



Minnesota Regional Transit
Board: Records.

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REGIONAL TRANSIT BOARD
Mears Park Centre, 230 East 5th Street
St. Paul, Minnesota 55101
612/229-2700

Meeting of the
REGIONAL TRANSIT BOARD
Mears Park Centre Chambers
December 28, 1992
4 p.m.

AGENDA

- A. CALL TO ORDER AND ROLL CALL
- B. APPROVAL OF AGENDA
- C. APPROVAL OF MINUTES
 - 1. Administration and Finance Committee Meeting, December 14, 1992
 - 2. Joint Regional Transit Board and Metropolitan Transit Commission Meeting, December 18, 1992
- D. CHAIR'S REPORT
 - 1. October Driver of the Month Award, Tom Crider, DARTS
 - 2. November Driver of the Month Award, Eric Blad, National Bus Company
- E. MEMBERS' REPORTS
- F. EXECUTIVE DIRECTOR'S REPORT
- G. MEMBERS' REPORTS
- H. EXECUTIVE DIRECTOR'S REPORT
- I. REPORT OF THE POLICY COMMITTEE
(Sandra Hilary, Chair)
 - 1. Approval to Schedule Public Hearings on High-Subsidy Routes
 - 2. Professional Services Procurement Policy
- J. OTHER BUSINESS
- K. PUBLIC COMMENT

Michael J. Ehrlichmann
Chair

mff
12/22/92



REGIONAL TRANSIT BOARD
Mears Park Centre, 230 East 5th Street
St. Paul, Minnesota 55101

**Minutes of the Meeting of the
REGIONAL TRANSIT BOARD
December 28, 1992**

MEMBERS PRESENT: Michael J. Ehrlichmann, Chair; Maryann Campo; Doris Caranicas; Sharon Feess; Ruth Franklin; Val M. Higgins; Sandra Hilary; Ruby Hunt; Don Scheel; Tom Workman

MEMBERS EXCUSED: Tom Sather

OTHERS PRESENT: Mike Robertson, Legal Counsel; Robert Mairs, Mike Christenson, Tom Weaver, Metropolitan Transit Commission; Arnie Entzel, Amalgamated Transit Union; Nacho Diaz, Metropolitan Council; Robert Tennessen, O'Connor & Hannan; George Bentley; Gregory L. Andrews, Sherry Munyon, Mary Fitzgerald, RTB Staff

CALL TO ORDER AND ROLL CALL

The chair called the meeting to order at 4:55 p.m. and roll was taken.

APPROVAL OF AGENDA

Caranicas moved and Franklin seconded approval of the agenda. The motion carried unanimously.

APPROVAL OF MINUTES

Caranicas moved and Hunt seconded approval of the following minutes:

Administration and Finance Committee Meeting, December 14, 1992

Regional Transit Board and Metropolitan Transit Commission Joint Meeting, December 18, 1992

The motion was unanimously approved.

CHAIR'S REPORT

Chair's Automobile Reimbursement

The chair distributed his memorandum, dated December 28, 1992. Hilary moved and Caranicas seconded:

That the Regional Transit Board authorize a one-time payment to the chair for the following expenses:

1. Balance of Amoco Oil Account as of December 7, 1992 \$932.48

2. Replacement of Four Tires - May 23, 1992 (Firestone)	438.26
3. Replacement of Brakes - June 29, 1992 (Saxon Ford)	469.02
4. Replacement of Battery - November 18, 1992	85.19
Total	\$1,924.99

Franklin asked if the \$300 per month reimbursement figure was arrived at because the chair of the RTB may not receive more than the chair of the Metropolitan Council. Ehrlichmann said the amount was his choice, but he cannot use the same kind vehicle as the Metropolitan Council chair. The motion was unanimously approved.

MEMBERS' REPORTS

Feess reported that she is attending the Success by Six meetings; the group is interested in moving forward and looking for ways the RTB can support their efforts. They are willing to work with the board at the Legislature. Franklin asked staff to develop recommendations on how to encourage the program.

The chair said he and the staff had meetings with the Citizens League, the St. Paul Pioneer Press and the Minneapolis Star Tribune recently to review the RTB's Five-Year Plan, which was very well received.

Hunt said that over the past few months she has been meeting with a number of people to discuss transit governance and has developed a proposal which was mailed earlier in the day. She urged members to develop alternatives.

EXECUTIVE DIRECTOR'S REPORT

Andrews said the District Court has dismissed the claim against the Regional Transit Board in the Sylte v. Handicabs, et al suit. The December 28 letter from legal counsel was distributed.

REPORT OF THE POLICY COMMITTEE

Committee Chair Hilary reported on the recommendations approved by the committee at its meeting on December 21, 1992.

Approval to Schedule Public Hearings on High-Subsidy Routes

Hilary moved and Workman seconded:

That the Regional Transit Board:

1. Authorize a public hearing on the proposed elimination of St. Paul Route No. 10 Sunday Service to be conducted jointly by the Regional Transit Board (RTB) and the Metropolitan Transit Commission (MTC) in early 1993.
2. Authorize a public hearing on proposed restructuring of St. Paul Route No. 20 Weekday service to be conducted jointly by the RTB and MTC in early 1993.

3. Authorize a public hearing for the proposed elimination of St. Paul Route No. 31 Weekday service to be conducted jointly by the RTB and MTC.
4. Authorize a public hearing on the proposed restructuring of Minneapolis Routes No. 44A Weekday service to be conducted jointly by the RTB and MTC in early 1993.
5. Continue monitoring the performance of Minneapolis Route No. 47 Saturday service.

The motion carried unanimously.

PROFESSIONAL SERVICES PROCUREMENT POLICY

Hilary moved and Workman seconded:

That the Regional Transit Board approve the Professional Services Procurement Policy, dated December 15, 1992, that requires that all professional services in excess of \$10,000 be approved by the Regional Transit Board.

The motion was unanimously approved.

OTHER BUSINESS

Resolution Requiring a Minimum Domestic Content of 70 Percent, and Increasing Consideration for Levels Above 70 Percent, for all Regional Transit Board Funded Contracts, Subcontracts, and Capital Acquisitions

The chair distributed a draft resolution which is similar to that adopted by the City of Los Angeles. Ehrlichmann moved approval of the resolution; Hilary seconded the motion.

Franklin said she would support referring the matter to the Policy Committee, but cannot act on it at this meeting. If the decision is made to build light rail transit, there may not be any LRT cars built in the United States. She offered a substitute motion; Fees seconded:

That the Regional Transit Board refer the draft resolution regarding domestic content of all capital and service contracts and acquisitions to the Policy Committee.

Hunt asked if a bid is "competitive" if there is only one supplier. It is not a good use of public dollars to buy defective equipment because it is the only equipment available. Ehrlichmann said it is time this country and government agencies start to look at these issues the way the rest of the world does. Caranicas asked what the experience has been in Los Angeles. Ehrlichmann said a Los Angeles city council member told him they found sufficient quality and enough vendors to meet their needs. Vote was taken on the motion to refer to committee. The motion was unanimously approved.

Election of Board Members

The chair said this board has not been successful in procuring funds and has not been seen as a body with whom it is necessary to deal. Based on the board's need to establish some credibility, he recommends that the board adopt a posture similar to that of Denver and some other cities that the board be elected rather than appointed, which would address the problem of accountability. Ehrlichmann moved and Workman seconded:

That the Regional Transit Board endorse a legislative initiative for the election of the board members and appointment of the chair by the governor.

Hunt said she is concerned about the way items appear on the agenda without going through the committee and she strongly objects to the process. If the board does not have a policy it should adopt one. She moved and Franklin seconded:

That the Regional Transit Board refer the question of a legislative initiative for the election of the board members and appointment of the chair of the board by the governor to the Legislative Committee.

Ehrlichmann said the Bylaws provide that a member may make a motion. Recently the board approved a motion to let a contract without a committee recommendation. Hunt said in that instance the members felt the survey had to be done quickly. She objects to an official body taking this kind of action. The motion to refer the matter to committee was approved.

The chair said that after three years of 60 to 70 hour weeks a person gains some insights. These motions are not made in callous disregard of the board. Regarding the Opt-Out systems, the board spends an inordinate amount of time discussing them even though they represent a fractional portion of the ridership. The greatest part of the tax base growth is committed to the Opt-Out communities, disregarding the total transit system. The board has no jurisdiction or oversight of how the tax monies are spent. He asked the board to examine the relationship between the Opt-Out communities and the commitment of property tax revenue generated by the growth of those communities. The board must think regionally.

Workman thanked Ehrlichmann for his service and said his service on the board has also been a learning experience that will be use as he joins the Legislature. In retrospect, when he joined the board he questioned whether it should exist. It is his hope that he brought about the attention focused on the Opt-Out communities. Bloomington and Richfield have not needed his help. He favors more opportunities for communities to opt-out and more privatization of service. The growth in ridership has occurred in the opt-out communities but the MTC has taken credit for it. The board needs to exist to protect those programs, which should be emulated. His communities are better served by the Opt-Out programs. When misstatements are published in the newspapers, the board needs a better organization to challenge them. It has been frustrating to see the media publish things that bear no resemblance to the truth. He will try as a legislator to protect the RTB because it is best for the system. Some modifications can be made to improve the health of the MTC.

There being no other business, Feess moved and Workman seconded that the meeting be adjourned. The motion was unanimously approved and the meeting adjourned at 5:40 p.m.

I hereby certify that the foregoing constitutes a true and accurate record of the Regional Transit Board's meeting of December 28, 1992.

Respectfully submitted,

Mary Fitzgerald

Mary Fitzgerald
Secretary

Approved by the Regional Transit Board on this first day of February 1992.



REGIONAL TRANSIT BOARD
Mears Park Centre, 230 East 5th Street
St. Paul, Minnesota 55101
612/229-2700

**Minutes of the Joint Meeting of the
REGIONAL TRANSIT BOARD AND
METROPOLITAN TRANSIT COMMISSION
December 18, 1992**

MEMBERS PRESENT: RTB Members: Maryann Campo, Ruth Franklin, Val Higgins, Ruby Hunt, Tom Sather, Don Scheel; RTB staff: Gregory L. Andrews, Judy Hollander, Sherry Munyon, Mary Fitzgerald; MTC Members: Robert Mairs, Allyson Hartle, Christine Dean, Todd Paulson; MTC staff: Mike Christenson, Tom Johnson, Beverly Auld and Thomas Weaver

MEMBERS AND COMMISSIONERS EXCUSED: Michael J. Ehrlichman, Sandra Hilary, Sharon Feess, Tom Workman, Frank Snowdon

OTHERS PRESENT: Arnie Entzel, Amalgamated Transit Union

A joint meeting between the Regional Transit Board and the Metropolitan Transit Commission was held at the Metro 94 offices. The meeting was called to order at 1:30 p.m. The members and staff discussed outstanding organizational issues between the two agencies. No action taken and the meeting adjourned at 3:30 p.m.

I hereby certify that the foregoing constitutes a true and accurate record of the joint meeting of the Regional Transit Board and Metropolitan Transit Commission on December 18, 1992.

Respectfully submitted,

Mary Fitzgerald
Secretary of the Board

Approved by the Regional Transit Board on this twenty-eighth day of December 1992.



REGIONAL TRANSIT BOARD
Mears Park Centre, 230 East 5th Street
St. Paul, Minnesota 55101

**Minutes of the Meeting of the
ADMINISTRATION AND FINANCE COMMITTEE
December 14, 1992**

MEMBERS PRESENT: Ruth Franklin, Chair; Doris Caranicas; Sharon Feess; Tom Sather; Don Scheel

OTHERS PRESENT: Michael J. Ehrlichmann, Maryann Campo, Tom Workman, RTB Members; Michael Robertson, Larkin, Daly, Hoffman and Lindgren, Ltd.; Chris Gran, Metro Mobility Administrative Center; Paul Wallace, Metropolitan Transit Commission (MTC); Arnie Entzel, Amalgamated Transit Union; Sara Brodt Lenz, Ebenezer Society; Gregory L. Andrews, Dale Ulrich; Judy Hollander, Edward Kouneski, Howard Blin, Suzanne Hanson, Gerri Sutton, Clete Luberts, Robert Dietrick, Randy Rosvold, Debra Nelles, Dave Jacobson, Len Simich, Mary Fitzgerald, RTB staff

CALL TO ORDER AND ROLL CALL

Committee Chair Franklin called the meeting to order at 4 p.m. and roll was taken. The agenda was amended to include an item on Rideshare and Travel Demand Management funding. Feess moved and Scheel seconded approval of the agenda as amended. The motion was unanimously approved.

FINANCIAL STATEMENTS - OCTOBER 1992

Sutton reviewed the financial statements and discussed the variances from budget. Feess moved and Scheel seconded:

That the Regional Transit Board receive the October 1992 financial statements and direct that they be placed on file.

The motion was unanimously approved.

1993 COMPENSATION AND BENEFITS PACKAGE

Dietrick reviewed the staff report dated December 3, 1992. The change from 1992 is the two-percent increase to the salary ranges. Responding to Feess' question about whether the staff salary increases have been included in the budget, Ulrich said range changes do not directly affect employee salaries. Scheel asked why salaries were frozen in 1991. Dietrick said that action was similar to that taken by the other regional agencies at the time. Scheel moved and Feess seconded:

That the Regional Transit Board adopt the 1993 Compensation and Benefits Package.

The motion was unanimously approved.

METRO MOBILITY 1993 PROVIDER CONTRACT

Jacobson reviewed the December 7 staff report. Feess asked if riders find the provision in Item B.9. stating "...no rider trip may exceed 90 minutes" is acceptable to the riders. Jacobson said that language is taken from the 1992 contract and staff believes it is acceptable to riders.

Scheel asked why RTB is moving toward enforcement of the Americans with Disabilities Act (ADA) regulations now. Jacobson said the ADA Paratransit Plan established a base line and identified the current and minimal level of service. Spending problems caused RTB to fall below the standards and Metro Mobility is being restructured to work toward full compliance. Hollander said it is important to know that users have had a difficult time making certain kinds of trips. Jacobson said a surplus is projected because of the drop in ridership. Scheel said some kinds of trips will be allowed under this contract that have not been allowed in the past. He asked if that will create a situation that will put the fund balance back in a negative position.

Franklin asked what will happen to the suburban areas that are outside the ADA line. Jacobson said the area served was the transit taxing district but now service is being pulled back to the area shown on the map included in the staff report. In some instances service has fallen below ADA requirements. Scheel said providers must incur some expenses and they have a problem with developing an annual budget if there is a possibility they will not be awarded part of the contract.

Lenz read her statement into the record (Exhibit A). Drivers' salaries have actually dropped in real terms because of the large increase in their contribution to medical insurance premiums. There has been some improvement in productivity since HSI dropped out of the program.

Hollander said that with ridership down extra funds have become available for the program. Staff has proposed that the benefits be divided between the providers and users. The providers are getting a five-percent increase. Lenz said demand will take off like a rocket if the Trip Assurance provision is reinstated. Andrews said the increased fares have limited demand. Franklin said she is also concerned about the fact that her area will not have the Trip Assurance plan. Responding to Workman's question, she said Anoka County, unlike other metro counties, funds part of the cost of supplying paratransit. Hollander said that because of the internal Metro Mobility trips taken on the Anoka County Traveler, RTB reimburses the county for their additional costs. Workman said if the money comes from the general fund, a county like Carver would pay twice for paratransit. Hollander said counties are not asked to be fully responsible for funding Metro Mobility. There is an issue of priorities and staff has not yet developed a proposal for the board. At the last meeting the board was asked to accept a service concept for the purpose of public hearing only. (Campo arrived.) Caranicas moved and Sather seconded:

That the Regional Transit Board authorize the executive director to execute a Metro Mobility 1993 provider agreement for service to be rendered beginning January 1, 1993 for no more than a 12-month period, pending proposed restructuring activities.

The motion carried (Scheel and Franklin voted no).

METRO MOBILITY ADMINISTRATIVE CENTER 1993 MANAGEMENT PLAN AND BUDGET

Scheel moved and Caranicas seconded:

That the Regional Transit Board authorize the executive director to enter into a contract with the Metropolitan Transit Commission for calendar year 1993 in an amount not to exceed \$753,628 for the operation of the Metro Mobility Administrative Center as proposed in the 1993 Management Plan and Budget.

Jacobson reviewed the December 7 staff report, noting that the contract contains a 30-day termination clause. Gran said the computer equipment was purchased with federal money and federal regulations would apply to its disposition. The motion was unanimously approved.

APPROVAL OF "NO-PAY" POLICY FOR POLICE OFFICERS

Blin reviewed the December 9 staff report. Caranicas moved and Scheel seconded:

That the Regional Transit Board approve the Metropolitan Transit Commission request to allow all police officers to ride buses free throughout the regular route service area.

The motion was unanimously approved. Paul Wallace made a presentation on the MTC's Policy operations. A new brochure on measures riders can take to improve their personal security was distributed to members.

1992 METROPOLITAN TRANSIT COMMISSION (MTC) INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT (ISTEA) GRANT APPLICATION

Blin reviewed the December 8 staff report. Caranicas moved and Sather seconded:

That the Regional Transit Board approve the MTC's grant application with the Federal Transit Administration for 1992 Intermodal surface Transportation Efficiency Act funding.

The motion was unanimously approved.

MTC FEDERAL GRANT APPLICATION FOR TEAM TRANSIT

Blin reviewed the December 8 staff report. Caranicas moved and Sather seconded:

That the Regional Transit Board approve the grant application from the Metropolitan Transit Commission to the Federal Transit Administration for federal funding for the Team Transit program.

The motion was unanimously approved.

1993 AFFIRMATIVE ACTION PLAN

Dietrick reviewed the Affirmative Action Plan for 12993. Feess moved and Sather seconded:

That the Regional Transit Board approve the 1993 Regional Transit Board's Affirmative Action Plan for submission to the Minnesota Department of Employee Relations.

The motion was unanimously approved.

AMENDMENT TO CONTRACT BETWEEN MINNESOTA DEPARTMENT OF TRANSPORTATION AND REGIONAL TRANSIT BOARD TO FUND THE METROPOLITAN AREA RIDESHARE PROGRAM, RESOLUTION NO. 92-08 AND MINNESOTA DEPARTMENT OF TRANSPORTATION CONTRACT AMENDMENT TO FUND THE REGIONAL TRANSIT BOARD'S TRANSPORTATION DEMAND MANAGEMENT (TDM) PROGRAM, RESOLUTION NO. 92-09

Simich explained that the contract amendments were previously authorized by the board, but that Mn/DOT's legal counsel feels a resolution is needed. Caranicas moved and Sather seconded:

That the Regional Transit Board approve Resolution No. 92-08, authorizing the executive director to execute an amendment to the current 1992 contract with the Minnesota Department of Transportation for the purpose of carrying over unspent Federal Surface Transportation Program funds to be used for funding expenses associated with the first nine months of the 1993 Rideshare Program and increase the federal obligation for the Rideshare program from \$482,281 to \$578,400.

That the Regional Transit Board approve Resolution No. 92-09, authorizing the executive director to execute an amendment to the current 1992 contract with the Minnesota Department of Transportation for the purpose of carrying over unspent Federal Surface Transportation Program funds to be used for funding expenses associated with the first nine months of the 1993 Transportation Demand Management program.

The motion was unanimously approved.

OTHER BUSINESS

There being no other business, Caranicas moved and Sather seconded that the meeting be adjourned. The motion was unanimously approved and the meeting adjourned at 5:25 p.m.

I hereby certify that the foregoing constitutes a true and accurate record of the Regional Transit Board's Administration and Finance Committee meeting of December 14, 1992.

Respectfully submitted,

Mary Fitzgerald
Secretary of the Board

Approved by the Regional Transit Board on this twenty-eighth day of December 1992.

REGIONAL TRANSIT BOARD

Mears Park Centre
230 East Fifth Street, St. Paul, Minnesota 55101
292-8789

DATE: December 28, 1992
TO: Regional Transit Board Members
FROM: Michael J. Ehrlichmann, Chair 
SUBJECT: Chair's Automobile Reimbursement

Background

Prior to my appointment, the Chair of the RTB was provided with an automobile for his business and personal use. All cost of the vehicle including purchase price (\$12,602.00), taxes, license, insurance (\$100 a month), maintenance and repairs were assumed by the RTB. The Chair supplied fuel but was reimbursed on a monthly basis for business related mileage and parking cost. During working hours the vehicle was made available as a staff pool car at the Chair's discretion.

When I became Chair it was obvious that this vehicle would not be appropriate for my use. The Board at the time discussed the possible purchase of an accessible van for the Chair. Because of the extraordinary cost of such a vehicle (\$30,000), and inability for the vehicle to serve as a staff pool car, I suggested that I use my own converted van and receive a three hundred dollar-a-month mileage allowance.

Regretably, as I had just recently purchased and converted the vehicle and was newly appointed I had little experience with vehicle fuel economy or repair cost as well as driving demands for Regional Chair. At 7 to 8 miles a gallon, and full brake replacement annually, the costs of owning and operating this vehicle have far exceeded RTB reimbursement.

Request for Board Action:

As a result of the discrepancy between actual cost and reimbursement, I am requesting a one-time payment for the following expenses:

1. Balance of Amoco Oil Account - as of 12/7/92	932.48
2. Replacement of 4 tires - 5/23/92 (Firestone)	438.26
3. Replacement of Brakes - 6/29/92 (Saxon Ford)	469.02
4. Replacement of Battery - 11/18/92	85.19
Total	<u>\$1,924.99</u>

Auto expenses incurred by Chair Ehrlichmann for employment period 8/1/89 to 12/1/92 (receipts available)

1. Amoco Oil Company (fuel & oil)	7,291.67
2. State Farm Insurance	3,635.30
3. Minnesota Auto License	423.00
4. AAA (towing & road service)	114.28
5. Repairs & Maintenance	2,534.91
Total	<u>\$13,995.16</u>

6. * Automobile payments - 5 year SCCU Loan at 7% interest for \$30,000 (41 monthly payments of \$595.00)	\$24,395.00
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At the time of employment 8/1/89, Ford E150 van had an appraised and insured value of \$33,000 with 3,740 miles

Current mileage is 55,000 miles

Total automobile costs to Michael Ehrlichmann for period of 8/1/89 to 12/1/92	<u>\$38,128.76</u>
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Amount of auto expense reimbursement to Michael Ehrlichmann by RTB at 41 payments of \$300.00	<u>\$12,3000.00</u>
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* Van was purchased in cash. Figures reflect financing at today's costs.

LARKIN, HOFFMAN, DALY & LINDGREN, LTD.

ATTORNEYS AT LAW

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OF COUNSEL
WENDELL R. ANDERSON
JOSEPH GITIS
RICHARD A. NORDBYE

*ALSO ADMITTED IN
WISCONSIN

MEMORANDUM

TO: RTB Members

FROM: Mike Robertson *WR*

DATE: December 28, 1992

RE: District Court Decision on Summary Judgment Motion
Sylte v. Handicabs, et al.

You will recall our previous discussion concerning RTB involvement in this case as a defendant. Sylte sued for damages resulting from an assault by a metro mobility driver employed by Handicabs, Inc. Defendants include Handicabs, the Metro Mobility Administrative Center, the MTC and the RTB.

On behalf of the RTB, we moved for summary judgment based on governmental immunity provisions of state law.

In a decision on December 18, 1992, Judge Christensen entered judgment in favor of the RTB, granting the motion and dismissing the claim against the RTB. Attached is a copy of Judge Christensen's order and memorandum.

The plaintiff has 30 days from December 18 to file an appeal with the Minnesota Court of Appeals. I will keep you informed on further developments in the case.

MAR:CA4s

STATE OF MINNESOTA

COUNTY OF HENNEPIN

FILED

22 DEC 18 PM 3:47

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Court File No. PI 92-1514

HENN. CO. DISTRICT COURT ADMINISTRATOR
DEPUTY
Kenneth and Phyllis Sylte, on
behalf of Loretta Sylte, as her
parents and natural guardians,

Plaintiffs,

vs.

ORDER

Handicabs, Inc., a Minnesota
corporation; Metro Mobility
Administrative Center; the
Metropolitan Transit
Commission; and the Regional
Transit Board,

Defendants.

The above-captioned matter came on for hearing before
the undersigned Judge of District Court on November 20,
1992, on Defendant's Motion for Summary Judgment.

Gary L. Wilson, Esq., appeared on behalf of Plaintiffs;
Thomas B. Humphrey, Esq., appeared on behalf of Defendant
Regional Transit Board; Martin D. Munic, Esq., appeared on
behalf of Defendants Metropolitan Transit Commission and
Metro Mobility Administrative Center; and George W. Kuehner,
Esq., appeared on behalf of Defendant Handicabs.

Based upon all the files, records, and proceedings
herein, and the oral arguments of counsel, IT IS HEREBY
ORDERED:

1. That Defendant Regional Transit Board's Motion for
Summary Judgment is in all respects GRANTED.

2. Plaintiffs' claims against the Regional Transit Board are DISMISSED in their entirety with prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

DATED: December 18, 1992

William B. Christensen
William B. Christensen
Judge of District Court

MEMORANDUM

The Regional Transit Board (RTB) is a creation of the legislature. While it can and does contract with providers like Handicabs for special transportation services, it does not have day-to-day operational control and enforcement obligations over those contracts. Its authority is policymaking only, i.e., deciding the policies and standards for the Metro Mobility program and its service providers. Implementation of those policies and enforcement of the RTB's contracts are the responsibility of the MTC.

The legislature specifically limited the RTB's operational responsibilities:

The board shall arrange with others for the delivery and provision of transit services and facilities. to the greatest extent possible, the board shall avoid direct operational, planning, administration, and management of specific transit services and facilities.

Minn. Stat. sec. 473.(1a) (b).

The Metro Mobility program is a specific transit service for special transportation. See Minn. Stat. sec. 473.386. The objects of the service include providing greater access to transportation for the elderly, handicapped and others with special transportation needs. Minn. Stat. sec. 473.386(1)(a). To implement the service, the RTB is authorized to contract with vendors, such as Handicabs. Minn. Stat. sec. 473.386(2). However, the legislature mandated:

The board shall establish management policies for the service, but shall contract with a service administrator for day-to-day administration and management of the service. The contract must delegate to the service administrator clear authority to administer and manage the delivery of the service pursuant to board management policies and must establish performance and compliance standards for the service administrator.

Minn. Stat. sec. 474.386(2)(b) (emphasis added).

In addition, the Municipal Tort Claims Act, Minn. Stat. sec. 473.373 and Minn. Stat. sec. 466.01, et. seq., grants Defendant RTB immunity in this case. Governmental acts which require a balancing of policy or planning factors are discretionary acts afforded immunity. Stucci v. City of St. Paul, 403 N.W.2d 850, 851 (Minn. Ct. App. 1987). Unlike the Metropolitan Transit Commission, which is a governmental body acting on an "operational" level, Marlow v. City of Columbia Heights, 284 N.W.2d 389, 392 (Minn. 1979), the Regional Transit Board's acts are discretionary by statute and contract.

Therefore, it appears that Summary Judgment is appropriate, and Defendant Regional Transit Board (RTB) ought to be dismissed from this case.

W.B.C.



REGIONAL TRANSIT BOARD

Mears Park Centre
230 East 5th Street
St. Paul, Minnesota 55101
612/292-8789

Called

RESOLUTION 92-____

RESOLUTION REQUIRING A MINIMUM DOMESTIC CONTENT OF 70 PERCENT, AND INCREASING CONSIDERATION FOR LEVELS ABOVE 70 PERCENT, FOR ALL REGIONAL TRANSIT BOARD-FUNDED CONTRACTS, SUBCONTRACTS, AND CAPITAL ACQUISITIONS

- WHEREAS, Federal transportation regulations require a base level of 60 percent domestic content for all federally funded transportation contracts and capital acquisitions; and
- WHEREAS, the Regional Transit Board is legislatively mandated to authorize capital and service contracts, and
- WHEREAS, the Regional Transit Board provides significant revenue allocation through its contracts and capital acquisitions, and
- WHEREAS, the Regional Transit Board has a considerable stake in maintaining viable, competitive domestic transportation industries.

NOW THEREFORE BE IT RESOLVED:

1. THAT the Regional Transit Board requires a minimum 70 percent domestic content level in all service and capital contracts and acquisitions, with increasing consideration for levels above and beyond 70 percent.
2. THAT the Regional Transit Board directs the executive director to incorporate this resolution into all RTB-funded contract and acquisition processes.

Adopted this 28th day of December 1992.

Michael J. Ehrlichmann, Chair

Mary Fitzgerald, Secretary



REGIONAL TRANSIT BOARD
Mears Park Centre, 230 East 5th Street
St. Paul, Minnesota 55101

REPORT OF THE POLICY COMMITTEE

At its meeting of December 21, 1992, the Regional Transit Board's Policy Committee approved the following recommendations:

APPROVAL TO SCHEDULE PUBLIC HEARINGS ON HIGH-SUBSIDY ROUTES

That the Regional Transit Board:

1. Authorize a public hearing on the proposed elimination of St. Paul Route No. 10 Sunday Service to be conducted jointly by the Regional Transit Board (RTB) and the Metropolitan Transit Commission (MTC) in early 1993.
2. Authorize a public hearing on proposed restructuring of St. Paul Route No. 20 Weekday service to be conducted jointly by the RTB and MTC in early 1993.
3. Authorize a public hearing for the proposed elimination of St. Paul Route No. 31 Weekday service to be conducted jointly by the RTB and MTC,
4. Authorize a public hearing on the proposed restructuring of Minneapolis Routes No. 44A Weekday service to be conducted jointly by the RTB and MTC in early 1993.
5. Continue monitoring the performance of Minneapolis Route No. 47 Saturday service.

PROFESSIONAL SERVICES PROCUREMENT POLICY

That the Regional Transit Board adopt the Professional Services Procurement Policy, dated December 15, 1992, which requires that all professional services in excess of \$10,000 be approved by the Regional Transit Board.

OTHER BUSINESS

The committee received a presentation on the update of the 1993 Americans with Disabilities Paratransit Plan and the development of a Competitive Transit Policy.

Sandra Hilary
Chair

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12/22/92