



**BOARD OF DIRECTORS
DECEMBER 16, 2005**

**AGENDA ITEM NO. 05-12-1
ACTION REQUESTED - APPROVE**

**BOARD OF DIRECTORS DISCUSSION AND ACTIONS
NOVEMBER 18, 2005**

Chairman Mickey Cafagna (Poway) called the meeting of the SANDAG Board of Directors to order at 9:15 a.m. The attendance sheet for the meeting is attached.

1. APPROVAL OF MINUTES

Action: Upon a motion by Vice Mayor Pia Harris-Ebert (San Marcos) and a second by Mayor Lori Holt Pfeiler (Escondido), the SANDAG Board of Directors approved the minutes from the October 28, 2005, meeting.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBERS COMMENTS

Chair Cafagna distributed to the Board a lapel pin symbolizing the City of Poway's 25th Anniversary. He invited Board members to an anniversary celebration in Poway on Saturday, December 3.

Chair Cafagna welcomed Ricardo Pineda as an alternate for Consul General Luis Cabrera Cuaron.

Mayor Jim Wood (Oceanside) introduced his second alternate, Councilmember Shari Mackin.

La Mesa Mayor Art Madrid and Councilmember Dave Allan presented a Missing In Action/Prisoners of War (MIA/POW) flag to Chair Cafagna, First Vice Chair Mary Sessom (Lemon Grove), and Chula Vista Mayor Steve Padilla. Mayor Madrid said that this presentation is from the City of La Mesa, on behalf of Councilmember Dave Allan as a gesture to remember this country's MIAs/POWs. Mayor Madrid said that the freedom to hold this Board meeting is in part due to the sacrifices of our veterans. He expressed appreciation for the Executive Committee's support for this MIA/POW flag.

Councilmember Allan stated that there are over 125,000 MIAs/POWs still listed as missing in action. San Diego is a military town, and we sit here today because of the men and women who served this country, and paid the ultimate price for our freedom.

Mayor Padilla mentioned that he was from a military family. This MIA/POW flag will remind us every day that we are in the land of the free because of the brave and only because of that. We will be reminded of their sacrifice while our democracy is in action.

Chair Cafagna thanked the City of La Mesa for providing this flag.

Chuck Lungerhausen, a member of the public, said that over the last week there has been quite a bit of focus from news media on the search for a new airport location, which will be on the ballot in 2006. Since the Base Realignment and Closure Commission has laid out its plan, there is some talk about joint use of one or two local bases for an international airport. As a result of 9/11, this joint use idea might provide a more secure airport environment. A new international airport would do wonders for the financial health of the cities and County of San Diego, plus the new income would help pay for the military base in the future. This is a win/win situation for all involved. He didn't feel that building a new international airport in Imperial County and adding more lanes to Interstate 8 would be healthy for San Diego's economy.

Chair Cafagna announced that it was SANDAG Executive Director, Gary Gallegos' birthday. He invited all to sing happy birthday to Mr. Gallegos, and announced that a cake was available for meeting attendees.

Chair Cafagna commented that he had come into the office to sign the *TransNet* Commercial Paper documents last week. In September, the Board had approved using a Commercial Paper financing mechanism for the *TransNet* Early Action Program. Not all of the exhibits were attached to the original Board report, but they were available at the document signing. Second Vice Chair Jack Dale (Santee) also attended and went through the documents with him.

3. **ACTIONS FROM POLICY ADVISORY COMMITTEES (APPROVE)**

This item summarizes the actions taken by the Executive and Transportation Committees on November 4, 2005.

Action: Upon a motion by Deputy Mayor Crystal Crawford (Del Mar) and a second by Mayor Holt Pfeiler, the SANDAG Board approved Agenda Item No. 3, Actions from Policy Advisory Committees. Yes – 17 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (0%). Absent – Encinitas and Santee.

CONSENT ITEMS (4 through 9)

4. **AMEND THE FY 2006 OVERALL WORK PROGRAM AND BUDGET TO ENHANCE REGIONAL PUBLIC SAFETY INFORMATION SHARING VIA WIRELESS ACCESS (APPROVE)**

If approval is recommended by the Public Safety Committee on November 18, 2005, the Board of Directors is asked to approve a modification to the FY 2006 Overall Work Program and Program Budget to include \$1,075,000 awarded to ARJIS/SANDAG to enhance the wireless system for sharing public safety information. The additional funding is from the Department of Homeland Security (DHS), which has awarded ARJIS/SANDAG \$875,000 for the third phase of a multi-phased wireless data integration project, known as BorderSafe. This phase will implement BorderSafe law enforcement data-sharing research findings throughout the southwest region and to expand the functionality of the personal digital assistant (PDA) accessible wireless system. In addition to the DHS funding, the National Institute of Justice has awarded ARJIS/SANDAG \$200,000 to enable access to public safety information through secure cell phones.

4. ADDENDA TO THE MASTER MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN SANDAG, NCTD, AND MTS (APPROVE)

Two addenda are proposed to the existing Memorandum of Understanding (MOU) between SANDAG, North County Transit District (NCTD), and Metropolitan Transit System (MTS). Addenda 3 and 4 between SANDAG and NCTD, and SANDAG and MTS, respectively, formalize the methodology to be used for allocating funding to SANDAG for the administrative functions that transferred in consolidation. The Transportation Committee recommended that the Board of Directors approve Addenda 3 and 4 to the Master MOU between SANDAG, NCTD, and MTS.

6. EAST VILLAGE INTERMODAL TRANSIT IMPROVEMENTS PROJECT (APPROVE)

The East Village Intermodal Transit Improvements Project will develop rail and urban design improvements along Park Boulevard from Imperial Avenue to C Street. The Board of Directors is asked to: (1) approve a transfer of all current and future project funding from MTS to SANDAG; and (2) approve an amendment to the FY 2006 Capital Improvement Program (CIP) and Program Budget: (a) to reduce the Orange Line to Blue Line Connection project budget (CIP #10492) from \$5,998,000 to \$850,000; and (b) to add a new CIP project #10494 entitled East Village Smart Corner Improvements Project, totaling \$14,283,000.

7. QUARTERLY INVESTMENT REPORT - PERIOD ENDED SEPTEMBER 30, 2005 (INFORMATION)

State law requires that the Board be provided a quarterly report of investments held by SANDAG. This report includes all money under the direction or care of SANDAG as of September 30, 2005.

8. QUARTERLY PROGRESS REPORT ON TRANSPORTATION PROJECTS – JULY TO SEPTEMBER 2005 (INFORMATION)

This quarterly report summarizes the current status of major highway, transit, arterial, traffic management, and transportation demand management (TDM) projects in SANDAG's five-year Regional Transportation Improvement Program (RTIP) for the period July 1 through September 30, 2005.

9. REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY EXECUTIVE DIRECTOR FOR SEPTEMBER 2005 (INFORMATION)

In accordance with SANDAG Board Policy Nos. 3 (Investment Policy) and 17 (Delegation of Authority), this report summarizes certain delegated actions taken by the Executive Director during the prior month.

Action: Upon a motion by Vice Mayor Ron Morrison (National City) and a second by Councilmember Patricia McCoy (Imperial Beach), the SANDAG Board voted unanimously to approve Consent Item Nos. 4 through 9. Yes – 17. Absent – La Mesa and Santee.

Item No. 10 was trailed until the arrival of Councilmember Madaffer, Chair of the Nominating Committee.

REPORTS (11 through 12)

11. *TransNet* INTEREST RATE HEDGING PROPOSAL (APPROVE)

Councilmember Joe Kellejian (Solana Beach) stated that, at the beginning of the year, the Transportation Committee and Board approved the *TransNet* Early Action Program (EAP) and directed staff to jumpstart several major transportation projects. One of the key pieces of this process is the strategy for financing these highway and transit improvements. At its May 2005 meeting, the Transportation Committee approved the initial financial strategy for the EAP, including: (1) expanding the *TransNet* Commercial Paper program, (2) developing a Plan of Finance to meet the cash-flow needs for the EAP as well as the existing commitments from the current *TransNet* program, and (3) locking in today's low interest rates for a long-term bond issue in 2008. In September, the Board approved the expansion of the Commercial Paper program. The \$335 million program is now in place to support the accelerated implementation of the EAP.

Councilmember Kellejian stated that the Transportation Committee also has been working on the development of the Plan of Finance. At its November 4 meeting, the Transportation Committee approved developing the draft Plan of Finance based on the use of bonds to fast-track our Early Action highway and transit projects. This draft plan will be brought to the board in December for consideration. The final piece of the strategy was to direct staff to investigate interest rate hedging opportunities. Staff and SANDAG's Financial Advisor, Public Financial Management (PFM), went through a Request for Proposals (RFP) process over the past few months which resulted in the interest rate swap proposal being presented today. The interest rate hedging proposal would lock in a low interest rate for the first \$600 million assumed in the draft Plan of Finance and would help deliver the EAP as soon as possible.

Mr. Keith Curry (PFM) introduced members of the financial team, including Andrew McKendrick (PFM), and Mary Collins from Orrick, Herrington, and Sutcliffe. He indicated that representatives from Merrill Lynch, Goldman Sachs, and Bank of America also were in attendance and available to answer questions.

Mr. Curry said that it has been his honor to come before this Board over the past 17 years with various financing proposals. This proposal has far-reaching impacts to implement the *TransNet* projects approved by the voters. When the *TransNet* Extension measure passed last November, we embarked upon a three-step strategy to put in place a flexible financial vehicle to provide money as the projects require it. The first step was the expansion of the *TransNet* Commercial Paper program, which was approved by the Board in September. The second step was to develop an interactive model to evaluate the Plan of Finance alternatives. The Transportation Committee evaluated those alternatives and recommended developing a final plan that accommodates the cash flows needs for implementing the Early Action Program. The third step was to hedge the cost of debt in 2008 once the first *TransNet* measure bond obligations were paid off. That is what is being proposed today.

Mr. Curry stated that the goals and objectives of this financial strategy are to minimize the funding cost for the *TransNet* projects, protect against potential upward interest rate movements prior to 2008, capitalize on the near historically low interest rate environment and flat yield curve, and mitigate SANDAG's exposure to risks. The benefits of implementing this strategy include executing three interest rate exchange agreements ("swaps"), locking in the cost of funds for the 2008 issue at less than 4 percent, removing the interest rate risk from about 50 percent of the expected EAP program debt, and saving 79 basis points, or more than \$3.1 million annually, compared to traditional fixed rate bonds (approximately \$93 million over the 30-year life of the bonds).

Mr. Curry explained that an interest rate swap is a contract between two organizations to exchange cash flows over time. One cash flow is calculated using a fixed interest rate, while the other is calculated using a variable interest rate. He showed various components of the transaction and mentioned that bonds will not be issued until 2008. At that point, the agreements will become effective and we will begin exchanging payments. We will be able to lock in rates at lower than expected percentages. This is a phenomenal accomplishment. The ability to bring the rate down will create the opportunity to move more projects into the plan faster, protect against downturns, and protect against the inflation of project costs.

Chair Cafagna asked why is it only half of the debt. Mr. Curry said that half of the project schedules are too far out to hedge effectively at this time. We could look at them in a couple of years.

Mr. Curry compared the options of locking in the 2008 cost of funds. If you look at the cost of capital in the first *TransNet* measure, we are saving \$7 million in annual debt service versus the historical cost of funds. This is a profoundly beneficial strategy. He showed key observations on the current market. He showed the growing number of public agencies that have begun using interest rate exchange agreements over the last ten years.

Chair Cafagna asked if Mr. Curry had netted out the cost of issuance of this program in the calculation of the annual payments and our savings. Mr. Curry replied that they only looked at the cost of interest payments and compared those.

Mr. Curry provided the general timeline, and described the risk of not proceeding with the swap proposal. If we do nothing and sell bonds when interest rates are flat (at today's levels), there would be an incremental cost of \$3 million in additional debt service. However, if interest rates increase by 100 basis points or a full 1%, annual debt service could increase by as much as \$11 million per year.

Mr. Curry said this is not the lowest cost strategy, but a lower cost strategy would have more risk. The proposed strategy is designed to minimize the following: counterparty risks, basis risks, tax law change risks, and market access risk.

Mr. Curry explained that termination risk is the risk that a payment may be due if SANDAG terminates in a lower rate environment. Mitigating factors include the fact that SANDAG has strong reasons to borrow in 2008 based on the draft Plan of Finance and thus not terminate the swaps and risk a termination payment. In addition, recent liquidity bids and ratings affirmations indicate strong market access. He explained why this strategy makes

sense for SANDAG: it establishes the cost of funds for approximately 50 percent of the EAP debt at the lowest level ever achieved by SANDAG (79 basis points lower than fixed rate bonds, or 3.79 percent for 30 years), rates are at near historic lows, rates only have to rise by 17 basis points to reach the breakeven point, the swap agreements become assets that gain in value as interest rates rise, lower debt costs provide additional project delivery capacity, and risks are identified and mitigated.

Councilmember Scott Peters (City of San Diego) said that he would make the motion, except that he would have to abstain on any action related to the use of Goldman Sachs due to financial interests with that firm.

Councilmember Peters reiterated that we are not issuing any bonds until 2008, and this issuance would go through normal disclosures. He also asked if the substitution of counterparties is delegated or if it would be approved by the Board. Mr. Curry responded that the bond issuance in 2008 would go through the normal disclosure process, and any counterparty substitutions would be approved by the SANDAG Board.

Councilmembers Peters commented that the exit strategy is reasonable, and he supported it. He asked about the implications for local funding in terms of quantity and timing for local projects. Gary Gallegos said that the *TransNet* funding package is broken up into different components, and this issue relates to funding for the *TransNet* Major Corridor projects. It does not deal with the local street and road projects or funds for ongoing transit operations.

Councilmember Peters asked if we are still depending on Proposition 42 funds and developer fees to pay a part of this for local street and road projects. Mr. Gallegos replied that this proposal only looks at the *TransNet* piece. The receipt of Proposition 42 funds is not part of this financing proposal.

Julie Wiley, General Counsel, advised Councilmember Peters that if he has a potential conflict of interest with part of the recommended action he should abstain from the voting process. It was her understanding that the use of the firm of Goldman Sachs is an integral part of the recommended action and cannot be separated out.

Councilmember Peters left at the room at 10:04 a.m.

Councilmember Kellejian asked for input from the Independent Taxpayers Oversight Committee (ITOC) about this proposal.

Mike Boyle, ITOC chair, indicated that the ITOC met on several occasions and had a similar presentation from Mr. Curry and the financial team. Members of the ITOC also did some due diligence on their own. This proposal seems to be a reasonable way to approach a volatile subject like interest rates, and would protect the EAP like an insurance policy. The ITOC voted to endorse the measures. They are now trying to address the other aspects of their charge to monitor project schedules, to evaluate performance measures and project criteria, and to evaluate how the transportation system is performing.

Councilmember Kellejian asked if the ITOC took into consideration the escalating cost of materials. Mr. Boyle replied affirmatively, and indicated that they had a presentation on materials costs at a prior meeting.

Councilmember Jerome Stocks (North County Transit District [NCTD]) asked Mr. Boyle what the ITOC's greatest concern was about this proposal. Mr. Boyle responded that they didn't have a concern, just areas of inquiries; however, Mr. Curry did a good job of explaining the counterparties involved and the reasons why they were interested in this strategy.

Mayor Madrid asked for a definition of the term "derivative" contained in the various agreements. Mary Collins (Orrick Herrington and Sutcliffe), bond counsel, described the various agreements including the Master Agreements, Schedule to the Master Agreements, Credit Support Annexes, and Confirmation documents. She said that you are entering into a transaction which has a relationship to another obligation; this is called a derivative agreement.

Chair Cafagna asked if the various parties are obligated individually for the whole or only for the one-third portion. Ms. Collins answered that they are obligated only for the one-third portion.

Councilmember Jim Madaffer (City of San Diego) arrived at 10:17 a.m.

Ms. Collins noted that SANDAG's trustee bank will monitor the collateral level for this transaction. The counterparties will have to post collateral under certain situations. These are one-way collateral obligations. If the rate increases, SANDAG is not responsible for posting collateral.

Councilmember Madaffer asked how much time the ITOC has spent on this issue. Craig Scott, *TransNet* Program Manager, said that the ITOC reviewed this issue at their previous two meetings and spent quite a bit of time at those meetings discussing this proposal.

Chair Cafagna said this is a terrific opportunity for us. This kind of proposal is usually only available from the highest credit rating agencies and only for the highest quality projects. It is a fairly risk-free strategy. He commended SANDAG staff, the ITOC, and the tremendous legal support for the efforts put into this to protect SANDAG as much as possible.

Ms. Wiley provided information on the "standard of care" and what is required by law for Board members for voting on this type of financial transaction. She said that Board members will be held to a "prudent investor standard," which requires you to use the standard of care, skill, and diligence that someone who is a prudent person would use in making such decisions. You cannot rely solely on the opinion of experts, but should refer to your own experience in such matters.

Mayor Pro Tem Matt Hall (Carlsbad) strongly supported this action. He said that today's action is one step on a long walk. Each of the Board members has made commitments to each other and to this agency, and we have to honor our past commitments and move forward.

Councilmember Madaffer stated that he executed the standard of care provided for in the law with regard to these documents.

Action: Upon a motion by Councilmember Madaffer and a second by Second Vice Chair Dale, the SANDAG Board approved an Interest Rate Swap Policy to provide guidance on all interest rate swap transactions to be considered by SANDAG, and Resolution No. RC2005-02 authorizing: (a) the issuance of up to \$600 million in sales tax revenue bonds in 2008; (b) a Forward Interest Rate Swap Transaction in connection with the bond issue; (c) execution and delivery of the documents by the Chair of the Board or the Executive Director once they are in final form; (d) execution and delivery of required tax certifications and closing certificates; and (e) taking such other actions as are required in connection with the swaps. Yes – 19 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (0%). Absent – 0.

CHAIR'S REPORT

10. REPORT FROM NOMINATING COMMITTEE ON ELECTION OF BOARD OFFICERS FOR 2006 (INFORMATION)

Per the SANDAG Bylaws, in October Chairman Cafagna appointed a five-person Nominating Committee for Board officers. The Nominating Committee consists of the following Board members: Carlsbad Mayor Pro Tem Matt Hall (North County Coastal), San Marcos Vice Mayor Pia Harris-Ebert (North County Inland), La Mesa Mayor Art Madrid (East County), Coronado Councilmember Phil Monroe (South County), and San Diego Councilmember Jim Madaffer (City of San Diego).

Councilmember Madaffer reported that the Nominating Committee met on Wednesday, November 16, and recommended that Poway Mayor Mickey Cafagna and Lemon Grove Mayor Mary Sessom continue in their capacities of Chair and First Vice Chair, respectively, through December 2006. The Nominating Committee also is recommending to the Executive Committee changes for future selection processes. The changes would include an interview process, application form, and for applicants to state the reasons why they would like the three Board officer positions. The Nominating Committee will meet on December 2 to conduct the interviews for the Second Vice Chair position. Three candidates for this position are Deputy Mayor Crystal Crawford (Del Mar), Deputy Mayor Christy Guerin (Encinitas), and Mayor Lori Holt Pfeiler (Escondido). The Nominating Committee will provide a recommendation for the Second Vice Chair position at the December 16 Board meeting.

Councilmember Patricia McCoy (Imperial Beach) wanted clarification about nominations from the floor and whether the interview would slow down the selection process. Councilmember Madaffer said that accepting nominations from the floor is pursuant to SANDAG's Bylaws. If we change the Bylaws, this new selection process would start in July 2006. However, the ability to nominate from the floor would still exist. Mr. Gallegos said that unless the Board chose not to make a decision at the December 16 meeting, the selection process should not be delayed.

Chair Cafagna said that if a Board member has a nominee for the Second Vice Chair position, he/she should encourage the nominee to go through the interview process.

Action: This item was presented for information only.

12. **AMENDMENTS TO *TransNet* POLICIES (APPROVE)**

Mr. Scott stated that a series of amendments to the *TransNet* policies is being presented. There are 17 policies; the first 15 were adopted back in the 1998-1992 era. These amendments have to do with minor technical revisions, replacing policies with subsequent versions, and adding references to the *TransNet* Extension Ordinance. Policy No. 16 was adopted in September along with the Commercial Paper program defining how that process would be conducted. Policy No. 17 is the only new policy, and deals with issues related to the timing and completion of the required annual fiscal audits. This new policy was reviewed and recommended by the Transportation Committee, and it also has been reviewed by the ITOC.

Action: Upon a motion by Vice Mayor Morrison and a second by Councilmember Kellejian, the SANDAG Board approved the proposed amendments to the *TransNet* policies. Yes – 17 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (0%). Absent – Chula Vista and Imperial Beach.

13. **UPCOMING MEETINGS**

Chair Cafagna noted that the December 2 Policy Board meeting has been cancelled. The Executive Committee meeting and interviews for the Second Vice Chair position will be held on that date. The next regular Board of Directors business meeting is scheduled for Friday, December 16, 2005, and immediately following that meeting is the annual holiday party at the Westgate Hotel.

14. **ADJOURNMENT**

The meeting was adjourned at 10:37 a.m.

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**ATTENDANCE
SANDAG BOARD OF DIRECTORS' MEETING
NOVEMBER 18, 2005**

JURISDICTION/ ORGANIZATION	NAME	ATTENDING	COMMENTS
City of Carlsbad	Matt Hall (Member)	Yes	
City of Chula Vista	Steve Padilla (Member)	Yes	
City of Coronado	Phil Monroe (Member)	Yes	
City of Del Mar	Crystal Crawford (Member)	Yes	
City of El Cajon	Mark Lewis (Member)	Yes	
City of Encinitas	Christy Guerin (Member)	Yes	
City of Escondido	Lori Holt Pfeiler (Member)	Yes	
City of Imperial Beach	Patricia McCoy (Member)	Yes	
City of La Mesa	Art Madrid (Member)	Yes	
City of Lemon Grove	Mary Sessom, Vice Chair (Member)	Yes	
City of National City	Ron Morrison (Member)	Yes	
City of Oceanside	James Wood (Member)	Yes	
City of Poway	Mickey Cafagna, Chair (Member)	Yes	
City of San Diego - A	Jim Madaffer (Member A)	Yes	
City of San Diego - B	Scott Peters (Member B)	Yes	
City of San Marcos	Pia Harris-Ebert (Member)	Yes	
City of Santee	Jack Dale (Member)	Yes	
City of Solana Beach	Joe Kellejian (Member)	Yes	
City of Vista	Morris Vance (Member)	Yes	
County of San Diego	Pam Slater-Price (Member)	Yes	
ADVISORY MEMBERS LISTED BELOW (ATTENDANCE NOT COUNTED FOR QUORUM PURPOSES)			
Caltrans	Pedro Orso-Delgado (Alternate)	Yes	
MTS	Leon Williams (Member)	Yes	
NCTD	Jerome Stocks (Member)	Yes	
Imperial County	Victor Carrillo (Member)	Yes	
US Dept. of Defense	CAPT Daniel King (Member)	No	
SD Unified Port District	William Hall (Member)	No	
SD County Water Authority	Marilyn Dailey (Member)	Yes	
Baja California/Mexico	Ricardo Pineda (Alternate)	Yes	