

INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE

September 9, 2009

AGENDA ITEM NO.: **1**

Action Requested: APPROVE

MEETING SUMMARY FOR THE JULY 8, 2009,
INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE (ITOC) MEETING

File Number 1110200

Attendance

- Committee Members:
- Hamid Bahadori
 - Kevin Cummins
 - Jesus Garcia
 - Carolyn Lee
 - Valerie Harrison
 - Jim Ryan
 - Tracy Sandoval
- Absent:
- John Meyer, ITOC Chair
- Staff:
- Kim Kawada
 - Gary Gallegos

The meeting of the *TransNet* ITOC was called to order by Vice Chair Bahadori at 9:35 a.m.

1. APPROVAL OF MEETING SUMMARY

Action: Upon a motion by Ms. Lee and a second by Mr. Cummins, the ITOC approved the June 10, 2009, meeting summary. Vice Chair Bahadori abstained due to his absence from the meeting.

Mr. Garcia commented that he felt the action-only meeting summary was too short and did not provide sufficient information in written format, and he would like to see a summary of the members comments included. Other members commented that they would like to have the summary include significant issues raised during discussion. Ms. Kawada responded that the Board of Directors had approved the action-only format for all SANDAG board and committee meetings to ensure a standard format.

Vice Chair Bahadori commented that the audio file posted on the SANDAG Web site for the June meeting was difficult to hear. Ms. Kawada responded that staff is working very hard on resolving the audio issue with the Soni-Clear recording and asked the members to consider that the microphones are in the ceiling and to speak loudly.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

There were no public comments.

Vice Chair Bahadori commented on the recent Third District Court of Appeals ruling, which found that the State Transit Assistance (STA) funds that were diverted as part of the 2007-08 state budget was in violation of state law. Vice Chair Bahadori stated that the Governor's office will likely be appealing the decision. Ms. Kawada provided more background information regarding the decision and potential appeal; if the \$1.2 billion in 2007-08 STA funds were returned, the transit agencies in our region would receive approximately \$24 million in funding.

Ms. Harrison expressed concerns regarding e-mail communications and potential violations of the Brown Act. Discussion ensued regarding this issue. Vice Chair Bahadori directed staff to ask legal counsel to provide direction to the ITOC regarding this issue.

REPORTS (3 through 10)

3. ANNUAL ELECTION OF ITOC CHAIR AND VICE-CHAIR (APPROVE)

Per the ITOC bylaws, at the July meeting of each year elections are to be held for the Chair and Vice Chair positions for the new fiscal year.

Action: Upon a motion by Ms. Harrison and a second by Ms. Lee, the ITOC approved the election of Mr. Bahadori as Chair for FY 2010.

Action: Upon a motion by Ms. Lee and a second by Ms. Harrison, the ITOC approved the election of Mr. Meyer as Vice Chair for FY 2010.

4. 2008 REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (RTIP) AMENDMENT (DISCUSSION)

At its July 2008 meeting, the SANDAG Board approved the 2008 RTIP, which includes major transportation projects in the San Diego region, including the *TransNet* Program of Projects (POP). SANDAG processes amendments quarterly based on requests from member agencies. The ITOC is asked to review and comment on the RTIP amendment, focusing on the *TransNet* POP. Significant comments will be forwarded to the Transportation Committee.

Staff provided a presentation and discussion ensued; the following significant comments were made:

Kevin Cummins requested that a definition of "congestion relief" be provided to the ITOC and requested that the ITOC discuss how that term is used regarding *TransNet*-funded projects.

Chair Bahadori commented that this issue had been discussed by the ITOC and representatives from the cities and County. The specific definitions were developed after several months of review by the ITOC and the Cities/County Transportation Advisory Committee, and there is a current Board Policy in place regarding this issue. He also questioned whether taking this action fell into the purview of the ITOC.

Kevin Cummins commented perhaps the ITOC could just confirm the process of how the definitions were developed and how the cities prioritize their projects.

Chair Hamid Bahadori directed staff to bring the issue of Board Policy concerning the definition of congestion relief to the ITOC at its next regular meeting.

Action: This item was presented for discussion.

9. PROPOSED ADDITION OF DESIGN PROJECTS TO THE *TransNet* CAPITAL IMPROVEMENT PROGRAM (CIP) (RECOMMEND)

With the recent successful competition for various federal and state transportation funds through programs such as the federal American Recovery and Reinvestment Act and the Proposition 1B state bonds, much of the *TransNet* project design work that was made ready for the competition has been depleted. Therefore, a proposal has been developed to continue forward on the design work for a series of transit, rail, and highway projects throughout the region in order to be prepared for future competition for transportation funds.

Staff provided a presentation, and discussion ensued among the members regarding funding shortfall, the three proposed corridors, what other projects were considered, and potential future funding sources.

Action: Upon a motion by Mr. Ryan and a second by Ms. Harrison, the ITOC recommended to the Transportation Committee and the Board of Directors that the proposed list of projects be advanced into the CIP through their design phase of development at a total estimated cost of \$70.4 million (as shown in Attachment 1 to the report) and that the Executive Director be authorized to amend the master agreement with Caltrans as necessary so that Caltrans may assist with the highway design components related to South Bay Bus Rapid Transit. Mr. Cummins opposed the motion, stating that he was looking for a more detailed risk analysis.

5. FISCAL YEAR (FY) 2009 *TransNet* COMPLIANCE AUDIT CONTRACT AMENDMENT (APPROVE)

The independent audit firm of Caporicci & Larson has been approved to conduct the FY 2009 *TransNet* agreed-upon procedures (AUP). The FY 2009 AUP includes additional scope due to requirements of the *TransNet* Extension Ordinance, such as the Regional Transportation Congestion Improvement Program, Transit Operator Eligibility, ITOC expenditure review, SANDAG administration review, and a cumulative project activity report.

Staff provided a presentation, and discussion ensued regarding the use of *TransNet* funds from the original ordinance and the Extension ordinance, whether the estimated hours are reasonable, whether the appropriate staff level is doing the work, and whether to appoint a main ITOC point of contact for the auditor.

Discussion ensued regarding the ITOC budget, and staff was directed to provide a quarterly budget update to the ITOC and to provide the members with a copy of the ITOC budget for any item that requires the approval of an expenditure.

Action: Upon a motion by Mr. Ryan and a second by Ms. Lee, the ITOC: (1) approved the increase in audit fees due to the additional scope of work required by the Extension Ordinance for the cumulative project activity report, Transit Operator Eligibility, Regional Transportation Congestion Improvement Program, ITOC expenditure review, SANDAG administrative review, and the auditor's report of annual audit results to the ITOC; (2) authorized SANDAG staff to enter into the task order for the FY 2009 annual compliance and fiscal audits in substantially the same form (as shown in Attachment 1 of the report); and (3) approved the appointment of Ms. Sandoval and Chair Bahadori as the main points of contact for the auditor.

Chair Bahadori stated that Deputy Counsel John Kirk was present to address member concerns regarding potential Brown Act issues related to e-mail communications.

Mr. Kirk addressed the issue and explained the impacts of the Brown Act, provided a definition of serial meetings, and reviewed potential violations with e-mails or other types of communication outside a regular meeting.

Chair Bahadori directed staff to work with legal staff to provide the ITOC members with written direction on this issue.

6. OVERVIEW OF DEVELOPMENTS IN THE FINANCIAL MARKETS (INFORMATION)

Given the recent turbulence in the financial markets, the SANDAG finance director and chief economist provided an update of events that affect sales tax revenues and/or *TransNet* program financing plans.

Marney Cox, Chief Economist, briefed on the current status of the economy and projections for the near future, including recent tax receipts from the Board of Equalization.

Lauren Warrem, Finance Director, explained the current status of the SANDAG Debt Program.

Discussion ensued, and no significant comments were made.

Action: This item was presented for information only.

7. UNIVERSITY TOWNE CENTER (UTC) TRANSIT CENTER/SUPERLOOP PROJECT FUNDING EXCHANGE (RECOMMEND)

SANDAG staff has worked with Westfield, the City of San Diego, and Metropolitan Transit System staff to ensure that the new transit center, approved as part of the redevelopment plans for the Westfield UTC shopping center, meets the needs of existing and future transit services in the Mid-Coast corridor.

Staff provided a presentation and discussion ensued; the following significant comments were made:

Ms. Harrison asked whether there were any unique design issues with this project that would cause the developer to seek additional *TransNet* funding.

Jack Boda, Mobility Management and Project Implementation Director, explained that the agreement between SANDAG and the developer would specify that the *TransNet* funds were a not-to-exceed amount.

Mr. Ryan asked whether the UTC Transit Center project would still be needed if the UTC shopping center redevelopment did not occur. Mr. Boda responded that the transit center project still would be needed to serve existing transit services, the SuperLoop, and the future Mid-Coast Corridor Transit project.

Action: Upon a motion by Ms. Harrison and a second by Mr. Garcia, the ITOC recommended to the Transportation Committee and the Board of Directors to direct staff to take the necessary programming actions to exchange \$5.7 million in Section 5309 New Starts funds, approved for use by the UTC Transit Center Project with *TransNet* funds programmed for the SuperLoop Project; and to direct the executive director to initiate all required actions to negotiate and execute an agreement between SANDAG and the developer in support of the UTC Transit Center project.

8. QUARTERLY REPORT ON *TransNet* MAJOR CORRIDOR PROJECTS (INFORMATION)

Staff provided an overview of the *TransNet* major corridor projects in terms of cost control and schedule adherence based on data provided through the Dashboard reporting system. Updates and refinements to the Dashboard also were discussed. This item relates to the required quarterly reporting process specified under Paragraph 10 of the *TransNet* Ordinance.

Discussion ensued and no significant comments were made.

Action: This item was presented for information only.

10. REPORT BY SANDAG AND CALTRANS STAFF ON THE IMPLEMENTATION OF THE FIRST TRIENNIAL *TransNet* PERFORMANCE AUDIT (DISCUSSION)

Subsequent to direction received from the ITOC at its May 13, 2009, meeting, staff from both SANDAG and Caltrans developed a draft plan for implementation of the triennial *TransNet* performance audit. The plan was presented to the ITOC for discussion and direction to staff on next steps.

Staff reviewed each of the recommendations and the proposed implementation plan. Staff will provide sample reports and detailed responses to the ITOC at its September meeting.

Action: This item was presented for discussion.

11. FUTURE MEETING SCHEDULE

The August ITOC meeting was cancelled. The next regular ITOC meeting is scheduled for Wednesday, September 9, 2009, at 9:30 a.m.

12. ADJOURNMENT

Chair Bahadori adjourned the meeting at 1:08 p.m