provided the monthly update of discussion by the State Route 905 strike team. Mr. Orso Delgado stated that the award of the Phase 1A project was done and the contract should be approved next week with construction scheduled to start the first part of March. He reviewed the legal issues for the project and state that Caltrans is preparing an appeal for the judgment for one parcel. Both attorneys are asking for mediation but the parties are too far apart so the appeal process will continue through the courts. The condemnation case is underway and the jury is being selected. He stated that the case should be in deliberations by mid-March. The schedule for Phase 1B is being moved ahead by three months to be ready for the economic stimulus package. Once the economic stimulus package is approved, Caltrans wants to be in position to award the job right away. The Trade Corridor Improvement Fund (TCIF) CTC hearing for the San Diego Region is next week and the 905 project is competing for the infrastructure money.

Action: This item was presented for information only.

REPORTS

6. *TransNet* BOND ISSUE: DOCUMENT REVIEW AND RECOMMENDATION (RECOMMEND)

Renee Wasmund, Finance Director presented the item. In December 2005, the Board of Directors approved a *TransNet* Extension financial strategy for implementing the Early Action Program (EAP) of projects and for fulfilling ongoing commitments for the existing *TransNet* program. The financial strategy approved by the Board included expanding the existing commercial paper program from \$135 million to \$335 million, locking in low interest rates through an interest rate exchange agreement (swap), and issuing \$600 million of long-term variable rate debt in April 2008. This financial strategy has resulted in much progress on several EAP projects in the last two years and the final execution of the plan to issue long-term debt will allow for this momentum to continue. The funds the bonds provide will allow for expedited delivery of finished construction projects and critical development milestones on other projects, providing for the mobility needs of the region while continuing to successfully compete for the additional funds the program will need in the future. SANDAG is now at the implementation stage with the sale of bonds scheduled for the end of March.

The pending transaction involves utilizing the interest rate exchanges (swaps) set up in December 2005, assessing current market conditions, and proactively refining the issuance procedures and instruments to position SANDAG to take advantage of its tremendous credit strengths. Based on current conditions, it is to SANDAG's advantage to issue all \$600 million in Variable Rate Demand Bonds and not include Auction Rate Securities in its debt portfolio at this time.

SANDAG has recently been upgraded to a AAA rating by Standard & Poor's (S&P) and Aa2 rating by Moody's which places us as one of the highest rated sales tax bond revenue issuers in the nation. One other aspect of our strategy was to achieve cost effective credit support bids from major banks. We planned to issue the bonds either as Auction Rate Security (ARS) bonds with the underlying security being bond insurance or as Variable Rate Demand Bonds (VRDBs) with the underlying security being a bank liquidity facility. Staff recommended issuing the full \$600 million as VRDBs due to the turmoil in the bond insurance market at this time and the number of favorable bids from the bank liquidity facilities.

Ms. Wasmund introduced Mary Collins, SANDAG Bond Counsel (Orrick, Herrington & Sutcliffe), Barney Allison, Disclosure Counsel (Nossaman, Guthner, Knox & Elliot), and Keith Curry, Financial Advisor (Public Financial Management) who were present to answer any questions from Transportation Committee. Ms. Wasmund stated that as the Finance Director, along with the *TransNet* Program Manager (Muggs Stoll) and General Counsel (Julie Wiley), she reviewed the documents the Transportation Committee is being asked to recommend and to the best of staff knowledge, all of the factual statements are true and correct in all material respects and the information does not contain any untrue or misleading statement of a material fact or omit to state any material fact that would make the information in those documents regarding SANDAG misleading.

Ms. Wiley reviewed the fiduciary responsibilities of the committee and the draft bond documents and stated that the Transportation Committee should review all of the documents to become familiar with their contents and should pay particular attention to the information contained in the Official Statement to ensure there are no inaccuracies concerning SANDAG. The Transportation Committee also should ensure that to the best of its knowledge all of the factual statements are true and correct in all material respects and that the information does not contain any untrue or misleading statement of a material fact or omit to state any material fact that would make the information in any of the documents regarding SANDAG misleading. When carrying out their fiduciary responsibilities public officials may rely upon employees, bond counsel, disclosure counsel, and other professionals to ensure that they are in compliance with the antifraud provisions of the federal securities laws as long as the reliance is reasonable; however the members are obligated to ask questions and ensure that all material information is disclosed.

Councilmember Phil Monroe (South County) asked for staff to clarify why the use of variable rates for this transaction was advised when the market is negatively affecting the average homeowner.

Ms. Wasmund stated that the swap synthetically fixes the rate at the fixed rate. We receive a variable rate from the swap counterparties which will approximate the variable rate we pay the bondholders. We pay a fixed rate to the swap counterparties and so have effectively hedged our variable rate to a fixed rate.

Mayor Lori Holt Pfeiler (North County Inland) asked staff to describe the financial statements and other documents that were used and whether there was any additional information after the financial statements were completed.

Ms. Wasmund stated that the audited financial statements from FY 2007 ending June 30, 2007, are in the Official Statement. Other information that was discovered that

could influence bond buyers on their decision was the additional information on the decline in sales tax revenues and that has been disclosed in the Official Statement. We expect FY 2008 to be lower than FY 2007 but we expect a slight recovery in FY 2009.

Mayor Pfeiler asked whether a third party reviews the audited financial statements and makes representation regarding them.

Ms. Wasmund stated that our responsibility is to have our auditors review them and give us an unqualified, clean opinion and to have our Disclosure Counsel include the audited Financial Statement in the Official Statement.

Deputy Mayor Jerry Rindone (South County) requested confirmation of what agency is insuring the bond sale.

Ms. Wasmund stated that the VRDBs have the liquidity facility and not insurance so we are not subject to the turmoil in the bond insurance market.

Chair Madaffer asked Ms. Wasmund to describe the step by step process that staff and the auditors followed to ensure the accuracy of the information in the Preliminary Official Statement (POS).

Ms. Wasmund stated that the process to develop the Official Statement begins with the Disclosure Counsel. We provided the information related to SANDAG that he needs. He pulls it all together and then we provide copies to all the parties to include internal staff, the four underwriters, our financial advisor and our bond counsel. Any changes are presented to the Disclosure Counsel and after discussion incorporated into the Official Statement.

Chair Madaffer stated that the Official Statement uses financial statements from a point in time dated six months ago. He requested clarification of what form or document is filed or included in the Official Statement that gives bond buyers notice that sales tax revenues have decreased and may continue to decrease before they recover.

Ms. Wasmund stated that a statement is included in the Official Statement on Tab 5 of page 18. The paragraph discloses actual current sales tax receipts as of December 31, 2007, and the fact that they are 2.4 percent less than the same period of the prior year.

Councilmember Monroe asked for the General Counsel to clarify whether the actions taken today by the Transportation Committee affect the members on this Committee or the Board of Directors who make the final approval.

Ms. Wiley replied that the actions taken affect both the members of this Committee and the Board of Directors. Even though the final approval and responsibility is with the Board members, there would be a record of your recommendation so you should be comfortable with the fiduciary responsibilities in that regard.

Councilmember Monroe asked for clarification on whether the responsibility is attached to the members in their role with SANDAG or does it also affect their roles within their own jurisdictions. Ms. Wiley replied that the responsibility is only attached to the members' role for SANDAG and does not need to be approved by each separate jurisdiction.

Mayor Art Madrid (East County) asked for clarification regarding the number of agencies that have bid to market the bonds and whether SANDAG would have received the same number of bids had the S & P and Moody ratings not been so high.

Ms. Wasmund replied that there are four underwriters who will market the bonds and four bidders on the liquidity facility. With respect to the liquidity facility, SANDAG would have received much higher bids; bids coming in for lower rated agencies are 40 to 50 basis points, and we received bids in the 20 basis points range.

Councilmember Toni Atkins (City of San Diego) asked staff if they were aware of anything or had any concerns of their own or brought to them by bond or disclosure counsel in preparation of the Financial Statements and the POS that this Committee needs to be made aware of at this time.

Ms. Wasmund stated that with regard to the Financial Statement, there was nothing to be brought to the Committee's attention. The only issue which has already been disclosed is the decline in sales tax revenue.

Councilmember Atkins asked the same question of Gary Gallegos, Executive Director, and Ms. Wiley.

Mr. Gallegos replied that what is represented in the Official Statement and Financial Documents is the most accurate to the best of our knowledge and is most accurate at this time. The only issue is the decline in sales tax revenue but we are highlighting that in the documents already.

Ms. Wiley replied that she could assure the members of the Committee that she has reviewed the documents many times and she is aware of nothing that is inaccurate or incomplete regarding the disclosures.

Mayor Pfeiler asked for clarification on whether Councilmember Atkins's question included whether or not staff and counsel are aware of any actions taken by the Board or anything that SANDAG has done or any changes in our financial situation and Councilmember Atkins confirmed.

Councilmember Atkins asked the same question of Ms. Collins and Mr. Curry.

Mr. Curry replied off tape that there was nothing that was not already disclosed in the document.

Mayor Dave Druker (North County Coastal) asked for clarification on what would happen with SANDAG's ability to pay for these bonds if the sales tax revenues remain at the current level.

Ms. Wasmund replied that one of the reasons our credit rating is so strong is that we are showing a seven times debt service coverage which means that if sales taxes remain at the current level we can cover our debt service seven times and the bond documents only require a 1.3 bond rating.

Councilmember Atkins requested that our outside experts respond to her question on the microphone so they are recorded for the record.

Mr. Allison replied that in his role as Disclosure Counsel he performed due diligence regarding SANDAG's ability to pay back the bonds. We go through an extensive process of asking questions of all members of the financing team, review the financial statements, and ask questions regarding anything material to the transaction. The important thing to keep in mind is that investors expect to be paid back from sales tax revenues and the primary issue to the investor is whether there will be enough sales tax revenues to be paid back. His office has asked all the material questions related to the ability of this agency to pay back the bonds from sales tax revenues including management structure and material liabilities that could affect the agency's ability to operate the agency. He stated that based on their experience to date all material issues to an investor have been disclosed in the document presented today.

Councilmember Atkins asked Mr. Allison if he were a member of this committee, were there any questions he would ask regarding these documents and Mr. Allison stated that the committee has asked all pertinent questions that he would ask and there were no other questions he could think of. He commented that one of his roles is to alert the investors of any risk factors and the economy of the county and the state is one of those risk factors disclosed in the Official Statement. They did highlight the sales tax revenues and presented a statement to the investors regarding how those revenues affect debt service.

Chair Madaffer asked Mr. Allison if there is enough information in the public domain regarding the state's budget problems that the information does not need further disclosure than what is already in the document.

Mr. Allison replied that he does ask that question when issuing sales tax revenue bonds. The issue again is whether there will be sufficient sales tax revenues to pay back the bond debt. The state's budget problems or any potential cut backs in transportation funding would not affect this transaction as long as sales tax revenues remain.

Chair Madaffer requested Mr. Curry to answer the same questions on the record.

Mr. Curry stated that he worked with SANDAG on the original bond sale 20 years ago and is very familiar with SANDAG, the agency's history and the economic performance in San Diego County. He stated that he is not aware of any information that needs to be disclosed that is not already disclosed or of any material errors in any of the documents before the Committee today.

Councilmember Atkins said that the additional comments by Mr. Curry and Mr. Allison were helpful and asked that these comments be presented to the Board of Directors as part of the staff report and presentation.

Mayor Pfeiler asked whether the representation that SANDAG can cover the bond debt seven times also represents our ability to maintain that level of debt coverage over the life of the bond and whether it precludes SANDAG from borrowing money again.

Ms. Wasmund replied that we are not representing that we would maintain that level or not borrow again. In fact, we told the rating agencies that in order to build our Early Action Program we would most likely have to issue additional bonds.

Mayor Desmond asked whether the seven times debt coverage protects SANDAG as well as the buyer if our sales tax revenue falls seven fold or decreased by that amount.

Ms. Wasmund stated that it is our protection that we have enough sales tax funds to pay the bond holder.

Mayor Desmond asked at what point SANDAG gets in trouble, can we afford for sales tax revenues to fall seven times or two times.

Ms. Wasmund stated that if sales tax revenues fall that drastically not only would we not be able to pay our bonds, we would not be able to give operating revenues to our transit agencies or build major corridor projects. It would drastically affect the whole program. The bondholders have first call on the revenue as their security.

Chair Madaffer asked whether there should be something in the Official Statement that indicates sales tax projections.

Mr. Allison stated that as part of their due diligence they did review sales tax projections because it is of some interest in terms of projecting forward. In looking at the projections and the basis for which they were made, we realized that the projections were not from an investor's standpoint but more internal to SANDAG for the agency's strategic and financial planning process. As part of due diligence we ask the question, what do you think you will have in ten years but from the investor's point of view there is no guarantee that you will raise the sales tax rates to ensure that the dollars are there. We include a disclaimer about relying on forward looking projections but the decision was to look at current receipts and show the investor based on what we have now, what they could expect going forward.

Action: Upon a motion by Councilmember Monroe and a second by Chairman Ed Gallo (North County Transit District [NCTD]), the Transportation Committee recommended that the SANDAG Board of Directors, acting as the San Diego County Regional Transportation Commission, adopt Resolution No. RC2008-XX, authorizing the issuance of \$600 million of variable rate demand bonds and the execution and distribution of the final documents.

7. 2006 REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (RTIP) QUARTERLY AMENDMENT AND ADMINISTRATIVE AMENDMENT

A. 2006 RTIP: AMENDMENT NO. 11 (APPROVE)

Sookyung Kim, Financial Programming Manager, presented the item. The SANDAG Board-adopted 2006 RTIP is the five-year program of major transportation projects in the San Diego region covering the period from FY 2009 to FY 2011. SANDAG processes amendments to the RTIP generally on a quarterly basis. The Independent Taxpayer Oversight Committee (ITOC) reviewed the Amendment focusing its review on the *TransNet* extension funded programs – Early Action projects, Local Street

Improvement projects, and transit projects. Ms. Kim stated that the ITOC had no comments.

SANDAG transmitted the draft project amendment to interested parties for a 15-day public review and no comments were received.

Ms. Kim reviewed the proposed Amendments and stated that of the noticed projects, there are several projects for which the respective local agencies have not yet submitted their signed resolutions providing evidence of local public notice/hearing and Council/Board approval prior to the report. Those agencies committed to submitting the signed resolution by February 14, and all resolutions were received.

Ms. Kim reviewed those projects funded under the *TransNet* extension Local Street Improvement (LSI) program which begins in FY 2009. This program requires the local agencies to use no more than 30 percent of available revenues toward maintenance projects and no less than 70 percent of revenues for congestion relief projects (Board Policy No. 031). Ms. Kim stated that SANDAG staff reviewed all projects under this category to determine that the proposed projects meet this criterion. All of the projects included in this RTIP amendment that are funded with *TransNet* extension LSI funding have met this requirement.

Federal regulations require the 2006 RTIP to be a revenue-constrained document with programmed projects based upon available or committed funding and/or reasonable estimates of future funding. Funding assumptions are generally based upon: (1) authorized or appropriated levels of federal and state funding from current legislation; (2) conservative projections of future federal and state funding based upon a continuation of current funding levels; (3) the most current revenue forecasts for the *TransNet* program; and (4) the planning and programming documents of the local transportation providers. Ms. Kim stated that based upon the analysis, the projects contained within the 2006 RTIP, including Amendment No. 11, are reasonable when considering available funding sources.

Ms. Kim stated that all projects in RTIP Amendment No. 11 meet the conformity provisions of the Transportation Conformity Rule (40 CFR §93.122(g)). All capacity increasing projects in Amendment No. 11 were included in the quantitative emissions analysis conducted for the 2030 RTP and 2006 RTIP. All other projects not included in the air quality conformity analysis are either noncapacity increasing or are exempt from the requirement to determine conformity according to the Transportation Conformity Rule (40 CFR §93.126). SANDAG followed interagency consultation procedures to determine which projects are exempt. Amendment No. 11 does not interfere with the timely implementation of Transportation Control Measures. The 2006 RTIP, including Amendment No. 11, remains in conformance with the SIP.

B. 2006 RTIP: AMENDMENT NO. 12 (APPROVE)

Ms. Kim presented the item. The 2006 RTIP allows for two different types of amendments – administrative and formal. Formal amendments require, among other things, a 30-day public review and fiscal constraint analysis. Administrative amendments are for changes that are minor in nature, such as project changes of less than 20 percent or \$2 million, and requires state approval only (no federal approval is needed). Amendment No. 12 qualifies as an administrative amendment. Caltrans has requested minor changes to the SR 905 project and to one of its safety programs. In order to fully fund the design phase of this project, Caltrans proposes to revise the High Priority Program (HPP) funding line item. The amendment would move \$500,000 from Construction (CON) phase to the Preliminary Engineering (PE) phase. There are no other changes to the program and the total project remains \$348,135,000.

Action: Upon a motion by Mayor Pfeiler and a second by Chair Pro Tem Emery, the Transportation Committee adopted Resolution No. 2008-14 approving Amendment No. 11 to the 2006 RTIP and approved Amendment No. 12 to the 2006 RTIP.

8. STATUS OF *TransNet* MAINTENANCE OF EFFORT (MOE) AUDITS (RECOMMEND)

Ms. Wasmund presented the item. Section 8 of the *TransNet* Extension Ordinance prescribes the requirement to develop a new MOE level based on the level of discretionary funds expended for street and road purposes on average over the fiscal years 2000-01, 2001-02, and 2002-03. The MOE level will then be subject to adjustment every three years based on the Construction Cost Index developed by Caltrans, not to exceed the growth rate in the local jurisdiction's general fund revenues over the same time period.

Last February, the ITOC reviewed and commented on the set of procedures that were proposed to be used by SANDAG's auditors, Caporicci & Larson (C&L), to perform the MOE audits. Since that time, the audits have been underway and are substantially complete. The result of the procedures is a new MOE base that will then be applied in fiscal year 2009, which is the first year the requirements under the *TransNet* Extension Ordinance will apply. At the January 9, 2008, ITOC meeting, all the audits except Carlsbad, Encinitas, Oceanside, and San Diego were recommended for approval. The remaining audits will be ready for approval next month.

Mayor Druker asked why the City of Del Mar was the only jurisdiction with specialized transportation services. Ms. Wasmund stated that the auditors looked at all areas for monies spent from the General Fund that they could choose to spend elsewhere and Del Mar was the only jurisdiction choosing to spend discretionary general fund monies for those purposes. The City of San Diego also is in that category but the audit is not yet complete.

Action: Upon a motion by Mayor Pfeiler and a second by Chair Madaffer, the Transportation Committee recommended that the Board of Directors approve the MOE levels resulting from the audits for the jurisdictions that have completed the process.

12. SPRINTER PROJECT STATUS REPORT AND SANDAG INDEPENDENT ASSESSMENT (INFORMATION)

Jim Linthicum, Division Director presented the monthly status report on the SPRINTER rail project, including discussion of implementation and effectiveness of project cost control measures.

All construction work required for the start of revenue service is complete. Only the California Public Utilities Commission's (CPUC's) staff approval of NCTD's safety certifications remains to be resolved. The certifications were submitted to the CPUC on January 7. CPUC staff has only expressed concerns about the certification dealing with the gap that exists between the edge of the boarding gangway and the side of the DMU vehicle. NCTD believes this can be resolved in the next few weeks and has set a date of March 9 to begin revenue service. The CPUC expressed verbally that it will accept the solutions that NCTD has presented.

The construction work not critical to revenue service is scheduled to be complete in April. This includes landscaping, permanent stormwater control measures, the parking lot at Nordahl Station, the eastbound platform at the Escondido Avenue Station, the new erosion control work at the Crouch Street Station, and punch list work.

Last fall, the Regional Water Quality Control Board (RWQCB) assessed a fine of \$160,000 against the project for violations of stormwater regulations and NCTD has passed the cost of the RWQCB fine on to its contractor. The RWQCB inspected the project between October and December of last year and issued a stop and abatement order. On January 31, NCTD submitted an abatement plan to the RWQCB addressing its concerns about temporary and permanent storm water control measures along the entire rail corridor. Mr. Linthicum reviewed the details of the abatement plan. Until the entire corridor is protected, the NCTD will keep four new stormwater inspectors on site. The cost of these items is not included in the estimate at completion (EAC) as they are unknown at this time.

The current EAC is \$478.3 million which is an increase of \$700,000 from last month. The current EAC includes a \$7.8 million contingency and assumes NCTD will pay the maximum potential value of the settlement agreement with the Mainline contractor. It also includes a forecasted cost for over 200 change orders yet to be negotiated.

The outstanding change orders continue to be the largest risk to budget. However, the additional staff and construction management costs incurred with the delay to revenue service add to the budget risk. Staff is conducting another EAC workshop this month to review the costs. Mr. Linthicum reviewed photographs of the gap that exists between the gangway and the DMU vehicle.

The project budget set by the NCTD Board, and included in the Amended Recovery Plan for the FTA, is \$484.1 million, giving NCTD an additional \$5.8 million of capacity between budget and EAC.

Mayor Madrid asked for clarification of what the need for protection was for the project. Mr. Linthicum stated it was for stormwater protection only such as best management practices, hay bales, fiber rolls, and things like that.

Councilmember Monroe stated that the gap problem is not high tech and we should have known about the CPUC requirements. He expressed his concerns regarding the gap that exists now on the Mission Valley East line and asked why gaps could not be engineered.

Mr. Linthicum stated that the difficulty in engineering the gaps in this situation is due to the fact that the line has to handle freight as well as passenger light rail. Also, regarding the CPUC requirements, it is more a matter of interpretation. NCTD staff interprets the general orders and feels they are in compliance.

Mayor Druker stated that the original inspection by CPUC was fine but a second inspection identified these problems. The issues are that the vehicles are new and so NCTD could not foresee the gap and that the line is shared with freight trains.

Supervisor Ron Roberts (County of San Diego) asked why NCTD could not install a fence barrier to keep people from falling in the gap.

Mr. Linthicum stated that there is a fence but the opening for the door is 14 feet wide due to the fact that the vehicle does not have a precise stopping ability thus there needs to be some flexibility.

Mayor Druker commented that the gap is not where passengers board but to either side of the boarding platform.

Rick Howard (NCTD) commented that the issue is when the train is in the station and the 5-6 inch gap on either side of the door when the doors are open. Some stations with a deployable platform also have a movable fence that drops down perpendicular to the platform. The CPUC interpretation of one safety rule is there should be no fencing within 30 inches of the car body. Originally the CPUC had asked us to move the fence back but moving the fence caused a situation even more dangerous and the CPUC has agreed to allow us to leave the fence. We are dealing with a number of regulatory issues and different interpretations but we are finally reaching a resolution with the CPUC.

Chair Madaffer commented that there is a problem with the CPUC's interpretation of these regulatory issues and the lack of a common sense element. When trains move in and out of stations all day, there will always be some safety considerations that the general public must be aware of when boarding or operating these trains.

Mr. Howard stated that the NCTD Board agrees with the Chair's comments and they have elevated the issue with the CPUC. The main issue is that there is freight on the line as well as light rail and we are working with the CPUC to resolve the issues. He stated that we have received verbal confirmation of CPUC acceptance and the CPUC has requested a variance letter which has been submitted and we should hear back from them this month.

Chairman Gallo commented that the CPUC has had the designs and plans for years and every time they interpret a safety rule it causes a delay.

Mayor Madrid stated that in the future we would build additional light rail lines and hopefully we will use these lessons learned for future projects. We should create a list of lessons learned and use it for future projects.

Mr. Linthicum stated that we do compile lessons learned documents for all our large projects and use them for future projects.

Action: This item was presented for information only.

5. TRANSIT REVENUE APPORTIONMENTS AND PROJECTIONS (RECOMMEND)

Sookyung Kim, Financial Programming Manager, presented the item. The transit operators within the SANDAG region receive various federal, state, and local revenues to support both ongoing operations and capital projects.

SANDAG is responsible for the apportionment of these funds to the transit operators and to the local agencies for the non-motorized program. Since one of those revenue sources is *TransNet*, the ITOC is asked to review and comment on the projections. SANDAG provides revenue estimates to the transit operators and to local agencies for the non-motorized program. Those revenues include the Transportation Development Act (TDA), *TransNet*, Federal Transit Administration (FTA), and the State Transportation Assistance (STA) program. Under TDA law, SANDAG is required to provide this information by March 1 each year necessitating action by the Board in February.

As the Regional Transportation Planning Agency (RTPA), SANDAG is responsible for determining the revenue forecast for the coming year for various funding sources including *TransNet*. Each year, SANDAG publishes a five-year estimate in order assist the local agencies and transit operators with their budget process.

SANDAG has developed a short-term revenue model that reacts better to current trends. The model takes into account various factors that would impact sales tax receipts (the local economy, housing, wages, personal income, unemployment rate, population, etc.), and uses quarterly historical data to develop a seasonally adjusted growth rate for the next five years.

In addition to providing for the five-year estimate, this report includes a revision to the current year, FY 2008 estimate for *TransNet*. The receipts for *TransNet* in the first six months of the current fiscal year are approximately 2.4 percent less than the same period in the prior year. Based on historical trends and on the continuing overall negative economic trends, we expect that the second half of the fiscal year will be weaker than the first half. Using this information, and consistent with the new short-term model, the recommendation is to reduce the FY 2008 estimated *TransNet* revenues by 2.9 percent less than the FY 2007 actual receipts.

That means the total for *TransNet* would be \$240.7 million. SANDAG has met with both transit operators to review the short-term model as well as the revision to the FY 2008 revenues and they are aware of the changes coming. Also, SANDAG sent out a memo notifying the local agencies regarding the revision to *TransNet* revenues. The *TransNet* revenue estimates were developed using the newly developed short-term model.

The ITOC reviewed the revenue estimates, apportionments, and projections at its meeting on February 13, 2008, and has no significant comments for the committee.

Chairman Gallo requested clarification regarding the projection in the staff report for 2008 *TransNet* revenues. The proposed revised estimate is \$240 million and the original estimate was \$258 million. If the projection shows revenues at 2.9 percent less, that reduction is not reflected in these numbers.

Ms. Kim stated that the 2.9 percent is not reflected in these estimates for 2008 because it is a reduction in actual 2007 receipts. The original estimate for 2008 was done about a year ago at \$258 million but the estimate has been revised to the proposed estimate of \$240 million.

Chairman Gallo asked how the revised estimate was calculated; if the estimate was almost 3 percent less, how did it go up to \$258 million.

Marney Cox, Chief Economist stated that the original estimate for what the sales tax revenue would have been for FY 2008 and it was too high so staff had to adjust that estimate. This adjustment was done in two steps. The first half of FY 2008 was down by about 2.4 percent and we expect that the second half of FY 2008 would be weaker so we expect it to fall by 3.4 percent. So the adjustment for FY 2008 was an overall decline of 2.9 percent giving us a new base for FY 2009. For FY 2009 we are expecting a slower rate of growth than historical standards, about 2.2 percent. Although this is positive, this slower growth does not get us back to the new base; we will still be below where we were at the start of FY 2007 by the end of FY 2009. It won't be until FY 2010 that we return to more historical standard rates of growth of approximately 4-5 percent per year.

Chair Pro Tem Emery requested clarification for what type of planning is funded with the 3 percent that SANDAG receives from TDA funds.

Ms. Kim stated that the 3 percent funds all the planning efforts in the OWP related to *TransNet*.

Mayor Druker asked if SANDAG knew what the effect of not collecting internet sales tax has been over the historic period.

Mr. Cox stated that we do not have an exact estimate but over the past 10 years rates of growth of internet sales are at about 25 percent. That still represents less than 5 percent of total retail sales but it is growing rapidly. Some government contractors have agreed voluntarily to collect and pay sales tax revenues. There seems to be some acceptance on the part of companies to collect and pay sales tax revenues for the state in which the product is actually purchased.

Paul Jablonski, MTS Chief Executive Officer, stated that the operating budgets for the transit agencies have been negatively affected by the reduction in sales tax revenues. Last May, MTS lost \$8.1 million for this year's operating budget and in January the lower projections caused MTS to absorb an additional \$6.3 million. This fiscal year to date has resulted in a total reduction of \$14.4 million operating budget reduction which affects our ability to provide

service. Next year, reductions are projected at a minimum of \$7 million, and if the state continues to raid transit funds we will face significant impacts to service.

Harry Mathis, MTS Chairman, commented that the 3 percent for planning and the 2 percent for bicycle and pedestrian funds are not fixed allocations but are maximum allocations. There is a provision to divert some of those funds to transit if there is a need.

Clive Richard, a member of the public, stated that we need to shop to produce more sales tax revenues and there is some need to reduce our duplication of services.

Chair Pro Tem Emery asked for clarification on the five percent TDA allocation breakdown for community transit services and what it is intended to fund.

Ms. Kim responded that the funds are for the Consolidated Transportation Service Agency (CTSA) which coordinates senior and disabled services for those who can't use regular transit services.

Chair Pro Tem Emery asked whether the transit agencies get their share. Ms. Kim explained that 2 percent of the allocation funds the CTSA and the balance is split between NCTD and MTS based on population.

Mayor Madrid stated that we need to review the operations in the region. We are facing the issue that transportation to all of us includes not just light rail, heavy rail, buses, and transit but it also includes the airport. The Board of Directors at its last Policy meeting had an extensive presentation on what needs to be done to address these kinds of issues and that was just for the airport. We will continue to experience these kinds of challenges and deficits if we continue to do the same things in the same way. We are a one region COG and should be exploring the possibility of merging the transit agencies. It can be done in such a fashion that the quality of services is enhanced and we would not continue to have to split what funds are available between two agencies. Next year, sales tax revenues are projected to be lower and we should be looking at regional solutions to address the difficult challenges and the potential cost savings revenues from a merger.

Mayor Druker commented that the Joint Committee on Regional Transit (JCRT) met yesterday and addressed revenue issues. The reliance on sales tax revenue needs to be changed for a long-term solution. We also need to look at those efficiencies that we could get doing more things jointly with MTS and NCTD. No one on the JCRT felt that we could achieve enough savings to cover the amount of deficit by merging the two agencies. If we continue to face shortfalls, we have to cut more service, increase fares, and losing passengers. We need to find other sources of money working with SANDAG and we need to discuss with the federal government the ability for states to collect sales tax on the internet based on where the item is shipped. Although ultimately we need to reduce our dependence on sales tax revenues

Chair Madaffer stated that recently the federal government approved another five years moratorium that there would be no internet sales tax for states.

Mayor Druker stated that regardless we need to start raising this issue.

Chair Madaffer stated that there were approximately 17 states that signed on to collecting sales tax but unfortunately Senator Feinstein was more interested in keeping the status quo. Chari Madaffer also requested information on whether some type analysis or audit has been done looking at merging MTS and NCTD that would show what benefits a merger would produce.

Mr. Jablonski stated that he was not aware of any analysis or audit so far. The majority of operating dollars for transit agencies are spent to put service on the street. A merger may create some savings in joint senior management but in general there would not be any significant cost advantage.

Chair Madaffer stated that even so it would be interesting to have some study or analysis done for the Committee to review.

Councilmember Monroe asked for clarification regarding the 5 percent of funds for community transit service agencies. Ms. Kim responded that the total amount of \$5.6 million is split between MTS, NCTD, and CTSA. MTS receives \$3.96 million, NCTD receives \$1.6 million, and the CTSA receives \$113,000 which is the FACT contract.

Mayor Madrid stated that SANDAG and both transit agencies receive criticism when we have to cut service or increase rates but the general public is not always aware of the underlying funding problems. We need to conduct a survey of the riding public to find out what they want. Many passengers rely on transit on a daily basis and those users are the ones that need to have a voice here. We need to ask the riders what they expect from the people who provide transit services to them.

Supervisor Roberts stated that our revenue profiles are up significantly over the past decade. He stated that we have the revenue but we need to look at how we spend it. We could fund all the transit we wanted if we looked at how we are spending the money. The previous merger was very costly and we still have duplication of staff. The merger was done in the name of efficiency but it now takes even longer to find solutions or make decisions. It is not just a question of savings but of efficiencies. He stated that he would like to see a graph of the revenues over the last ten years so we could learn to better manage those dollars.

Action: Upon a motion by Mayor Pfeiler and a second by Chair Pro Tem Emery, the Transportation Committee recommended that the SANDAG Board of Directors at its February meeting: (1) approve the revised FY 2008 TDA and *TransNet* revenue estimates; (2) adopt the FY 2009 apportionments for various federal, state, and local programs; and (3) approve the revenue projections for FY 2010 to FY 2013 for these programs.

9. *TransNet* EXTENSION SENIOR TRANSPORTATION MINI-GRANT PROGRAM (APPROVE)

Danielle Kochman, Assistant Transit Service Planner II presented the item. The *TransNet* Extension includes a new senior transportation competitive grant program for nonprofit organizations and local agencies. Ms. Kochman outlined the competitive process and schedule to be used for the Senior Mini-Grant Program and the proposed evaluation criteria to be used for scoring and ranking of project applications. The program will provide financial assistance for transportation services to meet the special transportation needs of elderly individuals in urban, suburban, and rural areas, and will complement existing

funding available from the federal Elderly and Persons with Disabilities and New Freedom programs (available for disabled seniors).

Available funding for the program comes from the 3.25 percent of *TransNet* transit operating and capital funding and a total of \$1.237 million would be available in FY 2009. Senior Mini-Grant program funding can be used for projects throughout San Diego County. The program would focus on programs that fund operating expenses. Eligible applicants include: local government agencies, tribal governments, social service agencies, private and public transportation operators, the CTSA, and nonprofit organizations.

Senior Mini-Grant funds are intended to fund innovative and flexible programs that support the transportation needs of older adults. Projects that offer new programs or expanded services are encouraged. Senior Mini-Grant funds may be used for capital or operating costs of services and facilities that improve mobility for older adults. The funding also may be used to continue existing programs; however, existing programs will be scored based on criteria that measure their efficiency and effectiveness. Ms. Kochman reviewed the proposed evaluation criteria and the scoring weight of each criterion.

Mini-Grant funds may be used to support up to 80 percent (80/20 match) for all operating projects. Fare revenue generated on the service to be supported may not be used as matching funds for operating grants. For capital projects, funds can be used to support up to 20 percent (20/80 match) of all costs. Mini-Grant funding may be used to leverage the federal dollars for the Elderly and Disabled and New Freedom programs. The local match for these projects can be any source, including in-kind contributions, but excludes fares, user fees, or required donations.

Ms. Kochman reviewed the timeline for application submittal, review, and award. Successful applicants will be required to sign Full Funding Agreements with SANDAG. Funding for the approved projects will become available after July 2008 as *TransNet* Extension revenues begin to flow.

The ITOC unanimously supported the concept of merging the *TransNet* Senior Mini-Grant Program with the Federal Transit Administration (FTA) senior transportation-related programs. Merging these programs allows the *TransNet* money to further leverage available federal funding and maximize the amount of senior transportation service that can be provided.

Based on stakeholder input and the lessons learned from most recent New Freedom competitive process staff recommends several changes to the evaluation criteria. These changes include modifications to the performance indicators for service effectiveness to reflect vehicle capacity and adopting the new point score allocation for New Freedom that was approved by the Transportation Committee as the basis for scoring Mini-Grant Applications.

Chair Pro Tem Emery requested clarification regarding the scope of the program such as how many projects would be eligible, what size of a project, and how much funding would be available. He also asked if staff would be able to provide funding level advice to any organization interested in applying for the program.

Ms. Kochman stated that no maximum funding has been set but staff expects the projects application to be at the same levels as the New Freedom Grant applicants, which ran from \$12,000 to \$500,000. If the funding requests come in much higher, staff would set a maximum limit for next year's program. Staff would be willing to work with applicants on the appropriate amount of funding they should request for their project.

Chairman Gallo commented that there seems to be duplicate effort on eligible applicants for this program. FACT is one of 6 agencies that can apply for these funds and the purpose of FACT is to coordinate nonprofit organizations into one group and by allowing additional private and public transportation operators would affect funding for FACT negatively.

Ms. Kochman stated that the application process must be open and competitive. FACT is promoting many of the agencies that plan to apply for funding under this program.

Mayor Desmond asked whether it was possible for several agencies to work together to submit an application for funds.

Ms. Kochman replied that it was strongly encouraged and one of the one of the evaluation criteria is coordination and applying as a coalition is a great example of coordination.

Mayor Madrid commented that many applicants may not have staff or expertise to properly complete an application or may not be able to understand the intricacies of the applications and requested that staff be prepared to work with applicants so that they can submit competitive applications.

Ms. Kochman stated that staff would be willing to assist applicants.

Councilmember Monroe stated that the two big transit agencies need funding and here we have funds and asked if SANDAG was required by law to use these funds for this program. Or could it be possible to use these funds for the transit agency shortfalls or is there a federal requirement to use these funds for this type of program.

Ms. Wiley stated that the *TransNet* Ordinance requires a competitive grant process but she was not aware of any other laws that limit the use of the funds.

Councilmember Monroe stated what if we declare a financial state of emergency for MTS and NCTD and use these funds to supplement the transit operators' budgets.

Ms. Wiley stated that there is no provision in the *TransNet* Ordinance for an emergency situation and the *TransNet* Ordinance specifies a specific percentage of these funds, three and one fourth percent, of the funds available under Section 4C of the Ordinance shall be used to support this competitive program.

Mayor Druker commented that we could change the evaluation criteria to say that the funds will be split between MTS and NCTD.

Councilmember Monroe stated that the eligible applicants are both private and public transportation operators and asked if we could eliminate private agencies as eligible applicants and only allow public agencies to apply for the funding.

Mayor Druker commented that we could do that just for this year. We could make the program competitive and but give priority to MTS and NCTD.

Chair Madaffer stated that we need to focus on the fact that while there are several different types of funding monies available and when budgets get tight, we want to find ways to move monies to keep the status quo but first we need to make sure that the status quo is acceptable.

Ms. Wiley stated that the language in the *TransNet* Ordinance specifically states that the monies shall be used to support a competitive grant program for non-profit organizations and local agencies. The language of the Ordinance does not allow for limiting the funding for public agencies.

Councilmember Monroe asked for clarification of the definition of private under this program; private companies can be for profit.

Ms. Wiley stated that the idea is not whether it is profit or non-profit but that it is private sector; so it would be private non-profits.

Ms. Kochman stated that if private for profit agencies were to apply, the way the match amounts are set up, because fare revenues can not be used as part of the match amount, any for profit that would be running transportation using this grant would be facing a deficit and wouldn't be able to make a profit.

Chair Madaffer stated that we could bring the item back with further legal analysis on how these funds could be used or could move forward.

Mr. Gallegos stated that he and staff would work with the two transit operators to ensure that we get good competitive applications from them for the funds that allow them to be in a good position to receive some of these funds.

Action: Upon a motion by Mayor Pfeiler and a second by Councilmember Hall, the Transportation Committee approved the following actions related to the Senior Mini-Grants Program: (1) approved the competitive process to be used for identifying projects to be funded; and (2) approved the proposed project evaluation criteria. The first competitive process for the Senior Mini-Grant program will begin in the spring in cooperation with the upcoming New Freedom competitive process.

10. TRANSPORTATION DEVELOPMENT ACT CLAIM AMENDMENT: CITIES OF LEMON GROVE, OCEANSIDE, SANTEE, AND THE COUNTY OF SAN DIEGO (APPROVE)

Ms. Wasmund presented the item. The Cities of Lemon Grove, Oceanside, Santee, and the County of San Diego have indicated that construction was completed on various bicycle and pedestrian projects. Unexpended Transportation Development Act (TDA) funds from these projects remain, and the allocations for these TDA claims must be reduced. After a final accounting, unexpended funds from these projects remain, and the allocations for these TDA claims must be reduced by a total of \$137,608. The unexpended funds, plus accumulated interest of approximately \$75,385, will be returned to the Local Transportation Fund, subject to Transportation Committee approval, for use on other bicycle and

pedestrian projects. Allocations for other approved projects under these claims remain unchanged.

Action: Upon a motion by Councilmember Jack Dale (East County) and a second by Chair Pro Tem Emery, the Transportation Committee approved Resolution No. 2008-13 approving revisions to TDA Article 3 claims for the various completed projects. Unexpended TDA funds plus accumulated interest would be returned to the Local Transportation Fund.

11. FY 2009 TDA/*TransNet* BICYCLE AND PEDESTRIAN FUNDING (APPROVE)

This item was pulled from the agenda and returned to staff and will be placed on the Transportation Committee at its March 21, 2008, meeting.

13. UPCOMING MEETINGS

The next meeting of the Transportation Committee is scheduled for Friday, March 7, 2008, at 9 a.m.

14. ADJOURNMENT

Chair Madaffer adjourned the meeting at 11:07 a.m.

Attachment: Attendance Sheet

**CONFIRMED ATTENDANCE
SANDAG TRANSPORTATION COMMITTEE MEETING
FEBRUARY 15, 2008**

GEOGRAPHICAL AREA/ ORGANIZATION	JURISDICTION	NAME	MEMBER/ ALTERNATE	ATTENDING
North County Coastal	City of Carlsbad	Matt Hall	Member	Yes
	City of Del Mar	Dave Druker	Alternate	Yes
North County Inland	City of Escondido	Lori Holt Pfeiler	Member	Yes
	City of Vista	Bob Campbell	Alternate	No
East County	City of Santee	Jack Dale (Vice Chair)	Member	Yes
	City of La Mesa	Art Madrid	Alternate	Yes
South County	City of Coronado	Phil Monroe	Member	Yes
	City of Chula Vista	Jerry Rindone	Alternate	Yes
City of San Diego	----	Jim Madaffer (Chair)	Member	Yes
	----	Toni Atkins	Alternate	Yes
	----	Ben Hueso	Alternate	No
County of San Diego	----	Ron Roberts	Member	Yes
	----	Greg Cox	Alternate	No
	----	Bill Horn	Alternate	No
Metropolitan Transit System	City of Poway	Bob Emery	Member	Yes
	MTS	Harry Mathis	Alternate	Yes
North County Transit District		Ed Gallo	Member	Yes
		Jerome Stocks	Alternate	No
		Dave Druker	Alternate	No
San Diego County Regional Airport Authority		Charlene Zettel	Member	No
		Jim Desmond	Alternate	Yes
		Ramona Finnilla	Alternate	No
ADVISORY/LIAISON Caltrans	----	Pedro Orso-Delgado	Member	Yes
	---	Bill Figge	Alternate	Yes
SCTCA	---	Albert Phoenix	Member	Yes
		Shane Chapparosa	Alternate	No