



COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

Department of Transportation
Brian Dranzik, Director

DATE: September 22, 2014

TO: Michael Mayo, Sr. Chairman, Transportation Public Work and Transit Committee

FROM: Brian Dranzik, Director of Transportation

SUBJECT: Pending Transit Management Structure Transition

At the September 10, 2014 Transportation, Public Works and Transit Committee meeting Supervisor Borkowski asked if the Department of Transportation had examined scenarios related to the pending transfer from MTS as a private non-profit operator to a quasi-governmental operator. In response to that request the Department submits the following.

Beginning in March the Department of Transportation spearheaded an internal group of County departments including Human Resources, Department of Administration, DAS-budget office, Treasurer's Office, Comptroller's Office and Corporation Counsel to determine what steps were necessary at that time to transition MTS employees to Milwaukee County employees. In the April cycle Resolution File #14-312 was passed stating:

BE IT RESOLVED, that the Milwaukee County Board of Supervisors directs that the stated 2014 Adopted Budget transit policy directive outlined in this resolution shall be revised as follows:

The policy of Milwaukee County shall be to bring management of transit in-house and services for operations shall remain outside of Milwaukee County unless further revised by formal action of the Board
,and

BE IT FURTHER RESOLVED that Corporation Counsel working in conjunction with the Office of Comptroller shall submit to the FTA legal changes that would be necessary to develop a "blended" insourcing of transit management but outsourcing of operations that would satisfy the Federal Transit Administration while providing a restructured relationship with MTS, Inc. to achieve the most cost effective, locally run not-for-profit transit system for Milwaukee County.

This change in adopted policy has shifted the focus to the development of a quasi-governmental structure that allows for current MTS staff to remain effectively in place with direct county oversight by the Department of Transportation and without MTS employees transitioning to Milwaukee County employees.

In addition to the shift in policy, the board authorized an appropriation of \$50,000 for Corporation Counsel to hire outside counsel to examine the quasi- governmental structure under Wisconsin

law. The result of that examination determined that Wisconsin law does allow for the existence of quasi-governmental entities to exist. The Department's consultant Huron Group used its internal Federal Transportation Administration (FTA) legal expert to explore FTA law to determine the review requirements that FTA will follow in its review of Corporation Counsel's work. That review determined that if state law exists that allows for a quasi-governmental entity to exist, the FTA's role has historically been to defer to the State law.

Based on the findings of the two independent reviews, it is expected that the allowance by FTA to permit funding for Milwaukee County's Transit System as a quasi-governmental operator will be successful. However, given the potential for the FTA to have a prolonged review of Milwaukee County's request, there are certain considerations that must be made prior to the end of the year.

First if the request to FTA is not answered by mid to late November, the Department will submit a resolution to the board extending the current contract with MTS into 2015. This will be done as a formality to maintain operations until we hear back from FTA. The department has on three other occasions extended the MTS contract in 2007, 2008 and 2009. Given the fact that we are working with FTA on the review and they will be well aware of the situation we anticipate that there will not be any resistance or issue from FTA.

If, in its review of Milwaukee County's request, there are issues that arise from the FTA, it is likely Milwaukee County will be given an opportunity to provide additional or supplemental information to the FTA that will satisfy any outstanding requests made. Should Milwaukee County receive a response from the FTA that does not allow for the quasi-governmental arrangement to occur, Milwaukee County would begin the transition process from MTS employees to County employees.

It has been the experience by Milwaukee County that in the three other times that contract extensions have been provided, the extensions have been granted without question by the FTA. We anticipate that FTA will once again work collaboratively with Milwaukee County through the resolution of the quasi-governmental issue, and in an ultimate worst case scenario, work with Milwaukee County on a timeline to transition MTS employees to Milwaukee County employment.