

MINNESOTA VALLEY TRANSIT AUTHORITY
Regular Board Meeting
August 23, 2006 – 4:30 p.m.
Eagan Bus Garage

Board Members Present:

William Droste, Rosemount
Elizabeth Kautz, Burnsville
Will Branning, Dakota County
Margaret Schreiner, At Large
Meg Tilley, Eagan
Ruth Grendahl, Apple Valley
Jane Victorey, Savage
Jon Ulrich, Scott County

Others Present:

Beverley Miller, Executive Director
Michael Abegg, Planner
Dam Krom, Dakota County TWG
Wally Lyslo, At Large Alternate
Tom Pepper, Eagan TWG
Tom Lovelace, Apple Valley TWG
Sam O'Connell, Dakota County
Barb Ross, Best & Flanagan
Robin Selvig, Customer Service Manager
Tom Bright, Facilities Manager
Terry Olsen, TKDA
Tom Knier, Laidlaw Transit

I. Call to Order

The meeting was called to order at 4:33 p.m. by Chair William Droste.

II. Public Comments

There were no comments from the public.

III. Approval of Agenda

Motion by Elizabeth Kautz and seconded by Margaret Schreiner to approve the agenda as published. Motion carried.

IV. Consent Agenda

Motion by Margaret Schreiner and seconded by Elizabeth Kautz to approve the remainder of the Consent Agenda. Motion carried. Resolutions adopted as part of the Consent Agenda are attached to these minutes.

V. Old Business

A. ADA Policy

The ADA Policy was discussed in length, with Legal Counsel Barb Ross expressing concern about liability/immunity issues associated with the policy, due to the fact that the policy provides for greater flexibility than the specific language of the federal ADA regulation. MVTA Planner, Michael Abegg, explained that when the ADA standard was adopted in 1991, its intention was to be inclusive of a variety of mobility devices. However, since then, as in many other areas, additional options are now available to mobility impaired citizens. He wrote the policy with the intent of serving non-conforming mobility devices if our equipment allows us to do so, given that we have some current passengers who have non-conforming devices (i.e., combined weight of passenger and device is greater than 600 pounds or the device is wider than the 30" standard. He also noted that he repeatedly asked a variety of Met Council staff for an ADA policy and was unable to find anything but what was in the

Metro Transit driver's manual. He also worked closely with other organizations, including Project Action (associated with Easter Seals and the leader in advocating for standards in mobility devices and the transport thereof). Counsel reviewed the distinction between MVTA and Metro Transit on the immunity issue. Metro Transit (and all public) employees are immune from liability if they are exercising discretion within their job, but private employees are not immune. However, the contractors do have insurance.

In the case of Metro Transit, transporting of non-conforming devices is left to the judgment of a driver's supervisor. Metro Mobility also does not have a specific policy regarding transport of non-conforming devices, but if their lift does not work due to the combined weight of rider and device (and not a lift malfunction), they have asked riders to obtain an accurate weight at a commercial scale. If the weight, in fact, exceeds 600 pounds, Metro Mo has advised that the rider may want to obtain an alternative device that meets the federal standard, and use that device when riding Metro Mobility buses.

Elizabeth Kautz asked Barb Ross if she could defend the policy as written, and Ms. Ross implied that she could do so. She also asked questions about securement devices and was informed that all MVTA vehicles have appropriate securement systems to minimums defined in ADA.

Margaret Schreiner suggested that this is another issue that should be referred to the Met Council for some regional direction. However, she said the MVTA could adopt its own policy absent of regional policy.

Motion by Margaret Schreiner to adopt an interim policy as specified by federal regulations (not the policy before the Board). Motion was seconded by Meg Tilley. There was additional discussion about whether or not the board should adopt the Federal standard or the policy drafted by MVTA staff. It was noted that if the policy is adopted as stated, there are passengers that are currently riding buses that will be unable to do so in the future. Concern was expressed about what happens if the MVTA transports a passenger in a non-conforming device, who wants to transfer to another line. It was explained that passengers generally know what vehicles they can rider. It was also suggested that perhaps riders with non-conforming devices obtain a standard device. Mr. Abegg indicated that this approach has been taken by Metro Mobility, and that some passengers do have different mobility aids that are used when riding public transportation.

There was also discussion about the MVTA taking ownership of this issue and being a leader in the region in adopting the staff-recommended policy – indicating that one of the reasons the MVTA opted-out was to be able to have local control over its own issues.

Ruth Grendahl noted that if Metro Mobility does not transport non-conforming devices, she does not know why the MVTA would do so.

Elizabeth Kautz called the question and the item went to a vote, with 7 voting aye and 1 voting nay. Ms. Kautz also made it clear that she was voting in the affirmative

because she then retains the right to bring this item up again in 90 days. Motion carried.

Motion by Will Branning and seconded by Margaret Schreiner that the MVTA send the staff-drafted ADA policy to the Metropolitan Council, asking the Council to address the issue of non-conforming mobility devices and respond to the MVTA within 90 days. It was further suggested that the MVTA ask other transit operators to make similar requests of the Metropolitan Council. Motion carried.

B. 157th St. Station Lease

The Board then discussed the 157th St. Station, asking for an update from Beverley Miller and/or Barb Ross. There was also discussion of the recent article in the local newspaper regarding the restrooms at the 157th St. Station. Ms. Ross stated that in an e-mail she received within the past week, Mike ring of Dakota County was suggesting that the County pass the assessment up front, and that the MVTA pay for any assessments at a rate of \$3,600 per year for the next 25 years. Will Branning noted that he has been charged with negotiating this settlement, and that the County is not willing to accept the MVTA's request of no charge for this service. He said that other commissioners believe that it is the lessee's responsibility to pay for any assessments. Other MVTA board members disagreed with that statement. It was further noted, that the MVTA was initially asked to support the project and operate the service. Margaret Schreiner asked about the MVTA's position to own transit facilities, but was reminded that this project was put forth in 1999, before the MVTA had adopted the ownership policy.

While it was noted that the restroom in the building could remain locked, water is critical for the landscaping of the site, and to remain in compliance with City of Apple Valley code. Margaret Schreiner also questioned if there were some type of fee that could be assessed to users from outside the transit taxing district to cover these costs. It was noted that that is not likely, again due to the use of federal dollars to construct the facility.

Motion by Jon Ulrich and seconded by Ruth Grendahl that a letter be sent to the Dakota County Board of Commissioners and the Dakota County Regional Rail Authority, stating the MVTA's position that their preference with regard to the 157th St. Station is that the County assign the easement to the MVTA and that the ownership issue be resolved. Motion carried.

Staff (MVTA and Dakota County) were asked to determine if there are penalties if the facility is not used, and what the cost of such penalties would be should the MVTA choose the abandon the site due to lack of operating funds.

VI. New Business

There was no new business.

VII. Committee Reports

A. Marketing Committee

The Marketing Committee reported on its progress to refresh the MVTA logo/colors. Motion by Margaret Schreiner and seconded by Ruth Grendahl approving an agreement with Think Graphics/Rick Schuster for these services. Motion carried.

The Marketing Committee also reviewed the memo in the packet regarding promotion of the MVST amendment. Jon Ulrich noted that the City of Richfield has a “vote yes” button on their web-site that linked to the Minnesotans for Better Roads and Transit site. It was explained that per the ruling by the attorney general, the MVTA would be unable to do that, unless we also provided a link to an organization that opposed the MVST amendment.

B. Development Committee

Teresa Olsen from TKDA began a review of the five alternatives under consideration for the Apple Valley Transit Station site on Cedar Avenue. Jon Ulrich then offered the Development Committee’s recommendation, which concurred with the study recommendation, which was to proceed with Option 3 – the Watson’s site. The consultant thoroughly reviewed all five potential sites, and the objective matrix created to determine the “best” option, with the MVTA Development Committee. A final report is now being prepared, and will be forwarded to the Board when it is completed.

The question of how the property would be acquired was discussed. It was noted that Apple Valley Mayor Mary Hamann-Roland and MVTA Board member Ruth Grendahl, who serves on the Apple Valley City Council have both stated that the City of Apple Valley would not exercise eminent domain to acquire the property. Will Branning stated that either Dakota County or the Regional Rail Authority would have to use eminent domain to acquire right-of-way for the highway project throughout the Cedar Avenue corridor, and would take the lead on acquiring the Watson’s property.

Motion by Jon Ulrich and seconded by Meg Tilley to adopt the Study and Development Committee recommendation selecting option 3 as the preferred option for expansion of the Apple Valley Transit Station in preparation for BRT on Cedar Avenue. Motion carried with Ruth Grendahl abstaining from voting on this issue.

C. Finance Committee

Ruth Grendahl gave a brief Finance Committee report, noting they are working on the 2007 budget, and currently see a \$1.3 million shortfall, which would also bring down MVTA reserve funds. She asked the Board for approval to send a letter to the Met Council seeking use of \$600,000 in federal NTD dollars for operating purposes.

Motion by Ruth Grendahl and seconded by Elizabeth Kautz to send the letter. Motion carried. Ruth also explained that the proposed budget included additional staff positions because the MVTA staff is very thin. She spoke of a listing of committee and related meetings that staff participate in, and said she would speak with Beverley Miller to determine if anything can be cut out. She further noted that this past year has seen the County add two staff members in the area of transit, while the MVTA have not added staff in a number of years. The next Finance Committee meeting will be at 3 p.m. on Wednesday, Sept. 13 at the Burnsville Transit Station to complete the projected 2007 budget that will be before the Board at the September meeting.

D. STA

Margaret Schreiner noted that STA had its annual awards session, presenting Sen. Larry Pogemiller and Rep. Erik Paulson with certificates for their efforts on behalf of transit in the last legislative session. STA is also in the process of developing its legislative agenda for the coming year. Originally, it was discussed that 2007 would be the session where there would be a push for expanding the Transit Taxing District. However, it appears that the Met council is taking a very conservative view of this, and therefore STA may need to take the lead, approaching key legislators to get this discussion under way. STA is also beginning to discuss how its members would like to see the pie split, should the MVST amendment be passed. It was suggested that the Met Council is already circulating its plan and that the MVTA should invite Arlene McCarthy to attend an MVTA meeting to present her plan.

VIII. Staff Reports / Update

A. Tom Baker

Beverley Miller updated the Board with regard to Tom Baker and construction at the Burnsville Transit Station. He had some difficulty with his financing (his bank wanted the lease completely re-written). He has a new financing plan in the works, and is expected to have it and all the city approvals completed within the next couple of weeks.

IX. Adjournment

Motion by Elizabeth Kautz and seconded by Jon Ulrich to adjourn the meeting at 6:38 p.m. Motion carried.

Minutes Prepared By:

Robin L. Selvig

Next Regular Meeting Scheduled: Sept. 27, 2006, 4:30 p.m. Eagan Bus Garage

All regularly Scheduled Board Meetings will be held on the **FOURTH** Wednesday of the month at the posted time and location unless otherwise notified.

Approved by: _____ Date: _____