

INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE

April 8, 2009

AGENDA ITEM NO.: **1**

Action Requested: APPROVE

SUMMARY FOR THE MARCH 11, 2009, ITOC MEETING

File Number 1110200

Attendance

Committee Members:	<ul style="list-style-type: none">• John Meyer, ITOC Chair• Kevin Cummins• Jim Ryan	<ul style="list-style-type: none">• Ron Gerow• Valerie Harrison• Jesus Garcia
Absent:	<ul style="list-style-type: none">• Tracy Sandoval• Gary Gallegos	<ul style="list-style-type: none">• Hamid Bahadori
Staff:	<ul style="list-style-type: none">• Charles “Muggs” Stoll	

The meeting of the *TransNet* Independent Taxpayer Oversight Committee (ITOC) was called to order by Chair John Meyer at 9:34 a.m.

1. APPROVAL OF MEETING SUMMARY

Action: Upon a motion by Mr. Cummins and a second by Mr. Garcia, the ITOC approved the February 11, 2009, meeting summary.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Kim Kawada, Policy and Legislative Affairs Program Manager, provided information regarding the current status of the federal economic stimulus package, the American Reinvestment and Recovery Act of 2009 (ARRA). Ms. Kawada stated that the \$787 billion measure includes tax cuts and spending provisions that affect transportation. The funds will flow through typical funding processes. Ms. Kawada stated that based on the national numbers the apportionment to the San Diego region for Federal Highway funding will be approximately \$135 million and Federal Transit Administration (FTA) dollars will be approximately \$85 million. The funds will be apportioned under existing formulas and all federal requirements apply. Ms. Kawada stated that projects to be funded need to meet those federal requirements to comply with the federal process and staff is looking at how to “federalize” projects to meet the requirements. Ms. Kawada stated that there are strict use-it-or-lose-provisions and 50 percent of the Federal Highway funds must be obligated within 120 days; for transit projects, 50 percent of the funds must be obligated within 180 days and all funds, 100 percent, must be obligated by September 30, 2010.

Ms. Kawada stated that if we do not meet those deadlines, the funds will be made available and redistributed to other states that fully used their balances and still have funding needs. Ms. Kawada stated that there is a strong focus on transparency and there are rather substantial reporting requirements, such as reporting the number of jobs created, types of projects funded, etc. Ms. Kawada stated that the strategy being developed now is how to best use the funds throughout the region. She stated that the California Transportation Commission (CTC) funding process is on a tight deadline and the CTC wants funding program recommendations by March 27. The Transportation Committee will hear the item on March 20, 2009, and the full Board of Directors will hear the same item on March 27, 2009. She stated that there is no specific recommendation requested of the ITOC today. The approach is to focus on fully using the funds and not losing any funds for the region. She stated that not only are we focusing on using all of the funds already apportioned for the region but on being in position to use funds that other states/regions fail to obligate.

Ms. Kawada stated that the federal process is critical to follow and although Caltrans is experienced with the process, many of the local agencies are not so staff is focusing efforts on how to improve or simplify the process. Also our strategy is to focus on larger projects due to the substantial reporting requirements. She stated that some small projects would be too difficult to meet the reporting requirements. She stated that staff will work with local agencies to find funding for smaller projects.

Chair Meyer asked staff when they expected to report to the ITOC on what funds will be allocated to *TransNet* projects.

Ms. Kawada stated that the initial recommendation will be presented at the March 20, 2009, Transportation Committee meeting. Staff still is finalizing the report and will provide a copy to the ITOC members of that report as soon as it is ready. She stated that staff can bring the item back to the ITOC for full discussion at the April ITOC meeting.

Chair Meyer requested clarification on how SANDAG determined the allocation of funds to the local agencies.

Ms. Kawada stated that allocations through the exiting state process is cumbersome. The funds are allocated through the CTC and potential legislation proposes to modify the process for the economic stimulus funds so that rather than having them funnel through the CTC the funds would be given directly to the region. This would allow for more flexibility to the local agencies. Ms. Kawada stated that a greater share would come to the region and the draft agreement would give 40 percent to the local agencies, roughly \$50 million of the \$135 million of federal funds.

Chair Meyer stated that the Los Angeles Metropolitan Transportation Authority (LA MTA) has allocated half a million dollars to each of its 88 cities. He commented that many of these cities are too small to use the full amount of funding and are not able to obligate the funds. This is causing the agencies to enter into swap agreements to trade funds which is complicated and at times unfair and does not seem the best use of the funds.

Ms. Kawada stated that SANDAG has been in discussion with all its member agencies and recognizes that there are local needs for projects that could use these federal dollars. She stated that the formula used by the LA MTA would not work in this region. She stated that this region is working to maximize the funds on larger projects and the Board is focusing on spending on both *TransNet* Early Action Program (EAP) projects and on non-*TransNet* projects with the expectation that local agencies will share in the funding as well. She stated that staff will present more than one option to the Board for their consideration.

Chair Meyer asked staff how will ARRA will affect the federal reauthorization.

Ms. Kawada stated that SANDAG has been advocating for the federal reauthorization but the latest news out of the Senate is that there will be no earmarks this year because of the President's large spending bill. She stated that it is possible a longer extension of the existing SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users) measure may happen instead. The Assembly still is discussing the reauthorization and they are focusing on how to make to work. What staff expects is an extension of the current measure that will be funded while Congress continues to work toward a reauthorization measure.

Charles "Muggs" Stoll, *TransNet* Program Manager, stated that the CTC is meeting today and tomorrow and that what action is taken there will influence the report that goes to the Transportation Committee on March 20, 2009. He stated that once the report is drafted staff will provide a copy to the members of the ITOC.

Chair Meyer stated that John Suhr had written an editorial to the Union Tribune. The ITOC has received communications from Mr. Suhr in the past and had responded to them. The Chair asked the Committee if they felt the ITOC should respond to the editorial.

After discussion, the consensus of the ITOC was not to respond to the editorial.

Mr. Stoll stated that the ITOC Selection Committee will be meeting on March 27, 2009, at 8 a.m. He stated that we have received several applications and have at least on qualified applicant for each position.

3. INTERSTATE 15 EXPRESS LANES PROJECT UPDATE (INFORMATION)

Gustavo Dallarda, Caltrans Corridor Director, presented the item and provided an update on the progress of the Interstate 15 (I-15) Express Lanes construction project. Express lanes are being constructed in the median of I-15 from State Route (SR) 163 to SR 78. The new express lane segment over Lake Hodges, the transit stations at Rancho Bernardo and Del Lago, and the dynamic tolling system are scheduled to be opened to traffic/open for service in March 2009.

Mr. Dallarda stated that the I-15 Express Lanes Middle Segment is eight miles long and has been under construction for five years. Caltrans has made \$335 million of actual construction capital payments through January 2009. He stated that three of the five roadway projects are complete and two are in plant establishment. There are three landscape contracts ongoing in addition to the transit centers project.

Mr. Dallarda stated that after the opening of the new high-occupancy vehicle (HOV) lanes north of SR 56, HOV traffic increased by 12 percent and single-occupancy vehicle (SOV) traffic decreased by 8 percent. He stated that data collected between October of last year and January 2009 indicates that there are approximately 15,000 vehicles using the reversible lanes every weekday between

SR 163 and SR 56, which represents a 6 percent increase from the traffic utilizing these lanes before the new express lanes opened last September between SR 56 and Rancho Bernardo.

Mr. Dallarda stated that a media event was held on March 7, 2009, for opening of the next three and a half miles of express lanes. He stated that the dynamic pricing for express lanes north of SR 56 began on March 7 and during the week of March 16, 2009, the express lanes between Rancho Bernardo and Escondido, including the Del Lago direct access ramp and station will open. He stated that the Rancho Bernardo direct access ramp is scheduled to open the week of March 23, 2009, and during the week of March 30, 2009, the express bus service will begin service to the Rancho Bernardo station. Mr. Dallarda stated that some work will continue after the opening such as landscaping and Caltrans is working with SDG&E to have power to the station by March 23, 2009, in order to run tests and have the opening on time.

Mr. Garcia asked whether Caltrans would be building a parking structure at this location.

Mr. Dallarda stated that they were considering a parking structure at the north parking lot location.

Mr. Dallarda stated that the Rancho Bernardo Direct Access Ramp should have paving completed today with striping and sidewalks work to follow. He stated that the FasTrak signs will be installed by the end of the week with testing the next week.

Mr. Dallarda stated that the Del Lago Direct Access Ramp has a signal installed and has power. He stated that the Park & Ride will be closed for final detailing and striping this weekend, and construction of the barrier transfer machine facility is ongoing.

Mr. Dallarda stated that the I-15 South Segment consists of three ongoing contracts between 17 percent and 35 percent complete, and with \$64 million of construction capital dollars spent to date. He stated that this project is fully funded with Proposition 1B (Prop. 1B) funds that are available again. The Carroll Canyon and Poway Road Bridge replacements are critical and traffic has been shifted to begin demolition work. He stated that the soil nail wall and other structure work at Ammo Way has been completed. Mr. Dallarda reviewed photographs of various locations along the South Segment project and described the work completed to date.

Mr. Garcia asked whether Caltrans had to acquire any rights-of-way for the project.

Mr. Dallarda stated that there had been some utility relocation but no acquisition of rights-of-way.

Mr. Dallarda stated that the I-15 North Segment began construction shortly after the South Segment and consists of two contracts that are between 1 percent and 10 percent completed. He stated that \$7 million in construction capital dollars have been paid to date. The project includes ten bridges to be widened and those bridge widening will drive the schedule. Mr. Dallarda reviewed the progress of the North Segment and presented photographs of various locations along the project.

Mr. Dallarda stated that Caltrans publishes quarterly newsletters to communicate the progress of the entire project with the public. He stated that there is an extensive outreach campaign that includes daily emails to the stakeholder list and updates on daily closures, published news releases and bulletins, and the Move San Diego Web site publishes notices as well.

Action: This item was presented for information only.

6. FY 2010 TRANSPORTATION DEVELOPMENT ACT/*TransNet* BICYCLE AND PEDESTRIAN PROGRAM CALL FOR PROJECTS (DISCUSSION)

Chris Kluth, Associate Regional Planner, presented the item and stated that each year, the Board of Directors allocates funds under the Transportation Development Act (TDA) and the *TransNet* local sales tax program to support bicycle and pedestrian transportation projects in the San Diego region. For FY 2010, approximately \$8.2 million is available for allocation.

Mr. Kluth stated that the existing project selection criteria have been in place for five years. The criteria have been fine-tuned each year and approved by the Transportation Committee, but the overall structure remains unchanged. All types of local and regional capital projects have been scored competitively relative to each other and there has been no segregation of funds based on the type of project. Once adopted, the *San Diego Regional Bicycle Plan* will provide policy that will direct project funding priorities and provide a strategy for funding the regional bicycle network. The *Regional Bicycle Plan* is scheduled to be completed fall of 2009 and will be in place for the FY 2011 funding cycle, but will not be completed before the upcoming FY 2010 funding cycle.

Mr. Kluth stated that the ITOC is asked to determine that the proposed program guidelines and project selection criteria are consistent with the *TransNet* Program eligibility requirements and provide comments for consideration by the Transportation Committee. The Bicycle, Pedestrian, and Neighborhood Safety Program is scheduled to receive approximately \$2.1 million in TDA funding and \$4.8 million in *TransNet* funding for FY 2010 for a total of \$7.2 million. Additionally, as a result of a TDA Local Transportation Fund (LTF) audit, there is \$776,414 available from projects that were completed under budget or abandoned. Finally, there is \$501,633 million available in unallocated funding from FY 2009, resulting in a total of \$8.2 million available for allocation in the FY 2010 funding cycle.

Mr. Kluth stated that the evaluation process for TDA/*TransNet* Bicycle and Pedestrian Projects is consistent with the way SANDAG evaluates and prioritizes other components of the transportation system, such as arterial, highway, and transit projects. The selection criteria supports the overall goals and objectives SANDAG has for improving the regional transportation system and promoting smart growth in the region by giving priority to projects that enhance the existing transportation network as a whole.

Mr. Kluth reviewed the TDA project eligibility requirements and also specific eligibility exclusions. He stated that one specific eligibility requirement is that the community must support the project either as part of the master plan or with documentation that shows the project went through the community planning process. The project must meet minimum design standards for projects funded with TDA and *TransNet* and must be built to SANDAG guidelines, which is a higher level of standards, especially for pedestrian projects. He stated that one important exclusion is that if the project is part of a larger capital improvement project it is not eligible.

Mr. Kluth reviewed the criteria matrix for both bicycle and pedestrian projects and reviewed point values for each criterion and how that point value was determined.

Mr. Cummins requested clarification regarding the geographic factors criterion and where the data for population and employment and density were obtained.

Mr. Kluth stated that the focus of the program in on the next future five years and projections were used for years 2015 to 2020 and obtained from SANDAG staff.

Mr. Cummins stated that 50 points for the regional housing needs criterion seemed high and asked how that point value was determined.

Mr. Kluth stated that project eligibility and incentive points will be based on the formula adopted by the Board of Directors in Board Policy No. 033, which is based on the Regional Housing Needs Assessment for affordable housing projects. The policy stated that 25 percent of points in discretionary programs will be dedicated to affordable housing criteria.

Chair Meyer requested clarification regarding the exclusion of driveway ramps and how that relates to installation of handicapped ramps.

Mr. Kluth stated that driveway ramps are not considered pedestrian access ramps.

Ms. Harrison requested clarification of whether a project that did not meet the buffer requirements of one-half to one mile would be ineligible.

Mr. Stoll stated that the project would be scored based on that criterion but it was not pass/fail. A project that did not meet that requirement may still be competitive.

Mr. Cummins stated that the pass/fail criteria language needs to be stronger so it is clear that if a project does not meet these criteria it will not be considered.

Action: This item was presented for discussion and no action was taken.

4. ANNUAL *TransNet* BUDGET AND PLAN OF FINANCE UPDATE (RECOMMEND)

Mr. Stoll presented the item and stated that at the February 11, 2009, ITOC meeting he presented the annual *TransNet* Plan of Finance (POF) update. The informational presentation focused on the major changes in the last year and emphasized the substantial changes in recent costs and revenues and their effects on the long-term financial projections for the program.

Mr. Stoll stated that this update builds on the previous report by detailing the specific budget adjustments made in the current *TransNet* EAP. He stated that he would review these adjustments along with the cash flow assumptions used for updating the POF model. He stated that this update assumes that the Prop. 1B dollars flow as expected. If this changes, staff will need another update to the POF. He stated that the federal economic stimulus funds have not been included in the POF and that also potentially could affect the POF.

Chair Meyer stated that since this update does not include the federal economic stimulus money, why not wait until staff has the details on those funds.

Mr. Stoll stated that the SANDAG budget process is driving the POF Update. He stated that this update is a required portion of the annual budget process and the budget will be heard by the Executive Committee and the full Board of Directors this month. In order to meet the timeline for the budget, it will need to be released for public review this month. The timeline simply does not allow for waiting until the federal stimulus program is programmed. Mr. Stoll stated that staff will update the POF again once we know the impact from the stimulus funds and potential Prop. 1B funds.

Mr. Stoll stated that Caltrans and SANDAG have worked together to update costs from 2002 to 2008 dollars. The Financial model escalates costs to the year of expenditure and incorporates recent trends in the Construction Cost Index. He stated that historic rates were added to the chart.

Mr. Stoll reviewed the graph depicting the *TransNet* revenue and cost history which reflects the unprecedented rise from 2004 to 2007 and the unprecedented decline from 2007 to 2008 in project costs.

Mr. Stoll reviewed the construction escalation rates of 2008 versus 2009. He stated that the program revenue forecast is the same as last month and reflects no changes. The revenue for years 2009 to 2013 is based on funds committed and/or authorized. Future federal, state, and local funds are based on historic experience and project a 50 percent federal participation in New Starts for major transit projects. Staff expects a substantial downward revision to sales tax receipts and the sales tax revenue forecasts have not changed from last month.

Richard Chavez, Principal Engineer, presented the schedule of projects for the EAP. All EAP schedules are consistent with the 2008 update. The Capital Improvement Program (CIP) budget update includes several changes. Eight new projects were added from the Prop. 1B Transportation Corridor Improvement Fund (TCIF) and the Goods Movement Program. Several project splits are being proposed such as the direct access ramp for Mira Mesa. The proposal is to move funds from the

I-15 and Bus Rapid Transit (BRT) station project budgets to create a specific budget for the Mira Mesa direct access ramp and stations to better manage and monitor the program.

Mr. Garcia asked staff if any of the proposed project splits had been split before and recombined; whether this would be a second split.

Mr. Chavez stated that for this project this is the first project split. He stated that a detailed description is included in the staff report with details on each proposed budget split.

Mr. Chavez stated that there is a budget increase of \$39 million but it is offset by a \$10 million in state funding for SR 94 and \$30 million in fair share contribution for SR 76.

Chair Meyer stated that the report reflects a total savings of \$30.3 million for the I-15 North Express Lanes project and that \$6.6 million in savings from the low bid for the Highland Road to Ninth Avenue portion of the project. He asked staff for clarification on where the balance of the project savings came from.

Mr. Chavez stated that the rest of the \$30.3 million in savings came from low bids and other project savings.

Mr. Chavez stated that the FY 2010 POF cash flow assumptions reflect a drop in FY 2017 because of the end of some funding programs. The cash flow assumption for the remaining period between 2017 and 2048 is developed as follows. The remaining project costs are totaled using the most recent cost estimate and assumptions. Cost estimates for many of the remaining projects are not available as there is no current work effort towards these projects. If cost estimates are not available, the budgets defined in the *TransNet* Extension Ordinance are escalated and used. Once the costs of the remaining projects are developed, costs are distributed across the remaining period—2016 to 2048. The remaining period is split into three and the cost of the remaining projects is distributed accordingly. The first third is allocated 25 percent of the remaining cost, the second period is allocated 35 percent, and the third period is allocated 40 percent. An unequal

distribution is assumed in order to balance the heavy demand on cash during the early years of the program.

Mr. Chavez reviewed the POF EAP schedule comparing 2008 to 2009 and stated that the 2009 scenario reflects the completion of EAP projects one year later by 2015. It also reflects a negative cash flow scenario ten years later in 2036.

Mr. Stoll stated that several priority new projects of regional significance could possibly be funded with federal economic stimulus funds. Candidate projects include parking structures for the I-15 BRT, I-805 concrete shoulders for Otay to Sorrento BRT, Nordahl Bridge replacement, coastal rail double track at San Onofre, and staff still is reviewing others.

Mr. Cummins requested clarification on the cash flow assumptions and asked what options staff considered and what constraints they faced in determining the funding levels.

Mr. Chavez stated that staff considered how revenues come in and most of the revenue is coming in later in the program. That causes the ramp up in projects and leads to the 25 percent, 35 percent, and 40 percent levels indicated in the life of the program.

Mr. Cummins asked if any non-EAP projects were in jeopardy of not being funded. He stated that the EAP ends in FY 2015 and there is what appears to be a lull or slump in the cash flow assumption. Mr., Cummins asked whether any new projects would be delivered during 2017 to 2028.

Mr. Chavez stated that well before FY 2017 staff will begin preliminary planning and engineering and also environmental studies for those non-EAP projects so they will be ready to go by 2017. He stated that we should be delivering several projects between 2017 and 2028.

Mr. Cummins stated that the recent ITOC performance audit did not reflect some jeopardy of delivering non-EAP projects.

Mr. Stoll stated that if nothing changes and no additional funds are secured we would deliver project during that timeframe but much less aggressively. He stated that in last year's POF Update a deficit was projected in the later years of the *TransNet* program and if no funds are found at some point, there will be jeopardy to delivering non-EAP projects. Staff does not expect that to be the case.

Mr. Cummins stated that although there are some funds identified for non-EAP projects there is still a portion of the program in later years that is not funded. Mr. Stoll expressed his agreement with that statement.

Mr. Garcia requested clarification regarding the increase in program management costs.

Mr. Chavez stated that the increase in program management cost was in order to handle the increase in the size of the overall program; an additional eight projects were added and several projects were to be split.

Chair Meyer requested clarification on the number of staff members that support the program.

Mr. Chavez stated that two full-time staff are assigned and that they bring in consultant teams as needed for the *TransNet* Dashboard and other management systems.

Mr. Garcia stated that the I-15 Middle Express Lanes project has been increased by \$40.9 million to provide a contingency fund for construction claims. He asked if there was an original amount budgeted in the project for claims.

Mr. Chavez stated that the project did not have a contingency for construction related claims. Staff expects the requested amount to be sufficient to cover all potential construction claims but if not it would require a future budget increase.

Mr. Garcia asked whether any of the proposed projects had been previously split.

Mr. Chavez stated that this is the first proposed split for these projects.

Mr. Garcia requested clarification regarding the budget increase for environmental documents for the I-805 South Express Lanes and whether the increase is just for the documents themselves or did it include mitigation measures.

Mr. Chavez stated that the budget increase covers the environmental documents and the engineering to support them.

Mr. Garcia asked whether the cash flow chart assumptions include only additional matching funds that we currently are aware of or whether it requires additional funding over and above that, and Mr. Stoll stated that additional funding will need to be found.

Mr. Cummins stated that he had two items to discuss; one long-term and one relevant to the current situation. He stated that the current situation is extremely fluid due to the federal economic stimulus funds and the unknown funding of Prop. 1B. He stated the he would like staff to present three potential scenarios for the POF update.

Mr. Cummins stated in addition to the current scenario, one scenario should include federal stimulus funds and the third should include Prop. 1B funds. The scenarios should reflect the potential impacts and risks for each scenario. He stated that as time goes by we will know which scenario is most likely to occur. Mr. Cummins stated that would also like to see a sensitivity analysis. He stated that the report refers to the construction escalation rates but does not reflect the impact of what would happen if the percentage that is forecast is actually higher or lower in future years. He stated that impacts to the end of the program can't be estimated unless staff takes that potential into consideration. He stated that he would like staff to provide a chart that shows potential impacts to the future of the program with percentages that range a little higher and a little lower than the current estimates. This would reflect how sensitive the impact of these assumptions is to the entire program.

Chair Meyer stated that this type of analysis would be very difficult to do under the current unprecedented conditions. It would be very difficult to determine so many different long-term scenarios when staff does not know what is going to happen week to week.

Mr. Garcia commented that staff has probably already taken into consideration the different scenarios and is presenting what the most likely average.

Marney Cox, Chief Economist, stated that staff has done much work on developing the models that lead to these assumptions. He stated that the assumptions can affect the entire program and takes into consideration many different impacts. Staff does much management of the program such as find other ways to purchase goods and other ways to do the same thing in order to manage costs.

Mr. Cox stated that with any long-term program it is very difficult to predict extreme highs and lows so staff manages these long-term programs based on averages. He stated that there is no way anyone could have predicted the recent market conditions nor would the ITOC have believed those predictions.

Discussion ensued regarding a possible sensitivity analysis, what model staff used for its proposed forecasts, why an average percentage is used for long-range forecasting, the effect of the current unprecedented economic climate, and how assuming a higher or lower cost percentage also would affect revenue potential. Staff will review possible scenarios and report back to the ITOC.

Chair Meyer expressed his concern that the ITOC is taking action with the knowledge that the POF will change in the next few months due to the ARRA and Prop. 1B funding availability.

Mr. Stoll stated that it was very important to the budget process to approve the POF at this time. The POF update did not have as critical an impact to the budget as the proposed CIP changes and in order to move the budget process forward, the POF update must be approved at this time.

Action: Upon a motion by Mr. Ryan and a second by Mr. Garcia, the ITOC recommended approval of the budget adjustments and the resulting POF Update to the Transportation Committee and Board of Directors. Mr. Cummins voted against the action due to his desire to see a sensitivity analysis and Ms. Harrison abstained.

8. REVIEW OF FY 2008 *TransNet* AUDIT DRAFTS AND EXTENSION REQUESTS (INFORMATION)

Lauren Warrem, Finance Manager, presented the item and stated that the San Diego Transportation Improvement Program Ordinance and Expenditure Plans specify certain requirements for the recipients of *TransNet* funds, including a requirement for an annual fiscal and compliance audit of each recipient of *TransNet* funds.

Ms. Warrem stated that SANDAG currently is responsible for the annual *TransNet* fiscal and compliance audits through FY 2008; however, the *TransNet* Extension Ordinance assigned this responsibility to the ITOC, beginning with the FY 2009 audits. These annual audits will form the basis for the ITOC Annual Fiscal Audit Report to the Board of Directors. SANDAG Board Policy No. 031, "*TransNet* Ordinance and Expenditure Plan Policies," contains several rules specifically dealing with administration of the *TransNet* Program. Within Board Policy No. 031, *TransNet* Rule No. 17, "Fiscal and Compliance Audits," addresses the fiscal and compliance audit procedures.

Ms. Warrem stated that SANDAG contracts with an independent auditing firm to conduct an annual audit, in the form of Agreed Upon Procedures (AUP), of all recipients of *TransNet* funds. The purpose of the AUP is to determine compliance with the *TransNet* Ordinances, as well as compliance with Board Policy No. 031, specifically Rule No.17. The AUP process is to be completed during the fiscal year following the end of the fiscal year being audited, so that the results will be known prior to programming and allocation decisions for the subsequent fiscal year.

Ms. Warrem stated that Rule No. 17 states that "an agency that maintains a balance of more than 30 percent of its annual apportionment (after debt service payments) must use the remaining balance to fund projects. SANDAG will defer payment until the unused balances fall below the 30 percent threshold." The purpose of this rule is to encourage recipients to complete ongoing projects in a timely manner. FY 2008 is the third year Rule No. 17 has been in effect. Of the 16 completed audits that are subject to this rule, six were in compliance and ten had a balance of

more than 30 percent of their annual apportionment as of June 30, 2008. Inquiries were made as to the reasons for the balance and as to what the plans were for completing the projects and thereby spending down the balance. Responses are included in the individual reports.

Ms. Warrem stated that Attachment 2 contains a listing of all the jurisdictions showing whether or not they are in compliance with this rule. Payments are being deferred to those jurisdictions not in compliance until such time that they represent to SANDAG that they are in compliance. Ms. Warrem stated that a representative from the audit firm would present the findings

Ms. Warrem stated that the delay of the completion of the audits requires that SANDAG withhold future *TransNet* payments (except required debt service payments) until either the Transportation Committee approves the proposed audit extension request, or the audits are completed. The cities of Oceanside, San Diego, San Marcos, and Solana Beach, and the County of San Diego have requested that the Transportation Committee consider an extension through April 30, 2009, which would allow them to continue to receive *TransNet* funds through the extension date. If the audit work is not completed by the extension date, these jurisdictions would not receive any additional *TransNet* funds unless the Transportation Committee approved another extension. Staff will return to the May ITOC meeting with these remaining draft audit reports.

Ms. Warrem stated that the firm of Caporicci & Larson currently is engaged to perform the *TransNet* AUP through the FY 2009 audits. At the November 12, 2008, meeting, the ITOC agreed to continue using the firm of Caporicci & Larson through the end of their engagement period (which would include the FY 2009 audits), at which time a competitive process will be conducted for auditing services.

Mr. Kenneth Pun, Certified Public Accountant, Caporicci & Larson, discussed the audit approach and stated that the auditors conducted a Test of Compliance for the 23 recipients. Mr. Pun reviewed the actions taken by the auditors and the determinations made. He stated the auditors reviewed the Maintenance of Effort (MOE) requirement and performed a 30 percent threshold testing. Mr. Pun reviewed the summary of findings. He stated that the first finding was that most agencies maintained a balance of more than the 30 percent of their annual apportionment; only five agencies were in compliance. The second finding was with the City of Lemon Grove which has an error related to its annual accounting statement; because this is a one time error it will be corrected in the next year's audit report.

Mr. Stoll commented that staff is looking at the timing of the audits in the *TransNet* Ordinance and stated that there seem to be some inconsistencies with reporting on the RTIP and the audits.

Ms. Harrison requested clarification of the actions taken when an agency is not in compliance with the 30 percent rule.

Ms Warrem stated that staff would defer any future *TransNet* payment to those agencies that did not meet the 30 percent rule and those agencies would not receive funds until the balance falls below the 30 percent threshold.

Action: This item was presented for information only.

5. FY 2009/2010 BUDGET FOR ITOC (DISCUSSION)

Mr. Stoll presented the item and stated that the ITOC budget for FY 2009/2010 is to be developed in accordance with the *TransNet* Extension Ordinance and the ITOC Bylaws. Mr. Stoll stated that in

reviewing ITOC responsibilities in accordance with the *TransNet* Extension Ordinance and related documents, the budgetary needs of the committee primarily involve audit activities. The annual recurring budgetary needs include costs associated with conducting the annual fiscal and compliance audits and the associated year-end report to the Board. There also are other items that do not recur every year, such as the triennial performance audits of SANDAG and other agencies involved in the implementation of *TransNet*-funded projects and programs.

Mr. Stoll stated that the first triennial performance audit was completed in FY 2008/2009. The first annual fiscal audit will be performed in FY 2009/2010. In addition, some consideration needs to be given to the year-to-year budgeting process as in the future there will be years where both a fiscal and performance audit will be required. The *TransNet* Extension Ordinance does allow for any remaining budget to be carried over from year-to-year, which will help facilitate securing sufficient budget capacity to meet both obligations in those years when it is required. In its budget planning discussions last year, the ITOC also established a 15 percent set-aside budget for potential hiring of outside consultants and/or miscellaneous expenses.

Mr. Stoll stated that since the ITOC decided to use the fiscal audit services within the existing SANDAG audit services contract, staff has developed an estimate of cost for the required *TransNet* fiscal audit services for FY 2009/2010 based on historic experience with past fiscal audits. Mr. Stoll reviewed an analysis of *TransNet* funding available for ITOC operations in accordance with the *TransNet* Extension Ordinance showing the disposition of funds to date in FY 2008/2009 and projected funds and expenditures for FY 2009/2010 and beyond.

Mr. Stoll stated that the ITOC should discuss the following in regards to its 2009/2010 Budget: the annual fiscal audit estimated expense; the Annual Report to the Board of Directors; and any other activities or Initiatives.

Mr. Garcia questioned whether the funds identified for the annual fiscal audit for FY 2009/2010 of \$125,000 would be sufficient at that time.

Ms. Wasmund stated that the dollar amount is a placeholder and that with the market risks and other factors, staff would expect that amount to increase.

Mr. Stoll stated that the budget is set up for unexpended funds to carry over to future years and if the cost of the audit increases substantially there would be funds available. He stated that the budget appears sufficient for the needs of the ITOC for this and future years. He stated that the proposed budget does not include the final audit numbers or advertising costs.

Chair Meyer stated that the final budget should be brought back to the ITOC once those numbers are received.

Mr. Garcia asked whether the ITOC could request more funding in future years if the budget is not sufficient.

Mr. Stoll stated that there is nothing in the *TransNet* Ordinance that would preclude the ITOC requesting more funding.

Mr. Cummins asked whether any carry over funds that were not identified for expenditure could be put back into the *TransNet* program for projects, and Mr. Stoll stated that nothing in the *TransNet* Extension Ordinance precludes that option either.

Action: This item was presented for discussion, no action.

7. FINANCIAL MARKET STATUS AND PROPOSED AMENDMENT TO *TransNet* EXISTING INTEREST RATE SWAPS (INFORMATION)

Renée Wasmund, Director of Finance, presented the item and provided an update on the status of the interest rate swaps. She stated that at its February 27, 2009, meeting, the Board of Directors authorized the Executive Director to enter into the swap transaction and execute all necessary documents if a targeted rate of at least 100 percent can be achieved.

Ms. Wasmund stated that Request for Proposals (RFP) was issued and responses received from three agencies. Staff is currently reviewing the proposals for qualification and will propose to enter into negotiations with those agencies that meet qualifications and the Board's target rate.

Action: This item was presented for information only.

9. *TransNet* TRIENNIAL PERFORMANCE AUDIT DRAFT REPORT RECOMMENDATION RESPONSES (DISCUSSION)

Mr. Stoll presented the item and stated that the ITOC is asked to discuss the *TransNet* Performance Audit Draft Report recommendations and proposed responses, which have been prepared subsequent to the presentation of the *TransNet* Performance Audit Draft Report presented to the ITOC at its February 11, 2009, meeting. SANDAG and Caltrans staffs have developed draft responses to all but two of the 25 recommendations made in the draft report. The ITOC is asked to consider and comment on the proposed responses and, in particular, develop responses to Recommendations 8 and 9, which are directed to the ITOC itself.

Chair Meyer expressed his concerns that the auditor's recommendations will increase the workload for the ITOC and that no reference is made as to how that issue would be addressed.

Discussion ensued regarding the potential increase in workload for the ITOC based on the audit recommendations, how the ITOC will approach any additional responsibilities, whether the ITOC could handle the increase in regular meetings or would need to schedule additional meetings, how to streamline the current workload, and whether to appoint a subcommittee to review the recommendations in detail and report on any action that the ITOC would need to take.

Chair Meyer suggested that the ITOC wait until the new members were on board prior to making any decisions on the audit recommendations or to form a subcommittee.

Discussion ensued regarding whether the new members would be in a position to address the audit and its recommendations, how and when the subcommittee would meet, and use of prior members of the ITOC as a source of information if needed for the subcommittee.

Mr. Stoll stated the ITOC did not need to name a subcommittee today but could just state the intention to form a subcommittee to address the audit. That intention could be reported in the draft report to show that the issues will be addressed at a future date. Mr. Stoll stated that the *TransNet* Ordinance does not have a deadline for the audit; only that it be completed in a reasonable amount of time.

Discussion ensued regarding the timeline for assigning a subcommittee, for providing responses to the action plan, what to report to the Transportation Committee and the Board of Directors, and the consensus of the ITOC was to report to the Transportation Committee that the ITOC is forming a subcommittee to address the action plan and to include that comment in the draft audit response document. The subcommittee would address any comments or direction by the Transportation Committee regarding the action plan.

Mr. Cummins stated that the item regarding the SPRINTER and lessons learned should explicitly state that the public will be included in the workshop.

Mr. Stoll stated that staff anticipates that the SPRINTER claims process will not be completed by the date of the workshop and that the public should not be involved until all claims are settled. He stated that the results of the workshop would be reported to the public.

Ms. Eidam stated that the intent of the workshop is to review project details and what was done right or wrong. That level of discussion should not include the public and the report could include in the recommendations that the settlement of the claims is at issue.

Mr. Stoll stated that staff anticipates that the claims process may be resolved by the end of April and will report the status to the ITOC at its May meeting.

Mr. Garcia stated that even if the workshop is a staff exercise, public feedback must be considered as they are the users of the system and staff should consider their input.

Mr. Stoll stated that he would discuss the options with staff and there may be an option where the public could be included or considered in the process.

Discussion ensued regarding different assigned priority levels and whether the ITOC had the authority to change the priority level of any item.

Mr. Stoll stated that the priority levels were given by the auditors and the ITOC can address those levels with language in the response reflecting that the ITOC would be addressing that issue at a higher or lower priority.

Mr. Garcia stated that the goals and objectives in the draft report for Items 14 and 15 do not address the increase in use of carpools and FasTrak system and those should be included in the tracking and threshold for measurement. He stated that the response for Item 14 should reflect that staff needs to establish the goals and objectives and then the ITOC could agree or disagree with that recommendation.

Mr. Stoll commented that staff wanted the ITOC to be a part of the process in setting goals and developing objectives and suggested that the subcommittee the ITOC intends to appoint would work toward that action.

Mr. Garcia commented that Item 18 recommends that other data regarding sales tax revenues, debt payments, and revenue distribution should be reported to the ITOC and asked what method would be used to report that data.

Mr. Stoll stated that staff will develop a standard report format and that could be added as a consent item on future agendas.

Ms. Harrison commented that all the recommendations should be included in one report card.

Mr. Stoll commented that staff could develop a method of including all the information in one report card. He stated that the comments from the Transportation Committee on the audit and draft response plan will be provided to the ITOC at its April meeting.

Action: This item was presented for discussion.

10. STATE BUDGET CRISIS – UPDATE ON CASH MANAGEMENT STRATEGY (INFORMATION)

There was no discussion on this item.

Action: This item was presented for information only.

11. FUTURE MEETING SCHEDULE

The next ITOC meeting is scheduled for Wednesday, April 8, 2009, at 9:30 a.m.

12. ADJOURNMENT

Chair Meyer adjourned the meeting at 1:14 p.m.