

**NJ TRANSIT BOARD MEETING
MINUTES
OPEN SESSION
2/9/2011**



Chris Christie, Governor
Kim Guadagno, Lieutenant Governor
James S. Simpson, Board Chairman
James Weinstein, Executive Director

NJ TRANSIT

One Penn Plaza East
Newark, NJ 07105-2246
973-491-7000

February 11, 2011

Dear Governor Christie:

Pursuant to Chapter 150, Laws of 1979, I herein transmit the minutes of actions taken at the open session of the regularly scheduled meetings of the New Jersey Transit Corporation, NJ Transit Rail Operations, Inc., NJ Transit Bus Operations, Inc., and NJ Transit Mercer, Inc., Board of Directors held on Wednesday, February 9, 2011.

Sincerely,

Gwen A. Watson
Board Secretary

Enclosures

Honorable Chris Christie
Governor, State of New Jersey
State House
Trenton, NJ 08625

February 11, 2011

Dear Governor Christie:

Pursuant to Chapter 150, Laws of 1979, I herein transmit the minutes of actions taken at the open session of the regularly scheduled meetings of the New Jersey Transit Corporation, NJ Transit Rail Operations, Inc., NJ Transit Bus Operations, Inc., and NJ Transit Mercer, Inc., Board of Directors held on Wednesday, February 9, 2011.

Sincerely,

A handwritten signature in black ink, appearing to read "Gwen A. Watson", with a long horizontal flourish extending to the right.

Gwen A. Watson
Board Secretary

Enclosures

Honorable Chris Christie
Governor, State of New Jersey
State House
Trenton, NJ 08625

**NJ TRANSIT BOARD MEETING
NARRATIVE
OPEN SESSION
2/9/2011**

(NJT Board – 02/09/2011)

Minutes of the actions taken at the Open Session of the regularly scheduled Board of Directors' meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. held at NJ TRANSIT Headquarters, One Penn Plaza East, Newark, New Jersey on Wednesday, February 9, 2011.

Present:

Flora Castillo, Acting Chair
 Johanna Jones, Governor's Representative
 Joseph Mrozek, Deputy Transportation Commissioner
 Steve Petrecca, Treasurer's Representative (By Telephone)

James Weinstein, Executive Director
 Gwen A. Watson, Board Secretary
 Penny Bassett-Hackett, Acting Assistant Executive Director, Communications & Customer Service
 James Gigantino, Vice President & General Manager, Bus Operations
 Kevin O'Connor, Acting Vice President & General Manager, Rail Operations
 Christopher Trucillo, Chief of Police
 Kim Vaccari, Chief Financial Officer & Treasurer
 Steve Santoro, Assistant Executive Director, Capital Planning & Programs
 Alma Scott-Buczak, Assistant Executive Director, Human Resource
 Leotis Sanders, Vice President, Office of Civil Rights and Diversity Programs
 Warren A. Hersh, Auditor General
 Kenneth Worton, Deputy Attorney General

Acting Chair Castillo convened the Open Session at 9:05 a.m. in accordance with the Open Public Meetings Act and asked for a motion to enter Executive Session to discuss contract negotiations, attorney-client, litigation and personnel matters. A motion was made by Johanna Jones, seconded by Steve Petrecca and unanimously adopted.

Acting Chair Castillo reconvened the Open Session at 9:35 a.m. and asked for a motion to adopt the minutes of the December 9, 2010 meetings. A motion was made by Johanna Jones seconded by Steve Petrecca and adopted.

Executive Director Weinstein welcomed Joseph Mrozek, Deputy Transportation Commissioner and said he was sitting in for the first time for Commissioner Simpson.

Executive Director James Weinstein highlighted the following from his monthly business report.

HBLR 8th STREET

Executive Director Weinstein said last week marked the grand opening of the new Hudson-Bergen Light Rail 8th Street Station in Bayonne, welcoming light rail service to a new neighborhood. Following a ribbon-cutting ceremony, Executive Director Weinstein was joined by U.S. Senator Robert Menendez, Congressman Albio Sires, Mayor Mark Smith and other local, state and federal officials, as revenue service began on the one-mile extension of the light rail line from its previous southern terminus at 22nd Street in Bayonne.

(NJT Board – 02/09/2011)

The new 8th Street Station was designed as a walkable, neighborhood station, eliminating the need for Bayonne residents in the surrounding neighborhood to drive and park at the 22nd Street or 34th Street stations. To illustrate this, about 100 students and their principal, Mary Tremitedi from the Holy Family Academy, a school located just two blocks away from the station, were present at the ceremony. The 8th Street Station is the 24th station to open on the system, double the number of stations than when the line first launched in April 2000. In its opening week, the station is already averaging an impressive 1,000 trips a day, a number that is sure to grow as more and more residents catch on.

Executive Director Weinstein congratulated the 8th Street project team on a job well done: Project Manager Don Blazina, Construction Manager Ian Finn, Staff Manager Ty Dickerson, Transit Arts Program Manager Sheila McKoy, Assistant Executive Director, Capital Planning & Projects Steve Santoro, as well as contractor George Harms and engineering firm Gannett Fleming. It was a great team and they delivered a wonderful project that everyone can be proud of.

CLEVER DEVICES

Executive Director Weinstein said the Board will consider an item that will equip the remainder of NJ TRANSIT's bus fleet with smart bus technology, advancing the drive toward real-time service information for bus customers.

The 1,145 new NABI buses NJ TRANSIT has been taking delivery of are already equipped with smart bus technology provided by Clever Devices. This procurement will enable the remaining 1,040 buses in the fleet to become smart bus ready. The Clever Devices platform offers many operational and customer benefits through a robust customer information system that provides automatic bus stop announcements, vehicle condition monitoring, passenger counting and a GPS system. This will allow for greater efficiency for Bus Operations in terms of scheduling, planning and maintenance.

The greatest benefit will be to the customer, as NJ TRANSIT eventually will be able to deliver real-time bus location and next bus information to any web-enabled device, letting customers know the exact current locations of their buses and when they are expected to be at their stops. The use of smart bus technology will drive "Next Bus" signage at key locations, and will enable NJ TRANSIT to introduce customer information tools to the web, such as maps that display graphic representations of the buses as they move across the system.

The roll out of Clever Devices installation will be completed in two phases by the end of next year. Executive Director Weinstein looks forward to the introduction of smart bus technology to the NJ TRANSIT system.

MY TRANSIT ENHANCEMENTS

Executive Director Weinstein noted that this year marks the 10-year anniversary of the My Transit alert system, which launched in June 2001. At the time, NJ TRANSIT was the first major transit agency in the country to offer an email alert option for customers.

(NJT Board – 02/09/2011)

Since then, the system, which delivers travel advisories for selected trips to cell phones, PDA's or pagers, has undergone a number of improvements, including the addition of server capacity to provide faster delivery of important information and the ability to accommodate more customers.

As a testament to the efforts over the past decade, during the December blizzard, the My Transit system delivered more than 580,000 individual emails during a 36-hour period. Currently, My Transit has more than 40,000 active rail customer subscribers, who have the ability to request alerts for specific trains on weekdays, since most regular commuters tend to take the same train every day.

Executive Director Weinstein was pleased to announce a system enhancement that will enable customers to receive weekend rail alerts. With the introduction of weekend alerts, NJ TRANSIT will give customers the option to register by line, as the incidental riders who are seeking the information may not necessarily take the same trains each time they travel on a Saturday or Sunday. Receiving weekend alerts by line will give them the ability to plan accordingly in the event of delays.

For customers who are not yet My Transit subscribers, NJ TRANSIT encourages them to sign up at njtransit.com.

ACCESS LINK ALERTS

Executive Director Weinstein said that in addition to new weekend rail alerts, NJ TRANSIT is also adding Access Link to the My Transit system, so that customers of the paratransit service will be able to receive alerts about disruptions to service in their regions.

This winter, on several occasions, it has been necessary to suspend Access Link service for safety reasons due to local road conditions. From now on, Access Link customers who subscribe to My Transit will receive an alert if service is disrupted for reasons such as inclement weather, as well as an alert when service is restored to their regions.

Also starting today, Access Link will be providing recorded service status information for customers who contact Access Link by phone in the event of service changes or cancellations. Information will be provided by county or region, or both, as needed.

DEPARTUREVISION

Executive Director Weinstein said starting today, NJ TRANSIT is launching a new effort to promote DepartureVision among rail customers.

DepartureVision is the very popular real-time train information system that displays a virtual train departure screen on a desktop computer or mobile device. With DepartureVision, customers can learn not only whether their trains are on time or running a few minutes behind schedule, but also what tracks they will arrive on, what station stops the train makes and more.

(NJT Board – 02/09/2011)

DepartureVision now routinely accommodates more than 30,000 queries each weekday and even more on days when service is impacted by weather. Starting today, NJ TRANSIT is tapping into the digital real estate on the Ticket Vending Machines to display “QR” codes at each station. QR codes or “quick response” codes are basically bar codes that can be encoded with data, which apps on smart phones can then scan and be directed to open a link in a web browser. In this case, customers with smart phones can simply scan the QR code on TVM screens, and the DepartureVision screen for their station will be instantly displayed on their device.

NJ TRANSIT believes that DepartureVision is a powerful tool that improves the commuting experience and NJ TRANSIT is excited to use this technology to put it in the hands of even more customers.

BLIZZARD EFFORTS

Executive Director Weinstein provided an overview of the extensive preparations NJ TRANSIT makes to deal with the effects of winter weather on the system. This winter, Mother Nature has delivered several significant winter storms, including the blizzard of December 26 and 27, and last Wednesday’s ice storm. Executive Director Weinstein thanked everyone for their extraordinary efforts to keep the system running during these extreme weather events.

VICE PRESIDENT AND GENERAL MANAGER, NJ TRANSIT RAIL OPERATIONS, INC.

Executive Director Weinstein said the Board will consider an item that would authorize the appointment of Kevin O’Connor as Vice President and General Manager of NJ TRANSIT Rail Operations. Mr. O’Connor has done a remarkable job serving as the Acting Vice President and General Manager for the past eight months.

Managing a rail system as complex as NJ TRANSIT’s, with 12 commuter lines and 165 stations, is certainly no easy task. But as a professional with more than 33 years of railroad operating experience, the last nine of which were with NJ TRANSIT, Mr. O’Connor is highly qualified for the job.

His experience on the railroad began at Amtrak, where he rose through the ranks from a train attendant, gained experience in dispatch and the rules department, and ultimately became General Manager for Amtrak’s Philadelphia lines in the Mid-Atlantic Division.

In his time here at NJ TRANSIT, he has served as General Superintendent of New York Penn Station, the system’s busiest location, as well as Deputy General Manager of Transportation.

As Acting Vice President and General Manager, Mr. O’Connor’s focus on safety, fiscal responsibility and on-time performance have served the agency, the employees and the customers well.

(NJT Board – 02/09/2011)

Executive Director Weinstein is confident that he will continue to rise to the challenges associated with keeping the rail system moving to serve the more than 270,000 passenger trips on a typical weekday.

ADVISORY COMMITTEE

Suzanne Mack presented the Advisory Committee report. Ms. Mack echoed the congratulations on NJ TRANSIT's preparations for the winter storms. She also congratulated the Technology Committee of the Board for providing real time information to customers.

Ms. Mack said the North Jersey Transit Advisory Committee met last week and she thanked Paul Wyckoff for joining the meeting. There were ongoing questions about the demise of the Access to the Region's Core project such as "where do we go from here?" and how to plan for capacity constraints. She said Mr. Wyckoff and the planning staff addressed many questions.

Ms. Mack said both the North and South Jersey Transit Committees attended the 8th Street opening and it was special for them since that was the last station to be rolled out in the original light rail plan. She said it is absolutely beautiful. Ms. Mack acknowledged that former Assemblywoman Rose Heck and former Assemblyman Joseph Doria were in attendance as they were on the original Light Rail Committee.

Ms. Mack said another light rail project is the extension to Route 440 and the Advisory Committee will hear about that project in March.

She said the Committee is anxious to hear more about the proposed alternative to the Access to the Region's Core project.

BOARD COMMITTEE REPORT

Board Member Steve Petrecca presented the Administration Committee report to the Board. The Committee discussed the appointment of the Vice President and General Manager for Rail Operations as well as the creation of a new bus operating subsidiary, NJ TRANSIT Morris Inc. The Committee also reviewed the extension of the employee Vision Service Plan contract and the readoption with amendments to the regulations Use or Occupancy of NJ TRANSIT-Owned Property.

PUBLIC COMMENTS ON AGENDA ITEMS

There were five public comments on agenda items. Board Secretary Watson announced a three minute time limit for speakers.

Christopher Bollwage, Mayor of Elizabeth, commented on Item No. 1101-06, Sale of Property to City of Elizabeth Known as Block 6, Lots 1407, 1411 and 1634, Elizabeth, County of Union, New Jersey. Mayor Bollwage urged the Board to approve the sale of this property to the City of Elizabeth since the property would be part of the midtown redevelopment project. Mayor Bollwage thanked Executive Director Weinstein for his staff's assistance with this project.

(NJT Board – 02/09/2011)

Murray Bodin commented on Item 1102-03, Smart Bus Technology: Award of Procurement-By-Exception Contract for Hardware, Software and Services from Clever Devices, Ltd. Mr. Bodin said the application for a smart phone is pretty sharp and is the next generation of planning. However, in the planning process, some things are missed and you have to correct errors that are not being paid attention to. Mr. Bodin said an example is that when you get on a train, the door closes and then the conductor announces the train is going to a certain destination. The conductor says it after the door closes so a person cannot get off the train if he or she is on the wrong one. Mr. Bodin said someone has to go back and look at the little things and correct the announcements so they are made before the door closes. Mr. Bodin said the new applications are being done by the next generation, but the conductors should make announcements before they close the doors.

David Peter Alan, Lackawanna Coalition said on several occasions, he has requested more public disclosure of the particular consequences of a proposed Board action than NJ TRANSIT is willing to grant. He did this in vain hope that management would come into compliance with New Jersey's Open Public Meetings Act, beginning at N.J.S.A. §10:6-4. In December 2006, the interpretative statements given to the public with the Board agenda were lengthened somewhat. On all other occasions, requests that Board procedures comply with the law of the State of New Jersey were soundly and consistently ignored.

Unfortunately, this practice continues, as shown on today's agenda. A new corporation for Morris County bus service is a case in point. Management proposes a new subsidiary to operate Morris County buses, presumably similar to the one established to operate bus service in Mercer County, but the public who stand outside the hallowed halls of management does not know. The public has never been told what such a subsidiary would do differently from NJ TRANSIT itself, especially since the same people would run the operation. The public also has not been informed of the justification for creating a separate entity, when NJ TRANSIT appears perfectly capable of operating buses in Morris County as well as it does elsewhere. The Lackawanna Coalition has many constituents in Morris County, some of whom ride local buses to connect with trains on the Morris & Essex Lines. The Coalition is glad that NJ TRANSIT has decided to save and operate local buses in Morris County, but he needs to know the justification for this proposed corporate change. Mr. Alan urged that this item be postponed, so the public can be properly informed of the reason for this proposal and comment effectively before action is taken.

Mr. Alan also noted that management proposes to sell land in Elizabeth. Mr. Alan said he cannot comment on what impact the transaction might have on riders because he has not been given useful information about it. Mr. Alan called the zoning office in Elizabeth and learned that the land in question is a vacant parking lot near the train station. That information did not tell him enough to comment intelligently on the issue and he should not have had to make that call in the first place.

Mr. Alan said NJ TRANSIT is capable of following appropriate procedures when management deems it appropriate to do so. According to today's agenda, requests for increases for permit fees were published in the *New Jersey Register* for public

(NJT Board – 02/09/2011)

comment. Massive fare increases, like the one last year, are not. Service reductions are often sprung on the public as an unpleasant surprise as well.

Mr. Alan said most the incidents he mentioned occurred during the Warrington and Sarles administrations which he relegates to the past. Governor Christie has called for more transparency in state government and NJ TRANSIT should follow that call. Other transit boards do not take action until the public has been fully informed and given a full and fair opportunity to comment. It is time for this Board and management to adopt that practice.

Jack May, New Jersey Association of Railroad Passengers Light Rail Panel.

Mr. May said light rail has certainly been in the news over the past 10 days and referred to three different events that occurred at the end of January.

Mr. May said it was great to receive today's agenda and see that necessary improvements are being made to the River Line. The provision to install more double track on the line will benefit its users by promoting additional flexibility and dependability resulting from better timekeeping. Mr. May said it was a pity that Bob Ingle of the *Asbury Park Press* was not aware that the Pennsauken Transit Center is being constructed by NJ TRANSIT as evidenced in a recent column discussing access to Atlantic City by rail from the northern part of the state. The new station will allow a virtually seamless way for passengers coming from the River Line, as well as from north of Trenton on the Northeast Corridor, to reach New Jersey's important resort of Atlantic City. The New Jersey Association of Railroad Passengers supports NJ TRANSIT in this endeavor and urges the Board to approve this item.

Last week a Jersey City newspaper published a news article regarding the forthcoming extension of the Hudson-Bergen Light Rail line westward from West Side Avenue in Jersey City to Route 440 and beyond. It stated that NJ TRANSIT was holding a public meeting and went on to say "the agency has done in-depth studies of four possible configurations to bring mass transit connections to the western waterfront of the city. It will be recommending Alternative 1A, a \$171.6 million plan that extends the rail line from the West Side Avenue station to just one station, at Bayfront." Mr. May said that is very good news for the residents of Jersey City and he is glad that NJ TRANSIT has chosen light rail again as the best mode of transit to serve the new development.

On Monday, January 31, 2011, NJ TRANSIT cut the ribbon on the southward extension of the Hudson-Bergen Light Rail line to Bayonne West 8th Street. It will no doubt add a great many more riders to this important transportation artery and make it even more useful. Mr. May was at the ceremony and was very pleased that the efforts of the Light Rail Panel Chairperson, Rose Heck, were recognized.

Mr. May said Senator Menendez also mentioned the future northward extension of the line to Bergen County and reiterated his characterization of Hudson-Bergen as a great success during his interview with the *Jersey Journal*. The line's extension into Bergen County was also mentioned by Executive Director Weinstein. Mr. May noticed that Brigid Hynes-Cherin, Regional Administrator for Region 2 of the Federal Transit Administration, appeared with Executive Director Weinstein at the event. Perhaps Mr. Weinstein had a chance to discuss with her the status of the Draft Environmental

(NJT Board – 02/09/2011)

Impact Statement for the Northern Branch extension. Mr. May said over the last 12 months, he has been told that the Draft Environmental Impact Statement is stalled either at the Federal Transit Administration or at NJ TRANSIT. Mr. May asked if he can be told when it will be released or what is holding it up and provide an accurate timetable for the project.

Mr. May is grateful that NJ TRANSIT recognizes the technical, cost and environmental advantages of light rail and said a great deal of money has been spent in Hudson and Camden counties and the results can be seen and appreciated by all. However, he is still waiting patiently for movement on the extension to Bergen County.

Joseph Clift commented on Item No. 1101-06, Sale of Property to City of Elizabeth Known as Block 6, Lots 1407, 1411 and 1634, Elizabeth, County of Union, New Jersey. Mr. Clift echoed Mr. Alan's comments and said not enough information was provided to comment. He said this item talks about excess property, but does not say why it is excess property. With regard to the Open Public Meetings process, Mr. Clift said that whatever is provided to the Board should be provided to the public. He said the Administration Committee meeting report talked about actions at today's meeting. Mr. Clift said the Committee meetings should be notified to the public and the public invited to attend. Mr. Clift also noted that his statements submitted at previous Board meetings are not accessible on line with the minutes of the meeting. Mr. Clift said these items should be taken into consideration for greater transparency.

Executive Director Weinstein presented the following Action Items for approval:

**1102-01: APPOINTMENT OF VICE PRESIDENT AND GENERAL MANAGER:
NJ TRANSIT RAIL OPERATIONS, INC.**

The first item for the Board's consideration is the appointment of Kevin O'Connor to the position of Vice President and General Manager: NJ TRANSIT Rail Operations, Inc. Mr. O'Connor has served NJ TRANSIT for nine years now, the last eight months of which he served as Acting Vice President and General Manager of Rail Operations overseeing the 12 commuter rail lines and 165 stations. Mr. O'Connor has more than 33 years of progressive railroad operating experience, having previously worked at Amtrak. Authorization is requested to appoint Kevin O'Connor as the Vice President and General Manager of NJ TRANSIT Rail Operations, Inc. at an annual salary of \$185,000.

Johanna Jones moved the resolution, Steve Petrecca seconded it and it was unanimously adopted.

**1102-02: AUTHORIZATION FOR CREATION OF OPERATING SUBSIDIARY
(NJ TRANSIT MORRIS, INC.)**

Since 1984, PABCO Transit or its predecessor companies have operated Morris County local bus service, comprised of six different routes carrying 483,000 annual passenger trips. Following an RFP early last year, it was determined that the benchmark submitted by NJ TRANSIT Bus

(NJT Board – 02/09/2011)

Operations offered that best value and was in the best interest of NJ TRANSIT. To ensure a smooth transition, a separate subsidiary is proposed for creation to be known as NJ TRANSIT Morris, Inc. The service will operate using current PABCO employees by assuming the current PABCO collective bargaining agreement and existing facility lease. Authorization is requested to create this separate operating subsidiary on or before June 4, 2011, to take any necessary actions consistent with operating these services, to negotiate and execute labor agreements as necessary, to adopt the NJ TRANSIT Morris Inc. By-Laws which are included in the agenda, with the Board members being the current members of NJ TRANSIT's Board of Directors, and to appoint James J. Gigantino as Vice President and General Manager of NJ TRANSIT Morris, Inc.

Johanna Jones moved the resolution, Joseph Mrozek seconded it and it was unanimously adopted.

1102-03: SMART BUS TECHNOLOGY: AWARD OF PROCUREMENT-BY-EXCEPTION CONTRACT FOR HARDWARE, SOFTWARE AND SERVICES FROM CLEVER DEVICES, LTD.

When NJ TRANSIT ordered 1145 buses from North American Bus Industries in 2007, included was a 'smart bus' platform known as Clever Devices, which provides timely, accurate bus stop announcements and sign displays, destination signs for specific routes, spotter displays to ensure accurate fare application and can deliver other features such as location-based messages of interest. This real-time bus location information and next bus information, sent to any web-enabled device is a major customer benefit. Clever Devices also provides automatic passenger counting, analyzes information from bus engines and drive trains to enable proactive maintenance, automated bus route database updates, and enhanced voice and data communications. Authorization is requested to enter into a sole source agreement with Clever Devices to equip the remaining 1040 buses in the fleet with this smart bus platform to extend the benefits of smart bus technology to all customers throughout the state. This is a sole source contract request since Clever Devices has proprietary control over the parts, components and services required for further use of its technology. This \$22 million contract, with five percent for contingencies, will be implemented in two phases. Phase 1 includes automated vehicle announcements and vehicle maintenance, destination and spotter displays and radio communication system support. Phase 2 includes real time position reporting with web access, automatic passenger counting with reporting and a replacement computer-aided dispatch system.

Joseph Mrozek moved the resolution, Johanna Jones seconded it and it was unanimously adopted.

(NJT Board – 02/09/2011)

1102-04: RIVER LINE PENNSAUKEN SIDING UPGRADE: AMENDMENT TO DESIGN-BUILD-OPERATE-MAINTAIN (DBOM) CONTRACT FOR CONSTRUCTION OF SIGNAL IMPROVEMENTS AND CONSTRUCTION SUPPORT FOR TRACKWORK

In the fall of 2009, the Board authorized Phase 1 of a design-build contract for a Transfer Station between the River LINE and Atlantic City Rail Line in Pennsauken. This connection will allow customers to travel between the Delaware River towns, Atlantic City and Philadelphia. The new Pennsauken Transit Center is located in single track territory and this new station would increase the overall running time between Trenton and Camden. Authorization is requested to amend the existing contract with Southern New Jersey Rail Group so that an existing siding can be lengthened, allowing trains to pass each other without stopping. The \$2,206,900 amendment, plus five percent for contingencies, will include all signal improvements and construction support for track work being done by NJ TRANSIT in house forces.

Johanna Jones moved the resolution, Joseph Mrozek seconded it and it was unanimously adopted.

1102-05: GENERAL OFFICE BUILDING (GOB) UNINTERRUPTIBLE POWER SUPPLY (UPS) AND HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM REPLACEMENT: CONSTRUCTION CONTRACT AWARD

NJ TRANSIT's General Office Building in Maplewood houses a data center for our support functions, as well as front line Bus Operations radio tower communications. Included are the bus radio system, international vehicle registration system, disaster recovery site for email and payroll, farebox file transfers, station control units for signage and public address systems on the River LINE and trip planning used by Customer Service. This data center is served by three outdated uninterruptible power supply systems which have random outages. Authorization is requested to replace this older system with larger and more efficient uninterruptible power supply systems for better reliability and power capacity. The contract proposed is with John O'Hara Company, Inc. for the installation of these new systems, cooling units and power distribution cabinets as well as demolition of the existing units. The cost will not exceed \$2,126,148 plus five percent for contingencies.

Joseph Mrozek moved the resolution, Steve Petrecca seconded it and it was unanimously adopted.

(NJT Board – 02/09/2011)

1102-06: SALE OF PROPERTY TO CITY OF ELIZABETH KNOWN AS BLOCK 6, LOTS 1407, 1411 AND 1634, ELIZABETH, COUNTY OF UNION, NEW JERSEY

Staff has determined that vacant property across the street from the westbound side of the Northeast Corridor in the City of Elizabeth is excess and has no current or future transportation use. Authorization is requested to sell that one acre lot to the City of Elizabeth for \$1.5 million. The City will develop the property in conjunction with its revitalization efforts in that vicinity.

Joseph Mrozek moved the resolution, Johanna Jones seconded it and it was unanimously adopted.

Executive Director Weinstein presented the following Consent Calendar for approval:

1102-07: EXTENSION OF VISION SERVICE PLAN INCORPORATED (VSP) CONTRACT

Authorization to extend NJ TRANSIT's contract with its current insurance carrier, VSP, for group vision care plans, for a period of twelve months, beginning January 1, 2011, at a cost not to exceed \$58,000.

1102-08: LABOR NEGOTIATIONS SPECIAL COUNSEL

Authorization to compensate the law firm of McElroy, Deutsch, Mulvaney & Carpenter, LLP as special counsel to the NJ TRANSIT Police Department with respect to the aforementioned services at an amount not to exceed \$137,000, subject to the availability of funds.

1102-09: REGULATIONS: READOPTION WITH AMENDMENTS TO REGULATIONS N.J.A.C. 16:77 USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY

Authorization to take all actions necessary to readopt the regulations governing N.J.A.C. 16:77 et. seq. Use or Occupancy of NJ TRANSIT-owned Property with amendments consistent with this Board item and exhibits, format the regulations as appropriate and to take all other actions necessary to effectuate the final readoption and promulgation.

1102-10: REAL ESTATE – ACTION TO RESCIND PREVIOUS BOARD RESOLUTION NO. 0808-65 FOR SALE OF BLOCK 75, LOTS 10-15 (PORTIONS), IN CAMDEN COUNTY TO CAMDEN REDEVELOPMENT AGENCY AND TO AUTHORIZE SALE TO CAMDEN COUNTY IMPROVEMENT AUTHORITY

Authorization to take all necessary actions to rescind Board Item No. 0808-65 and to sell Lots 10, 12, 13, 14, 15 and a portion of Lot 11 in Block 75, City of Camden, Camden County, State of New Jersey to

(NJT Board – 02/09/2011)

Camden County Improvement Authority at a cost of \$610,000, subject to Camden County Improvement Authority's approval of a resolution to purchase the property and obtaining funding for the purchase from Rutgers University which is financing the development project.

The Consent Calendar was moved in its entirety by Johanna Jones, seconded by Steve Petrecca and unanimously adopted.

Public Comments on Non-Agenda Items

There were seven public comments on non-agenda items. Board Secretary Watson announced a three minute time limit for speakers.

Jack May, Director of the New Jersey Association of Railroad Passengers expressed his support for the proposal made by Amtrak, Senator Menendez and Senator Lautenberg for a new tunnel under the Hudson River to Pennsylvania Station in New York. This will benefit both Amtrak and NJ TRANSIT passengers and will meet many of the goals of the "Access to the Region's Core".

Mr. May said it is a vindication of the New Jersey Association of Railroad Passengers' Moynihan Penn Station First plan which was presented to this Board on multiple occasions over the past years. Unfortunately, Al Papp could not attend today's Board meeting but he was totally elated over this new development.

Governor Christie said he is "thrilled with the proposal" so it is now incumbent for this Board to support it as well. He said it includes the important Portal Bridge project, totally necessary to maintain dependable service for NJ TRANSIT passengers. The amount of local funding, no doubt, will be much smaller than the open-ended commitment about which the Governor rightfully balked. Mr. May said he would have preferred that the Governor ordered the project to be modified in the manner now being proposed, but he is grateful to him for stopping a project that had become extremely wasteful and ultimately would not fill New Jersey's needs. When discussing his decision, he did mention, however, the fatal flaws that the New Jersey Association of Railroad Passengers had pointed out about the "tunnel to nowhere".

Mr. May mentioned that the past year has been very frustrating for public transportation advocates. It is all well and good to be given the opportunity to speak to the NJ TRANSIT Board, but as the saying goes, "you can lead a horse to water, but you cannot make him drink". This new proposal, virtually identical to what the New Jersey Association of Railroad Passengers, Mr. Alan, Mr. Clift and Mr. Raleigh proposed on countless occasions, is proof that in the future the Board should listen to speakers who have valid criticisms and then use its common sense to act on them.

The new Amtrak plan offers the flexibility and increased capacity that the residents of New Jersey need. Mr. May applauded those government officials that have started the ball rolling again for improved access to the region's core.

Murray Bodin said he has been looking to the future and watching the events in Egypt realizing that energy is a lot shorter than before. He said there are fences along the rail

(NJT Board – 02/09/2011)

lines and suggested that NJ TRANSIT grow ivy on those fences to shield the neighborhoods. He said the land can be used for community gardens as they are in Europe. Mr. Bodin wants to get people thinking about how to adapt to the new realities of less oil and higher energy costs. One way is to go back and look at what spaces are available to grow gardens and tomatoes. Mr. Bodin thanked the Board for the opportunity to speak.

David Peter Alan, Lackawanna Coalition said two days ago, Senators Lautenberg and Menendez, along with Amtrak President Joseph Boardman announced a plan to build new rail tunnels into New York's Penn Station, with new tracks to be located just south of the existing station tracks. This is similar to the "780" plan, which Amtrak proposed in 2008, in response to NJ TRANSIT's decision to eliminate a track connection to the existing Penn Station as part of the former "ARC" project.

As Mr. Alan has said publicly, this constitutes a major step in the right direction. One of the greatest problems with the old proposal was that Amtrak was excluded. The Lackawanna Coalition is also relieved that the Amtrak proposal would bring new tunnels into the existing Penn Station, so constituents would not be evicted from that facility. In his opinion, forcing constituents into a deep-cavern terminal was the old plan's most objectionable feature.

Mr. Alan said the Amtrak plan has its shortcomings. It would create essentially a separate railroad from the line now in use, from west of Portal Bridge to the entrance of Penn Station. The plan would not achieve the flexibility and redundancy of a four-track main line. Amtrak plans to add new tracks at the south end of the existing Penn Station, but this would be a stub-end terminal, which could not be extended to the East Side, which is where new capacity should be located. Funding is also problematic since the \$13.5 billion cost that Amtrak estimates is more than the cost of the former "ARC" project.

Two features of the proposal, the lengthening of the platforms for Tracks 1 through 4 and the extension of the Central Corridor to all tracks are planned as "Phase II" of the project. These improvements are relatively inexpensive and will greatly improve operational flexibility. They should be built in the near-term, rather than eventually.

It is possible to build a better alternative project than the former "ARC" proposal or the Amtrak "Gateway" alternative, but this will take cooperation between all concerned, including the political leaders, both Republicans and Democrats. It will take a willingness to spend money wisely and in the interest of providing the best mobility for the riders.

Mr. Alan said the rider advocacy community continues to call for the "Affordable ARC Now-not Later" alternative. That means two new tracks into the existing Penn Station, which can eventually be expanded to the East Side. The proposal is gaining momentum and Mr. Alan will take it to New England at a conference in New Haven on April 29th sponsored by the Rail Users' Network and the Connecticut Sierra Club. Governor Christie has asked all parties including Amtrak, NJ TRANSIT and New York to join together to produce improved rail access between New Jersey and New York City.

(NJT Board – 02/09/2011)

Mr. Alan said the "Affordable ARC Now-not Later" alternative is the answer and he looks forward to presenting it to the Board formally.

George Clark questioned why buses are being leased to private carriers for \$1.00. He said the gravy train of getting free buses should come to an end and there should be a discussion on all lease agreements to private carriers.

Acting Chair Castillo said it is part of a private carrier capital investment program and asked Vice President and General Manager Jim Gigantino to speak with Mr. Clark after the meeting.

Joseph Clift complimented the New Jersey Department of Transportation about how they dealt with the recent snowstorms and heard Commissioner Simpson say how they were working outside of the box. During the snowstorms, Mr. Clift heard that NJ TRANSIT was cross-honoring tickets but he said there are a lot of bus riders that do not have access to rail. To hear in the morning that bus operations are not working and some rail operation are not working is not acceptable but it needs to operate 24/7. That is the same approach NJ TRANSIT needs to take with the Amtrak tunnel proposal. NJ TRANSIT needs to take an active part so New Jersey has the best opportunity. It needs to be a partnership effort and he recommended that NJ TRANSIT pursue that approach.

Acting Chair Castillo recognized Joel Golub, Chief Information Officer, and thanked him for his service to NJ TRANSIT since he is retiring from the NJ TRANSIT family and going to California. On behalf of the Board, Acting Chair Castillo wished him well and congratulated him for his dedication and commitment to the customers.

Rose Heck said it was a wonderful event in Bayonne with the opening of light rail and today she is requesting movement on light rail for Bergen County. Ms. Heck asked the Board to push for public hearings on the Draft Environmental Impact Statement. It is about time and long overdue to have the public hearings and start building in Bergen County and to get this done as quickly as possible.

John Mitchell, Bergen County of Chosen Freeholders, read a letter on behalf of John Driscoll Jr., Bergen County Freeholder Chairman and thanked NJ TRANSIT for the hard work it has done in exploring alternate forms of transportation in New Jersey. In his opinion, finding new and cost efficient methods of transportation will be one of the key issues as a new decade is entered.

The Hudson Bergen Light Rail project is one of the key mass transit proposals that will have a major impact on the residents of Bergen County. He is of the firm belief that those who will be impacted most by a project have a say both pro and con. With this in mind, as the Chairman of the Bergen County Board of Chosen Freeholders, he would like to offer the use of the Freeholders' Public Meeting Room as a location for open dialog on this issue. By listening to the residents of the most populous county in New Jersey, Bergen County offers the opportunity to collect a diverse viewpoint on this project and to provide a complete picture so that an informed decision can be reached. The residents of Bergen County need to be heard on the light rail project. Hopefully some local, county and state elected officials from Bergen County will also choose to

(NJT Board – 02/09/2011)

participate. Chairman Driscoll waits to hear the response to this offer to have a dialogue on the light rail project and the positive impact it will have on Bergen County and the rest of the northern region of New Jersey.

Adjournment

Since there were no further comments or business, Acting Chair Castillo called for adjournment and a motion to adjourn was made by Joseph Mrozek, seconded by Johanna Jones and unanimously adopted. The meeting was adjourned at approximately 10:35 a.m.

**NEW JERSEY TRANSIT CORPORATION
NJ TRANSIT BUS OPERATIONS, INC.
NJ TRANSIT RAIL OPERATIONS, INC.
NJ TRANSIT MERCER, INC.
REGULARLY SCHEDULED BOARD OF DIRECTORS' MEETINGS**

FEBRUARY 9, 2011

MINUTES

PAGE

- **EXECUTIVE SESSION AUTHORIZATION** **42956**
- **APPROVAL OF MINUTES OF PREVIOUS MEETINGS** **42957**
- **EXECUTIVE DIRECTOR'S MONTHLY REPORT** **42958**
- **ADVISORY COMMITTEE REPORTS** -
- **BOARD COMMITTEE REPORT** -
 *Administration Committee
- **PUBLIC COMMENTS ON AGENDA ITEMS**

ACTION ITEMS

- 1102-01** **APPOINTMENT OF VICE PRESIDENT AND GENERAL MANAGER:
NJ TRANSIT RAIL OPERATIONS, INC.** **42977**

Authorization is requested to appoint Kevin J. O'Connor to the position of Vice President and General Manager of NJ TRANSIT Rail Operations, Inc. at an annual salary of \$185,000, together with NJ TRANSIT's standard at-will employee benefits.

- 1102-02** **AUTHORIZATION FOR CREATION OF OPERATING SUBSIDIARY
(NJ TRANSIT MORRIS, INC.)** **42979**

Authorization for the Chairman or Executive Director/President to take all actions necessary to create a separate operating subsidiary of NJ TRANSIT to operate Morris County local service on or before June 4, 2011, and to take any necessary actions consistent with operating these services, and authorizes the Chairman or Executive Director/President to negotiate and execute labor agreements as may be needed. This action also authorizes adoption of the attached By-Laws for NJ TRANSIT Morris, Inc., which includes a Board of Directors comprised of the members of the Board of NJ TRANSIT. As directed in the By-Laws of NJ TRANSIT Morris, Inc., the President appoints and the Board concurs with the selection of James J. Gigantino to the position of General Manager of NJ TRANSIT Morris, Inc.

NEW JERSEY TRANSIT CORPORATION
NJ TRANSIT BUS OPERATIONS, INC.
NJ TRANSIT RAIL OPERATIONS, INC.
NJ TRANSIT MERCER, INC.
REGULARLY SCHEDULED BOARD OF DIRECTORS' MEETINGS
FEBRUARY 9, 2011
MINUTES
PAGE 2

1102-03 SMART BUS TECHNOLOGY: AWARD OF PROCUREMENT-BY-EXCEPTION CONTRACT FOR HARDWARE, SOFTWARE AND SERVICES FROM CLEVER DEVICES, LTD. 42996

Authorization to enter into a procurement-by-exception contract with Clever Devices LTD of Plainview, New York, for hardware, software and services at for the installation of smart bus equipment on approximately 1,040 existing transit, cruiser and articulated busts at a total cost not to exceed \$22,000,000, plus five percent for contingencies, subject to the availability of funds.

1102-04 RIVER LINE PENNSAUKEN SIDING UPGRADE: AMENDMENT TO DESIGN-BUILD-OPERATE-MAINTAIN (DBOM) CONTRACT FOR CONSTRUCTION OF SIGNAL IMPROVEMENTS AND CONSTRUCTION SUPPORT FOR TRACKWORK 42999

Authorization to amend the design-build-operate-maintain (DBOM) contract (No. 97CJ052) with Southern New Jersey Rail Group, LLC (Rail Group) of Camden, New Jersey, for the design, procurement, installation, testing, and implementation of signal improvements and for construction support for trackwork for the Pennsauken Siding improvements for the Pennsauken Transit Center River LINE station project at a cost not to exceed \$2,206,800, plus five percent for contingencies, for a total contract authorization of \$663,012,403 plus annual adjustments as set forth in the contract, subject to the availability of funds.

1102-05 GENERAL OFFICE BUILDING (GOB) UNINTERRUPTIBLE POWER SUPPLY (UPS) AND HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM REPLACEMENT: CONSTRUCTION CONTRACT AWARD 43002

Authorization to enter into a contract (No. 11-002X) with John O'Hara Company, Inc. of East Orange, New Jersey, for the installation of new UPS systems, cooling units, and power distribution cabinets; the demolition of the existing UPS systems and cooling units; and the associated demolition and upgrades to their circuit breakers, wiring, and plumbing, at a cost not to exceed \$2,126,148, plus five percent for contingencies, subject to the availability of funds.

NEW JERSEY TRANSIT CORPORATION
 NJ TRANSIT BUS OPERATIONS, INC.
 NJ TRANSIT RAIL OPERATIONS, INC.
 NJ TRANSIT MERCER, INC.
 REGULARLY SCHEDULED BOARD OF DIRECTORS' MEETINGS
 FEBRUARY 9, 2011
 MINUTES
 PAGE 3

1102-06 SALE OF PROPERTY TO CITY OF ELIZABETH KNOWN AS BLOCK 6, LOTS 1407, 1411 AND 1634, ELIZABETH, COUNTY OF UNION, NEW JERSEY 43005

Authorization to take all actions necessary to sell in fee to the City of Elizabeth 1.05 acres of property known as Block 6, Lots 1407, 1411 and 1634, 100-118 Union Street, City of Elizabeth, County of Union, State of New Jersey for \$1.5 million.

CONSENT CALENDAR

1102-07 EXTENSION OF VISION SERVICE PLAN INCORPORATED (VSP) CONTRACT 43009

Authorization to extend NJ TRANSIT's contract with its current insurance carrier, VSP, for group vision care plans, for a period of twelve months, beginning January 1, 2011, at a cost not to exceed \$58,000.

1102-08 LABOR NEGOTIATIONS SPECIAL COUNSEL 43012

Authorization to compensate the law firm of McElroy, Deutsch, Mulvaney & Carpenter, LLP as special counsel to the NJ TRANSIT Police Department with respect to the aforementioned services at an amount not to exceed \$137,000, subject to the availability of funds.

1102-09 REGULATIONS: READOPTION WITH AMENDMENTS TO REGULATIONS N.J.A.C. 16:77 USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY 43015

Authorization to take all actions necessary to readopt the regulations governing N.J.A.C. 16:77 et. seq. Use or Occupancy of NJ TRANSIT-owned Property with amendments consistent with this Board item and exhibits, format the regulations as appropriate and to take all other actions necessary to effectuate the final readoption and promulgation.

NEW JERSEY TRANSIT CORPORATION
NJ TRANSIT BUS OPERATIONS, INC.
NJ TRANSIT RAIL OPERATIONS, INC.
NJ TRANSIT MERCER, INC.
REGULARLY SCHEDULED BOARD OF DIRECTORS' MEETINGS
FEBRUARY 9, 2011
MINUTES
PAGE 4

**1102-10 REAL ESTATE – ACTION TO RESCIND PREVIOUS BOARD
RESOLUTION NO. 0808-65 FOR SALE OF BLOCK 75, LOTS 10-15
(PORTIONS), IN CAMDEN COUNTY TO CAMDEN REDEVELOPMENT
AGENCY AND TO AUTHORIZE SALE TO CAMDEN COUNTY
IMPROVEMENT AUTHORITY**

43032

Authorization to take all necessary actions to rescind Board Item No. 0808-65 and to sell Lots 10, 12, 13, 14, 15 and a portion of Lot 11 in Block 75, City of Camden, Camden County, State of New Jersey to Camden County Improvement Authority at a cost of \$610,000, subject to Camden County Improvement Authority's approval of a resolution to purchase the property and obtaining funding for the purchase from Rutgers University which is financing the development project.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

EXECUTIVE SESSION AUTHORIZATION

BE IT HEREBY RESOLVED pursuant to N.J.S.A. 10:4-12 and N.J.S.A. 10:4-13 that the Board of Directors of the New Jersey Transit Corporation hold an executive session to discuss contract negotiations and attorney-client, litigation and personnel matters; and

BE IT FURTHER RESOLVED that it is expected that discussions undertaken at this executive session could be made public at the conclusion of these matters as appropriate.

APPROVAL OF MINUTES

WHEREAS, the By-Laws provide that the minutes of actions taken at meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. Board of Directors be approved by the Board; and

WHEREAS, pursuant to Section 4(f) of the New Jersey Public Transportation Act of 1979, the minutes of actions taken at the December 9, 2010, Board meetings of the New Jersey Transit Corporation, NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Rail Operations, Inc. and NJ TRANSIT Mercer, Inc. were forwarded to the Governor on December 13, 2010;

NOW, THEREFORE, BE IT RESOLVED that the minutes of actions taken at the December 9, 2010 New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. Board of Directors' meetings are hereby approved.

Chris Christie, Governor
Kim Guadagno, Lieutenant Governor
James S. Simpson, Board Chairman
James Weinstein, Executive Director

NJ TRANSIT
One Penn Plaza East
Newark, NJ 07105-2246
973-491-7000

TO: BOARD OF DIRECTORS
FROM: JAMES W. WEINSTEIN 
DATE: FEBRUARY 9, 2011
SUBJECT: EXECUTIVE DIRECTOR'S REPORT – FEBRUARY 2011

Last week, NJ TRANSIT marked the grand opening of the new Hudson-Bergen Light Rail 8th Street Station in Bayonne, welcoming light rail service to a new neighborhood with the start of revenue service on the one-mile extension from the line's previous southern terminus at 22nd Street. The new 8th Street Station was designed as a walkable, neighborhood station, eliminating the need for Bayonne residents in the surrounding neighborhood to drive and park at 22nd Street or 34th Street stations. In its opening week, the station is already averaging an impressive 1,000 trips a day, a number that is sure to grow as more and more residents catch on.

For the Board's consideration today is an item that will equip the remainder of NJ TRANSIT's bus fleet with smart bus technology, advancing our drive toward real-time service information for bus customers. The 1,145 new NABI buses we have been taking delivery of are already equipped with smart bus technology provided by Clever Devices. This procurement will enable the remaining 1,040 buses in our fleet to become smart bus ready. The Clever Devices platform offers many operational and customer benefits, including automatic bus stop announcements, vehicle condition monitoring, passenger counting and real-time location reporting. The greatest benefit will be to the customer, as we will eventually be able to deliver real-time bus location and arrival information to any web-enabled device, letting customers know when their bus is expected to arrive at their stop. The roll out of Clever Devices installation is expected to be completed in two phases by the end of next year.

Today, I'm pleased to announce an enhancement to the My Transit alert system—which delivers travel advisories for your selected trip to your cell phone, PDA or pager—that will enable customers to receive weekend rail alerts. Currently, My Transit has more than 40,000 active rail customers, who have the ability to request alerts for specific trains on weekdays, since most regular commuters tend to take the same train every day. With the introduction of weekend alerts, we are giving customers the option to register by line, as our incidental riders who are seeking the information may not necessarily take the same train each time they travel on a Saturday or Sunday. Receiving weekend alerts by line will give them the ability to plan accordingly in the event of delays.

In addition to new weekend rail alerts, we are also adding Access Link to the My Transit system, so that customers of our paratransit service will be able to receive alerts about disruptions to service in their region. This winter, on several occasions, it has been necessary to suspend Access Link service for safety reasons due to local road conditions. From now on, Access Link customers who subscribe to My Transit will receive an alert if service is disrupted for reasons such as inclement weather, as well as an alert when service is restored to their region.

Also starting today, we are launching a new effort to promote DepartureVision—NJ TRANSIT's popular real-time train information system that displays a virtual train departure screen on your desktop computer or mobile device—among our rail customers. Starting today, we are tapping into the digital real estate on our Ticket Vending Machines to display "QR" codes at each station, which apps on smart phones can scan and be directed to open a link in a web browser. In this case, customers with smart phones can simply scan the QR code on TVM screens, and the DepartureVision screen for their station will be instantly displayed on their device.

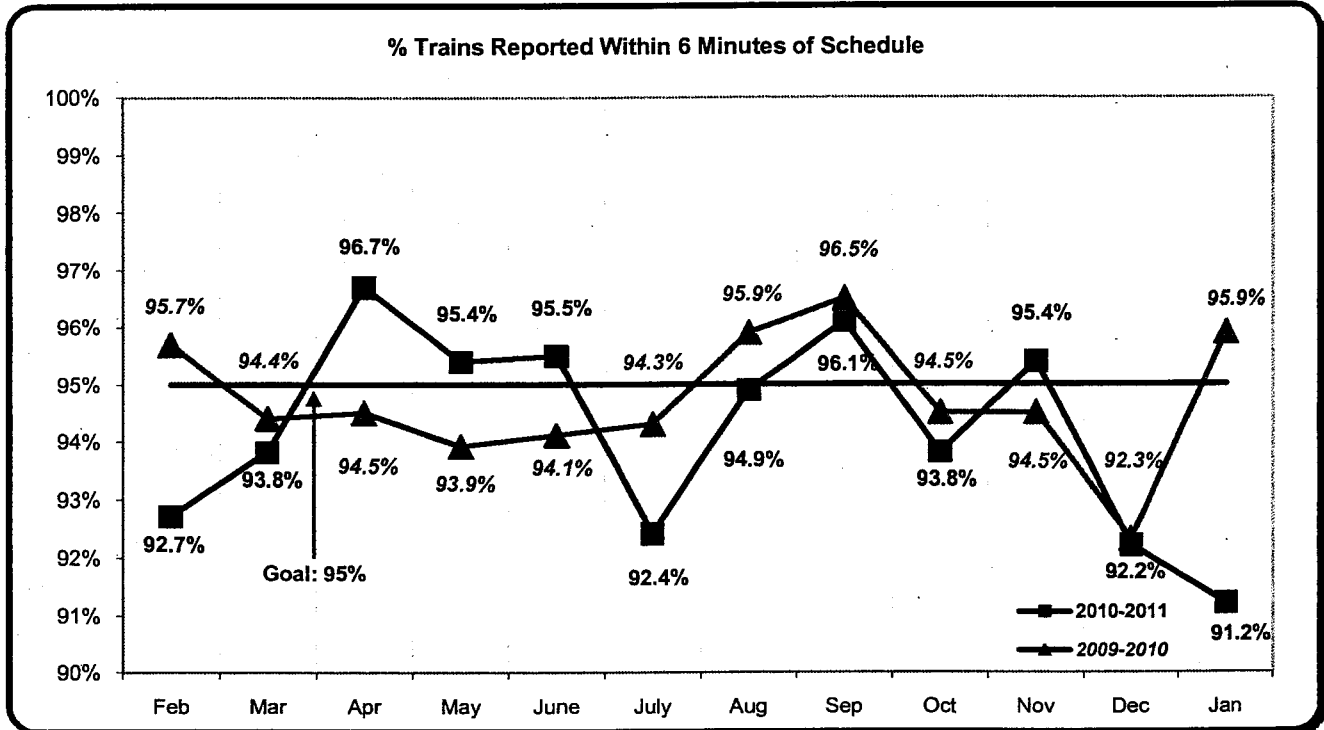
Finally, at our last meeting in December, I provided an overview of the extensive preparations NJ TRANSIT makes to deal with the effects of winter weather on our system. Since that time, Mother Nature has delivered several significant winter storms, including the blizzard of December 26 and 27, and last Wednesday's ice storm. I would like to thank everyone for their extraordinary efforts to keep the system safe and running during these extreme weather events.

EXECUTIVE DIRECTOR'S MONTHLY REPORT FEBRUARY 2011

- 1. PERFORMANCE MEASURES**
- 2. DBE/MBE PROGRAM**
- 3. EMPLOYEE RECOGNITION**

PERFORMANCE MEASURES

NJ TRANSIT ON-TIME PERFORMANCE RAIL FEBRUARY 2009 - JANUARY 2011



	2010	2011	# Change
January Comparison	95.9%	91.2%	-4.7%

	2009-2010	2010-2011	# Change
12-Month Average February - January	94.7%	94.2%	0.5%

Analysis:

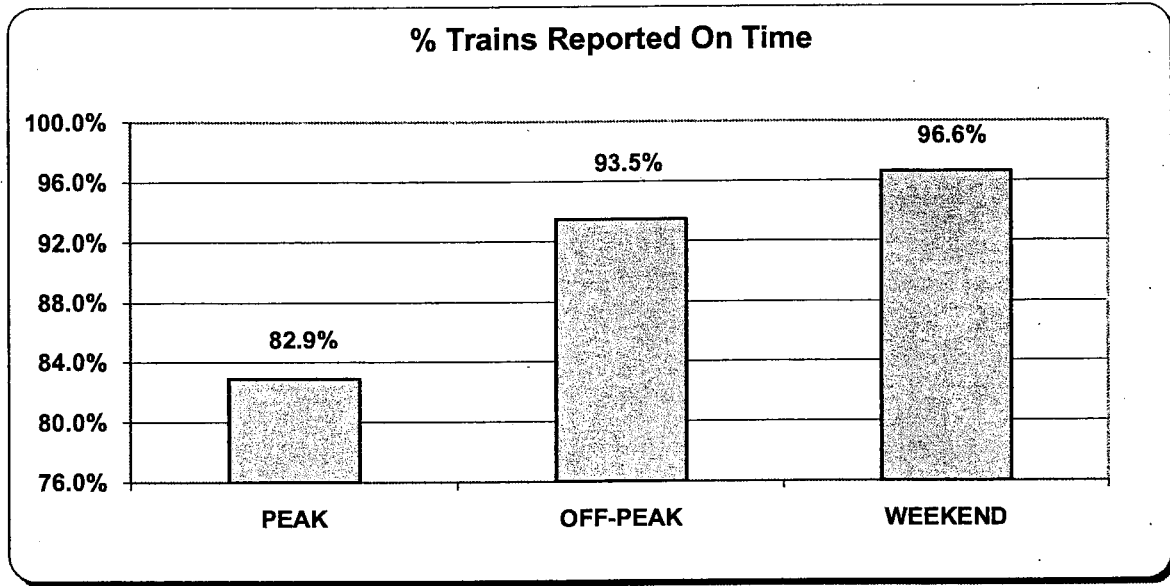
Rail On-Time Performance was 91.2% for January 2011. Of the 18,016 trains scheduled to operate, 16,428 were on time, while 1588 trains (or 8.8%) were delayed. Key causes included:

- Severe weather conditions on January 12.
- A motor vehicle blocking North Jersey Coast Line tracks on January 14.
- Severe weather conditions on January 27.

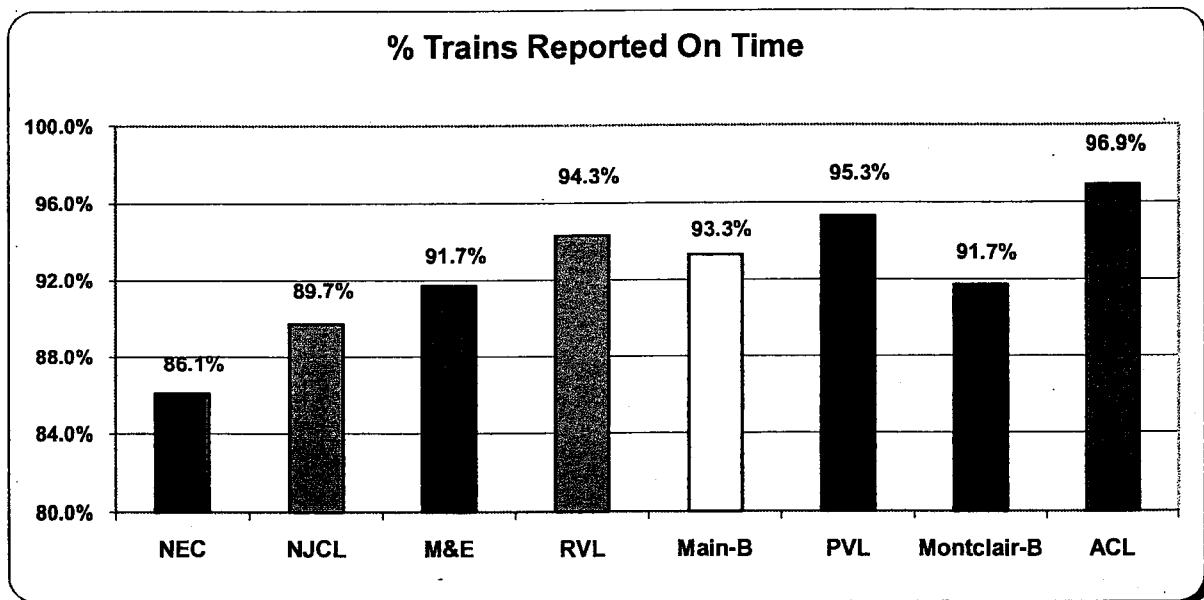
The 12-month average for Rail On-Time Performance for February 2010 - January 2011 was 94.2%.

ON-TIME PERFORMANCE RAIL

SUMMARY BY TIME PERIOD JANUARY 2011

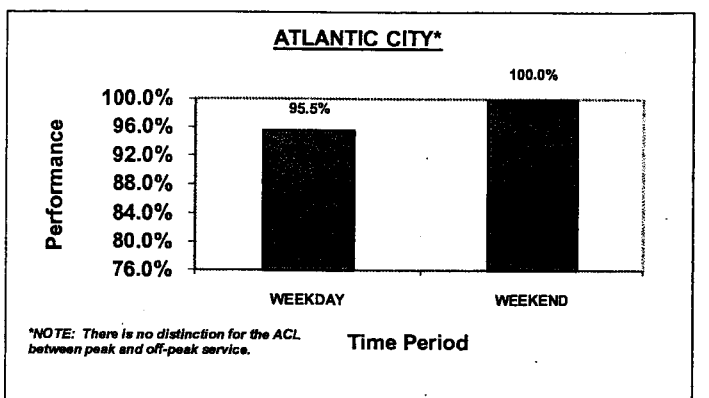
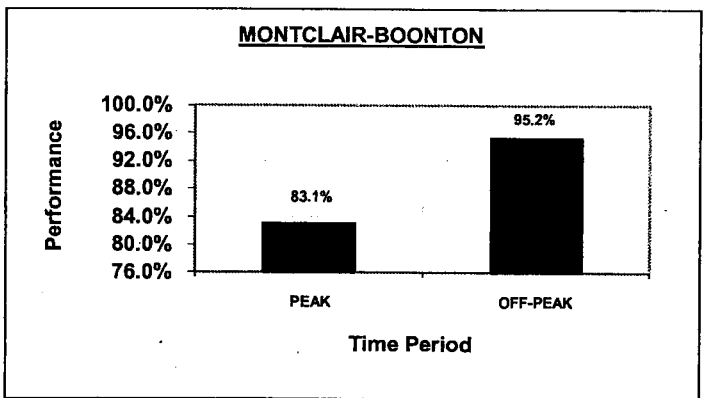
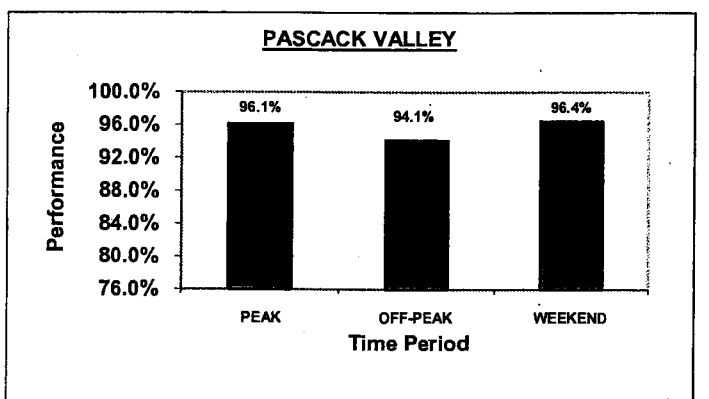
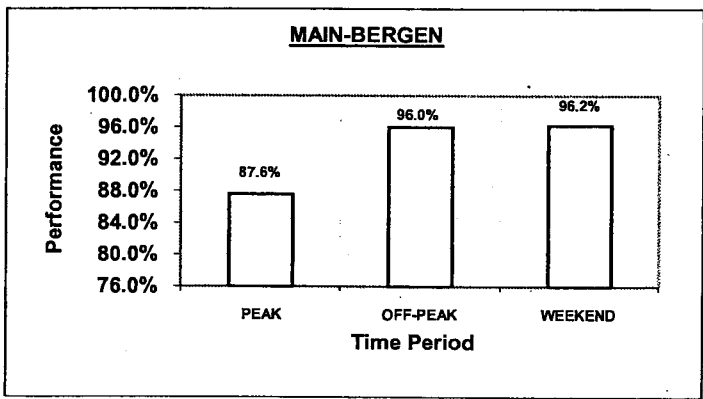
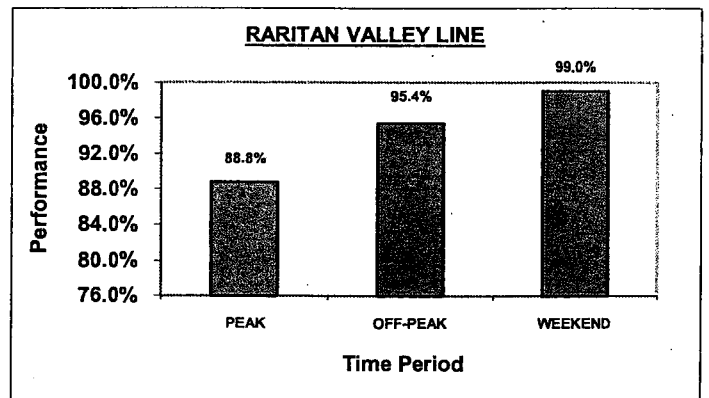
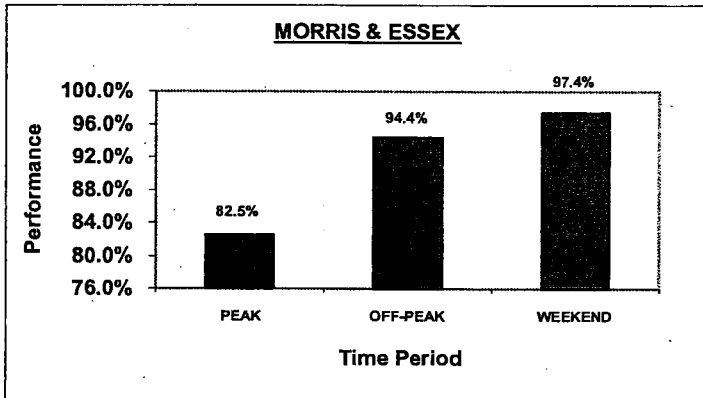
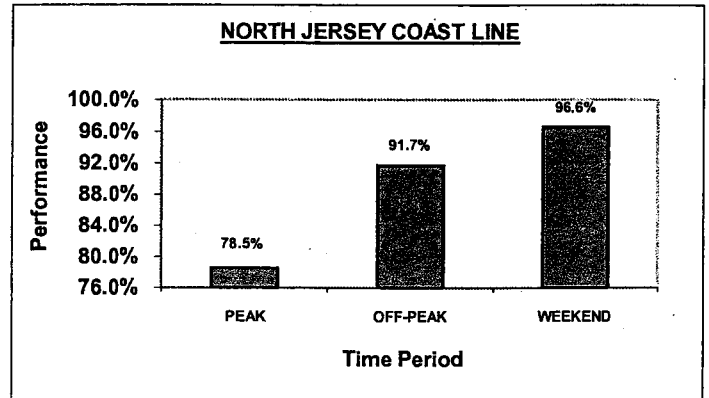
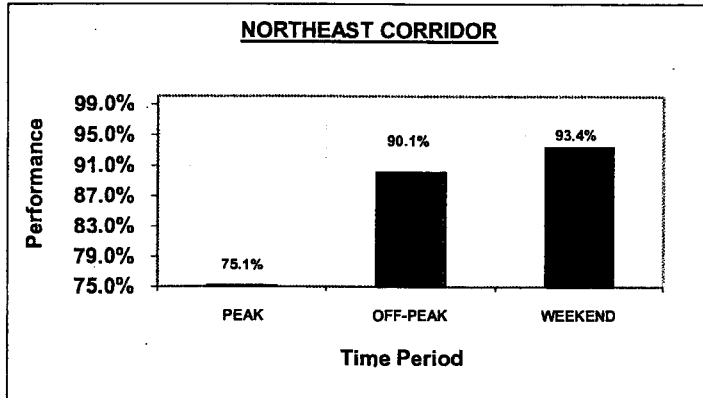


SUMMARY BY LINE JANUARY 2011



(NJT Board – 02/09/11)

ON-TIME PERFORMANCE BY RAIL LINE & TIME PERIOD JANUARY 2011



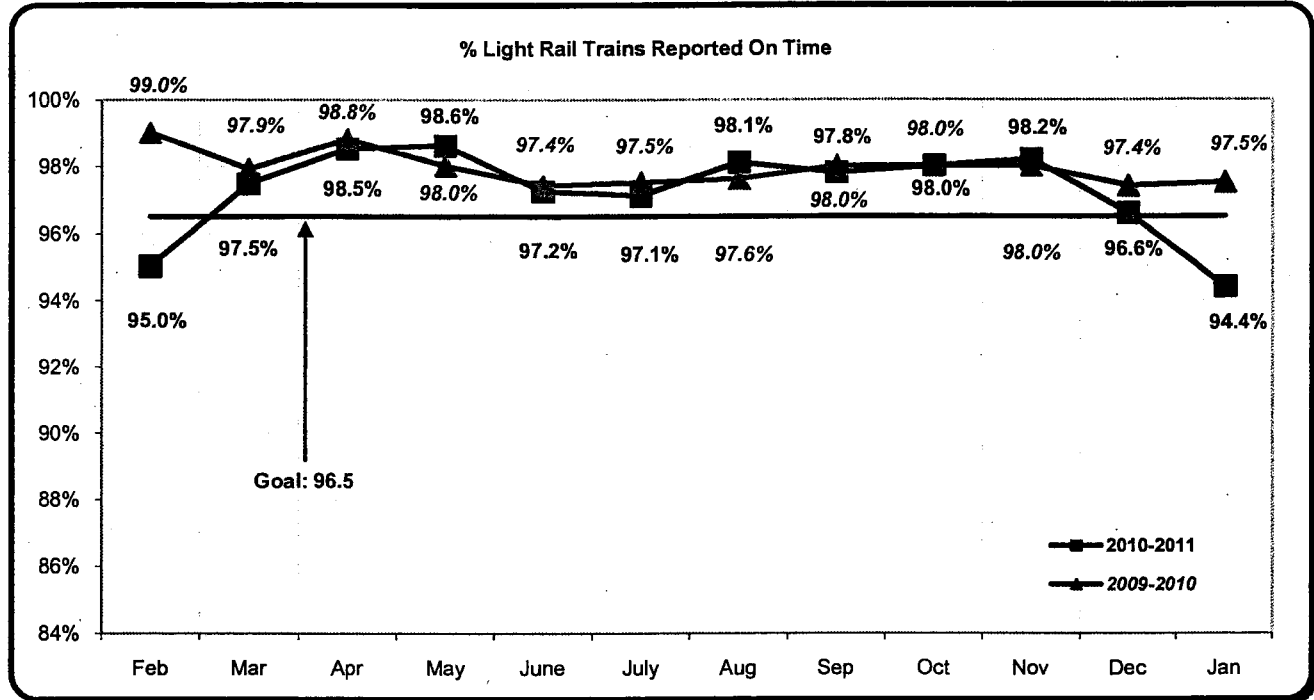
*NOTE: There is no distinction for the ACL between peak and off-peak service.

NJ TRANSIT

ON-TIME PERFORMANCE

LIGHT RAIL - SYSTEMWIDE

FEBRUARY 2009 - JANUARY 2011



*Note: Starting May 2007

	2010	2011	# Change
January Comparison	97.5%	94.4%	-3.1%
12-Month Average February - January	97.9%	97.2%	-0.7%

Analysis:

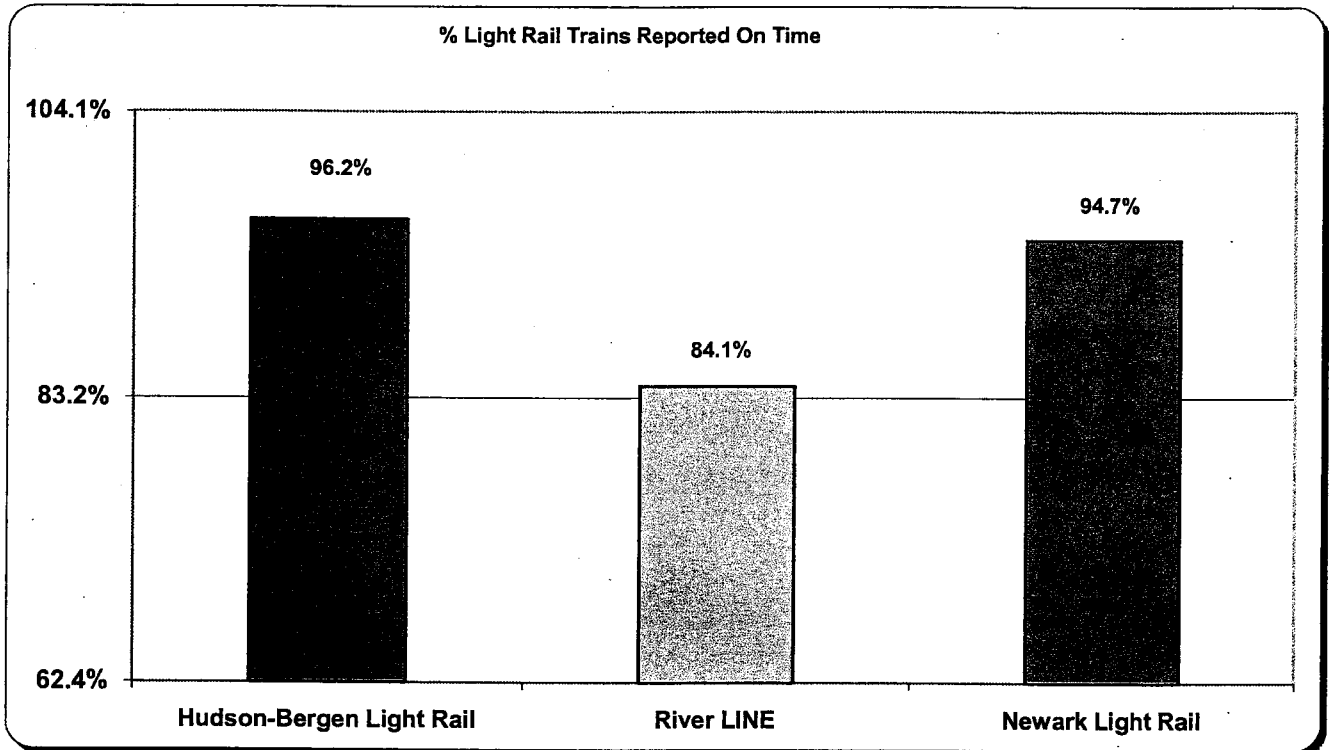
Light Rail On-Time Performance systemwide was 94.4% for the month of January 2011. Of the 26,211 scheduled trains, 1480 (or 5.6%) experienced delays. Key causes included:

- A water main break in Camden impacting River Line service on January 24.
- Severe weather conditions impacting Newark Light Rail service on January 27.
- A motor vehicle blocking tracks in Jersey City affecting HBLR service on January 29.

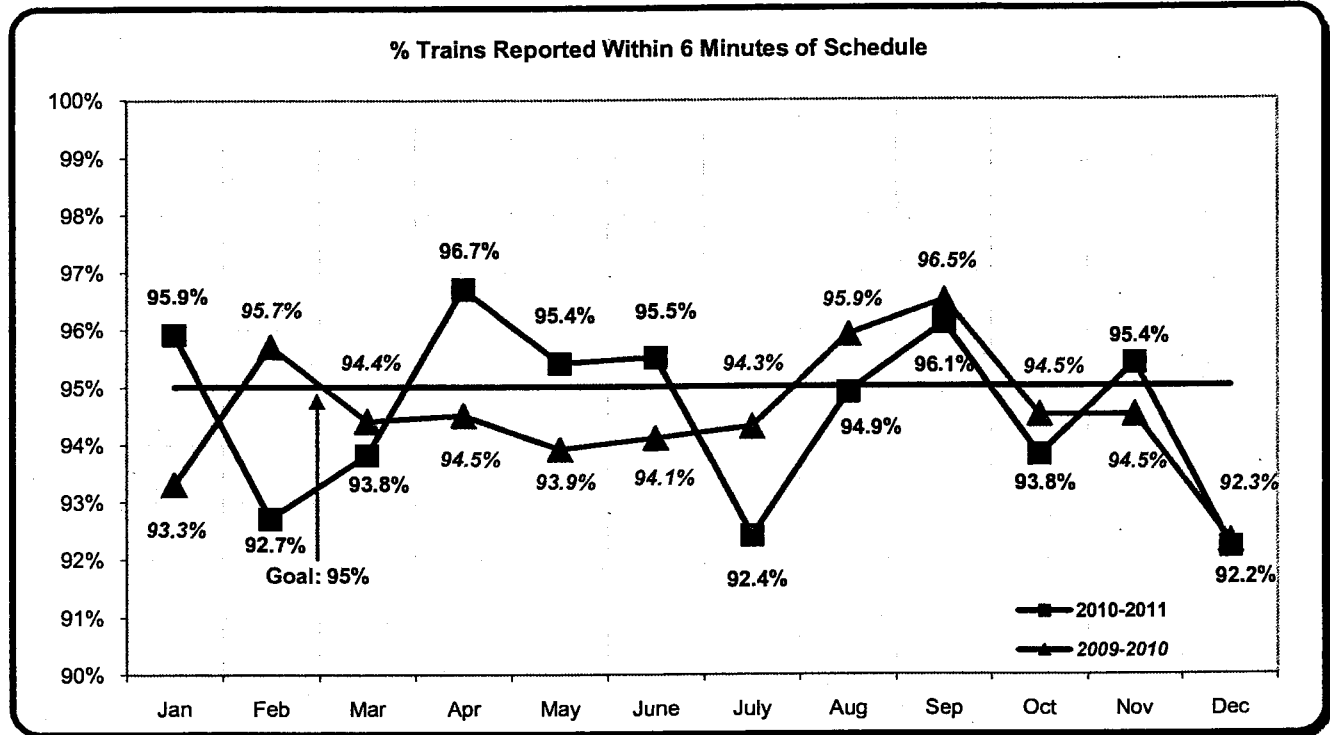
The 12-month average for Light Rail On-Time Performance for February 2010 - January 2011 was 97.2%.

ON-TIME PERFORMANCE LIGHT RAIL

SUMMARY BY LINE JANUARY 2011



NJ TRANSIT ON-TIME PERFORMANCE RAIL JANUARY 2009 - DECEMBER 2010



	2009	2010	# Change
December Comparison	92.3%	92.2%	-0.1%

	2009-2010	2010-2011	# Change
12-Month Average January - December	94.5%	94.6%	0.1%

Analysis:

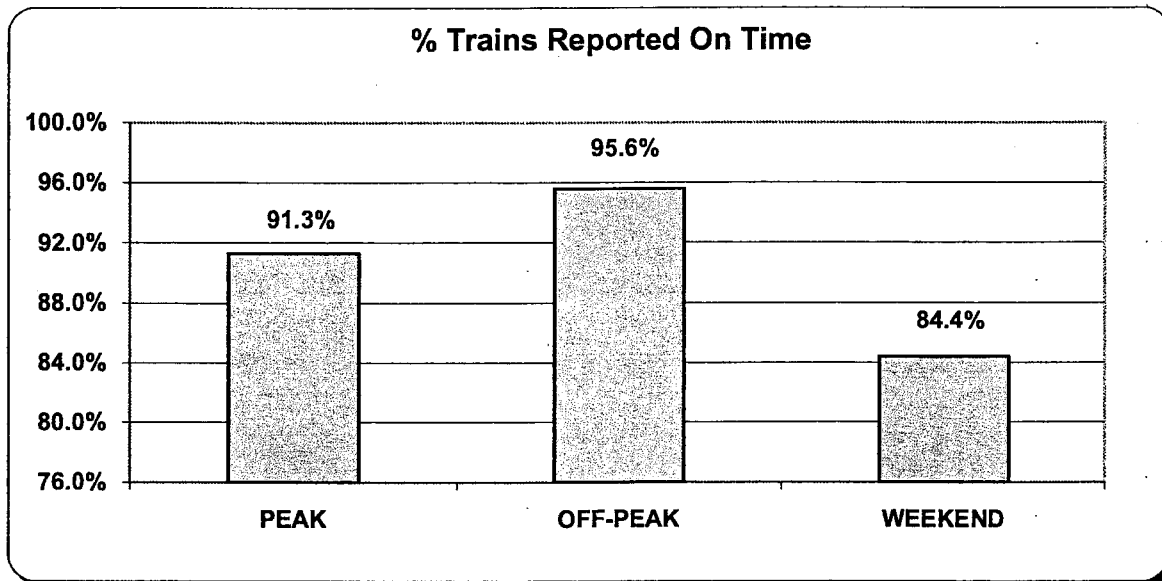
Rail On-Time Performance was 92.2% for December 2010. Of the 18,049 trains scheduled to operate, 16,638 were on time, while 1411 trains (or 7.8%) were delayed. Key causes included:

- Amtrak overhead wire problem due to severe weather conditions on December 1.
- Weather-related switch and signal problems on the Northeast Corridor December 27.
- Continuing weather-related switch and system problems on December 28.

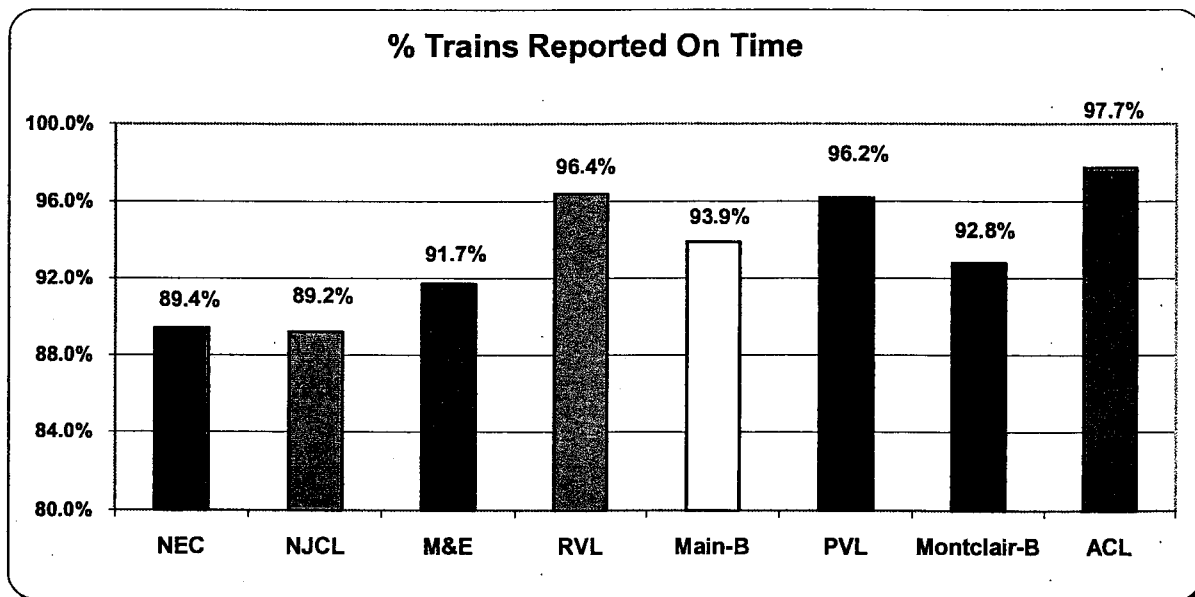
The 12-month average for Rail On-Time Performance for January 2010 - December 2010 was 94.6%.

ON-TIME PERFORMANCE RAIL

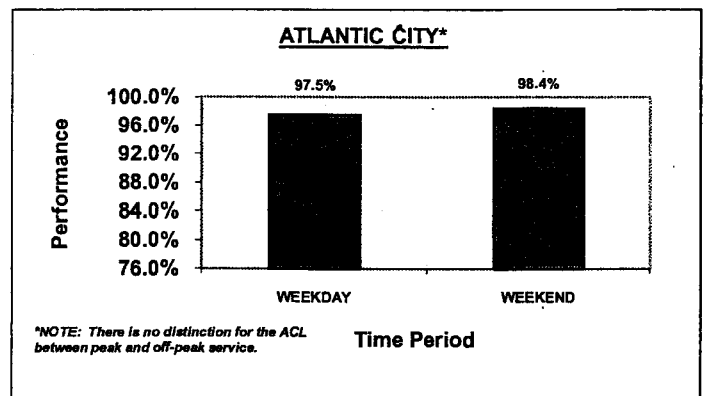
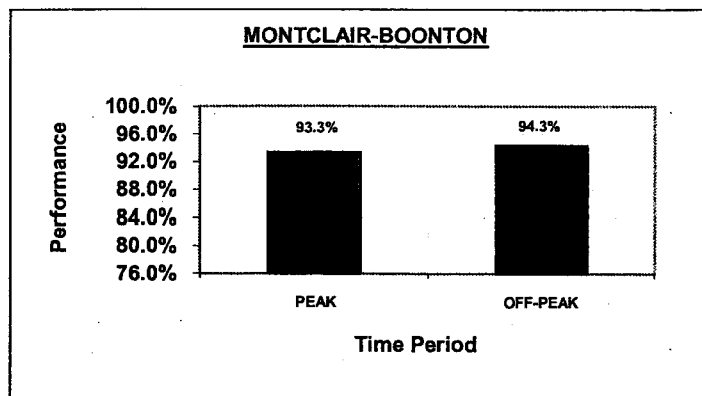
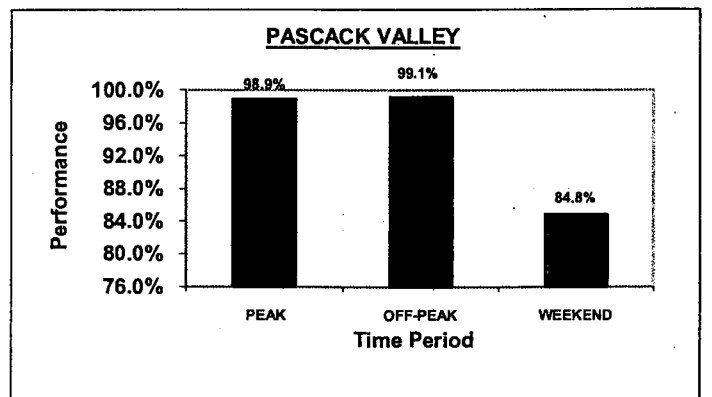
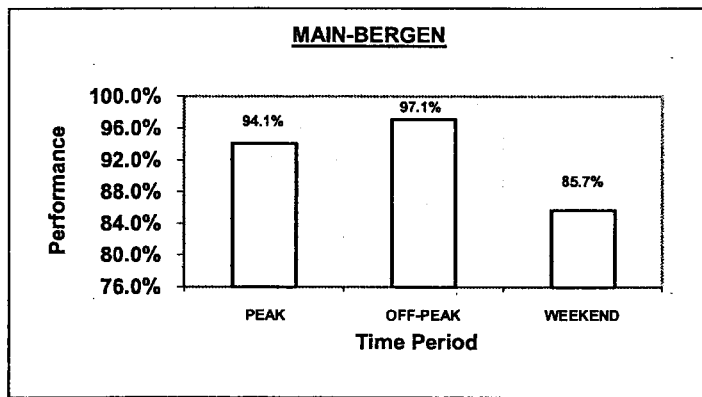
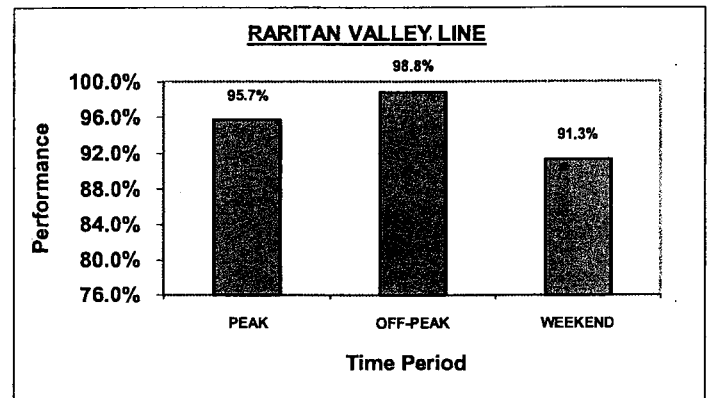
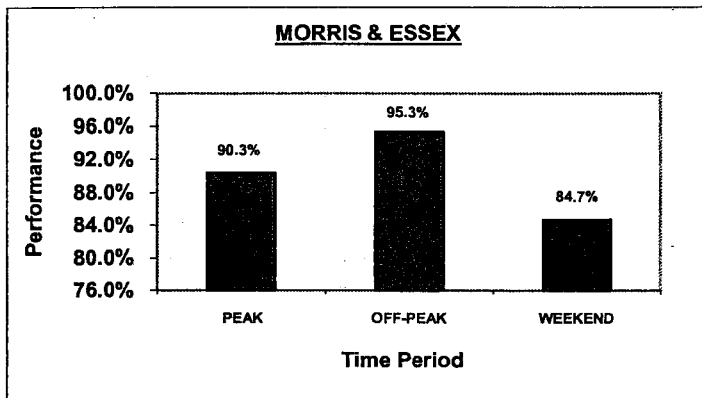
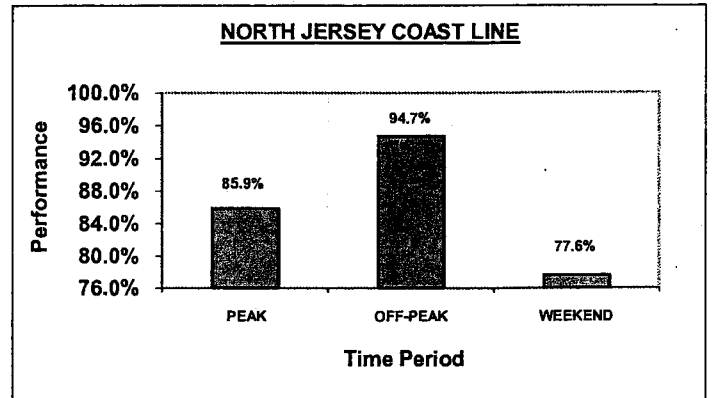
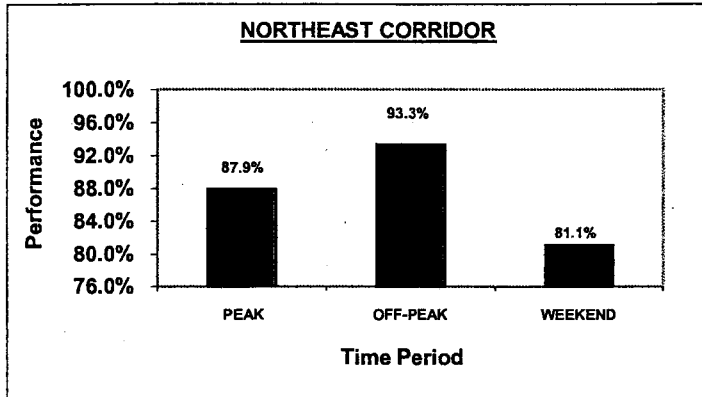
SUMMARY BY TIME PERIOD DECEMBER 2010



SUMMARY BY LINE DECEMBER 2010



ON-TIME PERFORMANCE BY RAIL LINE & TIME PERIOD DECEMBER 2010



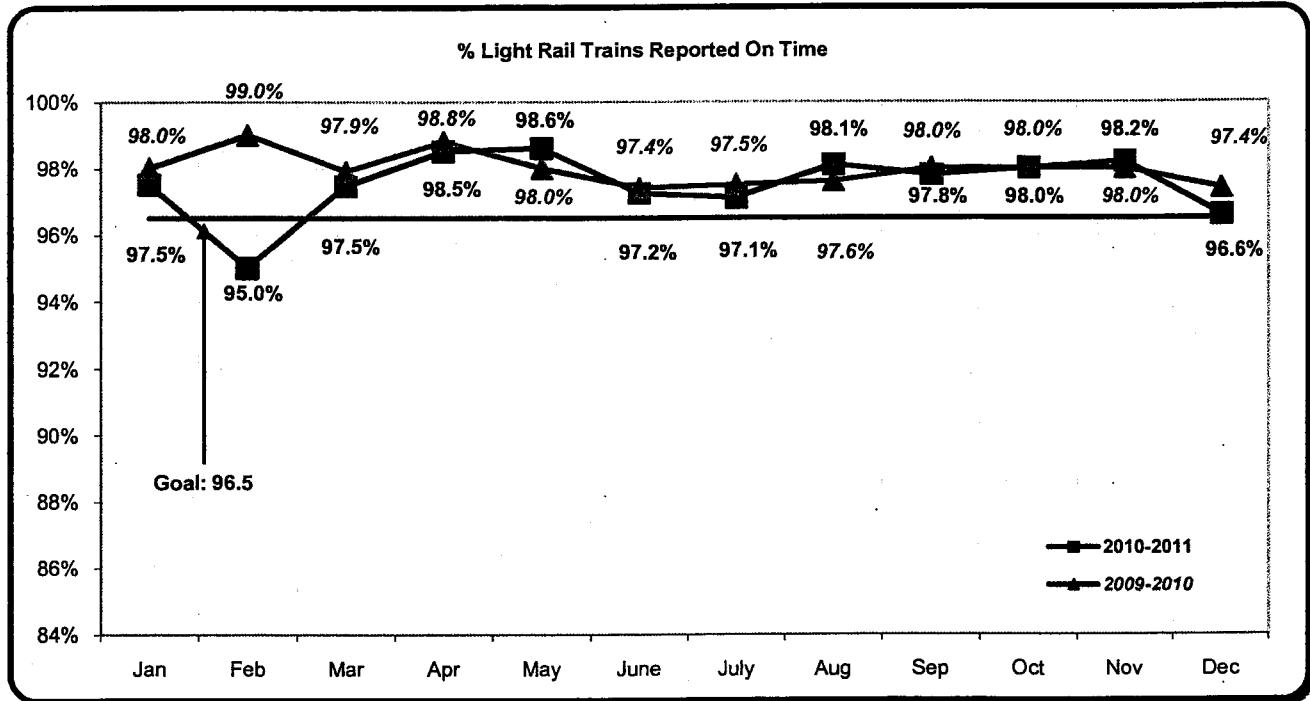
*NOTE: There is no distinction for the ACL between peak and off-peak service.

NJ TRANSIT

ON-TIME PERFORMANCE

LIGHT RAIL - SYSTEMWIDE

JANUARY 2009 - DECEMBER 2010



*Note: Starting May 2007

	2009	2010	# Change
December Comparison	97.4%	96.6%	-0.8%

	2009-2010	2010-2011	# Change
12-Month Average January - December	98.0%	97.5%	-0.5%

Analysis:

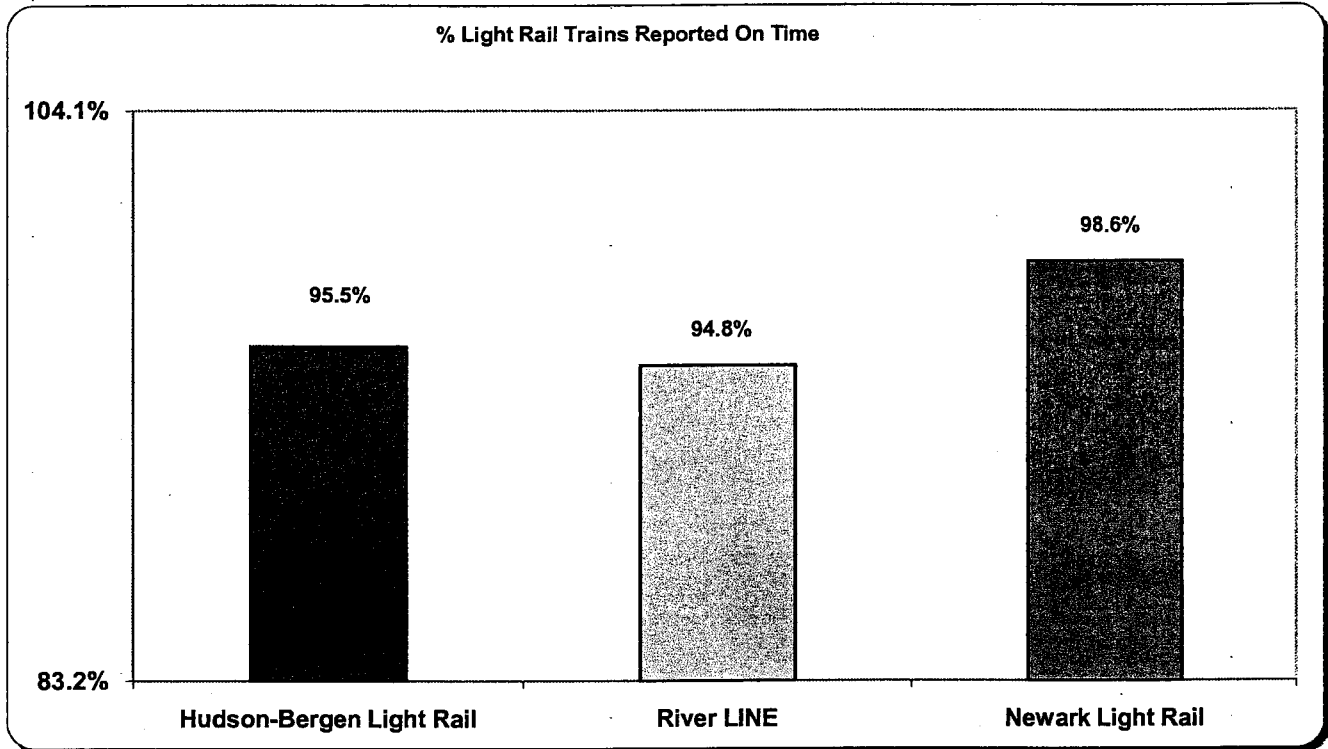
Light Rail On-Time Performance systemwide was 96.6% for the month of December 2010. Of the 26,883 scheduled trains, 904 (or 3.4%) experienced delays. Key causes included:

- Delays on all lines related to extreme winter weather conditions on December 26, 27 and 28.

The 12-month average for Light Rail On-Time Performance for January 2010 - December 2010 was 97.5%.

ON-TIME PERFORMANCE LIGHT RAIL

SUMMARY BY LINE DECEMBER 2010



DBE/MBE PROGRAM

NJ TRANSIT – Office of Business Diversity DBE/SBE Participation

Federally Funded Contracts

\$536,154 in federal funds were awarded during January of FY 11.* Disadvantaged Business Enterprises (DBEs) were not awarded any federal-funded contract dollars during this period from either race conscious and race neutral awards.

State Funded Contracts

\$25,429,078 in state-funded contract dollars were awarded July through January FY 11. ** Of that total, Small Business Enterprises (SBEs) received \$5,525,555 or 21.7 percent. Category 1 SBEs received \$438,140 or 1.7 percent. Category 2 SBEs received \$1,701,307 or 6.7 percent. Category 3 SBEs received \$31,351 or 0.1 percent. Category 4 SBEs received \$346,485 or 1.4 percent. Category 5 SBEs received \$3,008,272 or 11.8 percent. Category 6 SBEs received \$0 or 0 percent.***

Federal & State Contracts Total

\$25,965,232 in federal and state contract dollars were awarded by NJ TRANSIT during this reporting period. Of that total, \$5,525,555 or 21.3 percent of federal and state contract dollars was won by DBEs and SBEs.

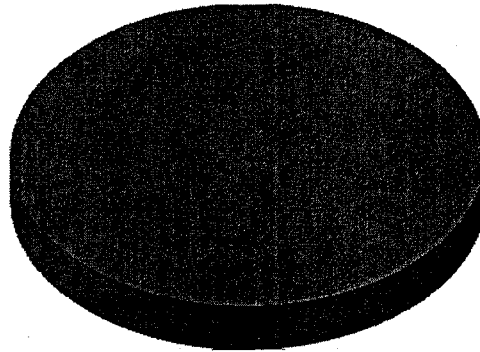
*Fiscal year beginning October 1, 2010

**Fiscal year beginning July 1, 2010

***Cat 1-Less than \$500,000 gross revenues, Cat 2-Less than \$5 million, Cat 3-Less than \$12 million, Cat 4 (construction)-Less than \$1 million, Cat 5 (construction)-Less than \$17,420,000, Cat 6 (construction)-Up to \$33.5 million

**DBE PARTICIPATION
FEDERAL CONTRACTS
FEDERAL FYTD (THROUGH JANUARY FY11)***

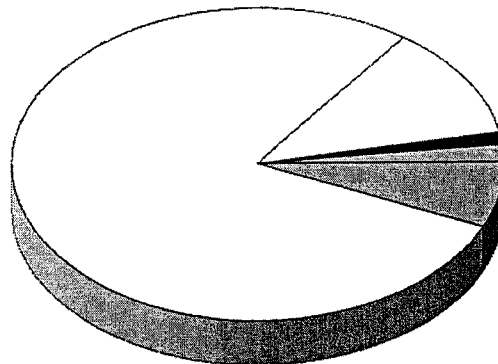
NON-DBE
FEDERAL
\$536,154
100%



DBE RACE
NEUTRAL & RACE
CONSCIOUS
\$0.00
0%

**SBE PARTICIPATION
STATE CONTRACTS
STATE FYTD (THROUGH JANUARY FY11)****

NON-SBE STATE
\$19,903,523
78.3%



SBE-5
\$3,008,272
11.8%

SBE-4
\$346,485
1.4%

SBE-1
\$438,140
1.7%

SBE-2
\$1,701,307
6.7%

SBE-3
\$31,351
0.1%

Fiscal Year Beginning October 1, 2010*
Fiscal Year Beginning July 1, 2010**
(This report covers contracts above \$29,000)

EMPLOYEE RECOGNITION

NJ TRANSIT employees bid farewell after outstanding careers

Seven NJ TRANSIT employees retired in December with careers ranging from 14 to 41 years of service:

1. James V. Samuelson (Old Bridge) Deputy Gen. Manager Safety, Penn Plaza – 41 years
2. William Mead (Bloomingdale) Supr. Maintenance, Wayne Garage – 33 years
3. William Alexander (Washington) Spec. Mechanic, CMF – 23 years
4. Kenneth A. Jackson, Jr. (Paterson) Bus Operator, Market Street Garage – 22 years
5. Cheryl Wynder (Bridgeton) Bus Operator, Egg Harbor Garage – 22 years
6. Taheesha Horton (East Orange) Bus Operator, Hilton Garage – 15 years
7. Malverse Van Loan (Willingboro) Bus Operator, Newton Avenue Garage – 14 years

Four NJ TRANSIT employees retired in January with careers ranging from 9 to 28 years of service:

1. Charles Sulkowski (Forked River) Mgr. Rail Third Party Claims, Penn Plaza – 28 years
2. Louis Arizmendi (Pennington) Bus Operator, Hamilton Garage – 18 years
3. Patricia Dodson (Plainfield) Bus Operator, Ironbound Garage – 15 years
4. Warren D. Sheps (Riverdale) Asst. Garage Supervisor, Meadowlands Garage – 9 years

ACTION ITEMS

ITEM 1102-01: APPOINTMENT OF VICE PRESIDENT AND GENERAL MANAGER: NJ TRANSIT RAIL OPERATIONS, INC.

BENEFITS

The position of Vice President and General Manager of NJ TRANSIT Rail Operations became vacant on July 6, 2010 with the retirement of William Duggan. This position requires an experienced, qualified professional with the knowledge and expertise necessary to manage NJ TRANSIT's complex system with 12 commuter rail lines and 165 stations, the third largest in the nation.

Kevin J. O'Connor has over 33 years of progressive railroad operating experience, the last nine of which were with NJ TRANSIT. Mr. O'Connor has served the agency well, particularly during the last eight months as Acting Vice President/General Manager of NJ TRANSIT Rail Operations. Mr. O'Connor's focus has been on providing safe, efficient transportation options with particular attention to safety, fiscal responsibility and on-time performance. His experience at NJ TRANSIT in the commuter rail organization and with Amtrak's intercity passenger rail industry makes him highly qualified for this permanent position.

PURPOSE

The By-Laws of NJ TRANSIT Rail Operations, Inc. authorize the Executive Director/President to appoint the Vice President and General Manager of NJ TRANSIT Rail Operations, Inc., with the concurrence of the Board of Directors

ACTION

Authorization is requested to appoint Kevin J. O'Connor to the position of Vice President and General Manager of NJ TRANSIT Rail Operations, Inc. at an annual salary of \$185,000, together with NJ TRANSIT's standard at-will employee benefits.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:

Appointment of Vice President and General Manager of NJ TRANSIT Rail Operations, Inc.

RESOLUTION

WHEREAS, the By-Laws of NJ TRANSIT Rail Operations, Inc. authorize the Executive Director/President to appoint the Vice President and General Manager of NJ TRANSIT Rail Operations, Inc. with the concurrence of the Board of Directors; and

WHEREAS, the position of Vice President and General Manager of NJ TRANSIT Rail Operations, Inc. became vacant effective July 6, 2010 with the retirement of William Duggan; and

WHEREAS, this position requires an experienced, qualified professional with the knowledge and expertise necessary to manage NJ TRANSIT's complex system with 12 commuter rail lines and 165 stations, the third largest in the nation; and

WHEREAS, Kevin J. O'Connor has over 33 years of progressive railroad operating experience, the last nine of which were with NJ TRANSIT. Mr. O'Connor has served the agency well, particularly during the last eight months as Acting Vice President/General Manager of NJ TRANSIT Rail Operations. Mr. O'Connor's focus has been on providing safe, efficient transportation options with particular attention to safety, fiscal responsibility and on-time performance. His experience at NJ TRANSIT in the commuter rail organization and with Amtrak's intercity passenger rail industry makes him highly qualified for this permanent position;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors authorizes the Executive Director/President to appoint Kevin J. O'Connor to the position of Vice President and General Manager of NJ TRANSIT Rail Operations, Inc. at an annual salary of \$185,000, together with NJ TRANSIT's standard at-will employee benefits.

**ITEM 1102-02: AUTHORIZATION FOR CREATION OF OPERATING
SUBSIDIARY (NJ TRANSIT MORRIS, INC.)**

BENEFITS:

Local bus service in Morris County has been operated by PABCO Transit, Inc., under contract to NJ TRANSIT. These services comprise six different routes providing 488,000 annual passenger trips. As a result of a January 5, 2010 RFP, it was determined that the benchmark submitted by NJ TRANSIT Bus Operations was to operate this service for five more years the best value and in the best interest of NJ TRANSIT. To effectuate a smooth transition from the current operator to NJ TRANSIT Bus Operations, the Board authorized an extension of the current agreement with PABCO Transit, Inc., on December 9, 2010. In order to complete the transition, a separate operating subsidiary will be created. The operating subsidiary will provide the institutional framework necessary for NJ TRANSIT to operate the service using current PABCO employees by assuming the current PABCO collective bargaining agreement and to assume PABCO's existing facility lease.

PURPOSE:

Authorization for this action will create a separate operating subsidiary to be known as NJ TRANSIT Morris, Inc., for purposes of establishing, effectuating, and operating local bus services in Morris County.

ACTION:

Staff seeks authorization for the Chairman or Executive Director/President to take all actions necessary to create a separate operating subsidiary of NJ TRANSIT to operate Morris County local service on or before June 4, 2011, and to take any necessary actions consistent with operating these services, and authorizes the Chairman or Executive Director/President to negotiate and execute labor agreements as may be needed. This action also authorizes adoption of the attached By-Laws for NJ TRANSIT Morris, Inc., which includes a Board of Directors comprised of the members of the Board of NJ TRANSIT. As directed in the By-Laws of NJ TRANSIT Morris, Inc., the President appoints and the Board concurs with the selection of James J. Gigantino to the position of General Manager of NJ TRANSIT Morris, Inc.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS:

Requested Authorization: NA

Total Project Cost: NA

Projected Date of Completion:	NA
Anticipated Source of Funds:	NA
Diversity Goal:	NA
<i>NJ Build</i> Amount:	NA
Impact on Subsequent Operating Budgets:	NA

RESOLUTION

WHEREAS, NJ TRANSIT previously entered into an agreement with PABCO Transit, Inc. to operate bus service on the Morris County Bus Routes; and

WHEREAS, the current agreement to provide such service expires on June 4, 2011; and

WHEREAS, a separate operating subsidiary of NJ TRANSIT Corporation is required to provide the institutional framework necessary to institute a collective bargaining agreement between NJ TRANSIT and the Amalgamated Transit Union (ATU) Local 819 which represents the employees who operate the Morris County Local Bus Service;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director/President is authorized to take all actions necessary to create a separate operating subsidiary of NJ TRANSIT to operate Morris County local service on or before June 4, 2011, and to take any necessary actions consistent with operating these services;

BE IT FURTHER RESOLVED that there is hereby created as a subsidiary of NJ TRANSIT, a body corporate and politic to be known as NJ TRANSIT Morris, Inc. and to be located at a location to be determined in the future; and

BE IT FURTHER RESOLVED that this action also authorizes the adoption of the attached By-Laws for NJ TRANSIT Morris, Inc. and that the Board of Directors of NJ TRANSIT Morris, Inc. shall be comprised of the members of the Board of NJ TRANSIT, which members shall serve as long as they are members of the NJ TRANSIT Board; and

BE IT FURTHER RESOLVED that the Executive Director/President appoints and the Board concurs with the selection of James J. Gigantino to the position of General Manager of NJ TRANSIT Morris, Inc.; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director/President is hereby authorized to act on behalf of NJ TRANSIT Morris in negotiating and executing a collective bargaining agreement with the ATU.

DRAFT

BY-LAWS

OF

NJ TRANSIT MORRIS, INC.

SUBSIDIARY OF

NEW JERSEY TRANSIT CORPORATION

INDEX OF ARTICLES/SECTIONS

	<u>PAGE</u>
PREAMBLE	1
ARTICLE I. NJ TRANSIT MORRIS, INC.	1
SECTION 1. OFFICES	1
SECTION 2. SEAL	1
ARTICLE II. BOARD OF DIRECTORS	1
SECTION 1. GENERAL POWERS	1
SECTION 2. NUMBER, TENURE AND QUALIFICATIONS	1
SECTION 3. REGULAR MEETINGS	1
SECTION 4. ANNUAL MEETING	2
SECTION 5. SPECIAL MEETINGS	2
SECTION 6. EMERGENCY MEETINGS	2
SECTION 7. QUORUM	2
SECTION 8. MANNER OF ACTING	2
SECTION 9. VACANCIES	2
SECTION 10. EXPENSES	2
ARTICLE III. OFFICERS	3
SECTION 1. NUMBER	3
SECTION 2. APPOINTMENTS AND TERMS OF OFFICE	3
ARTICLE IV. DUTIES OF OFFICERS	3
SECTION 1. CHAIRPERSON	3
SECTION 2. VICE CHAIRPERSON	3
SECTION 3. PRESIDENT	3
SECTION 4. GENERAL MANAGER	3
SECTION 5. SECRETARY	4
SECTION 6. TREASURER	4
SECTION 7. ASSISTANT SECRETARIES	4
SECTION 8. ASSISTANT TREASURERS	4

ARTICLE V. ORDER OF BUSINESS	4
ARTICLE VI. ADMINISTRATIVE POWERS	5
SECTION 1. DELEGATION	5
SECTION 2. PERSONNEL	5
SECTION 3. CONTRACTING POWERS	6
SECTION 4. SERVICE AND FARE MODIFICATIONS	8
SECTION 5. RECORD KEEPING	8
SECTION 6. LEASES, PERMITS AND LICENSES	8
SECTION 7. INTERVENTION BEFORE LEGISLATIVE AND REGULATORY BODIES	9
SECTION 8. ACCEPTANCE OF PERFORMANCE	10
SECTION 9. LEGAL ADVICE AND LITIGATION	10
SECTION 10. FINAL CERTIFICATION	10
SECTION 11. TRANSFER OF FUNDS	10
SECTION 12. SCOPE OF ADMINISTRATIVE POWERS	10
ARTICLE VII. BUDGET	10
ARTICLE VIII. BANKING, RETIREMENT PLANS AND OPERATING INVESTMENT CASH	10
ARTICLE IX. AMENDMENTS AND SUSPENSIONS	11

PREAMBLE

This body corporate and politic, a wholly owned subsidiary of the New Jersey Transit Corporation (NJ TRANSIT), established pursuant to the "New Jersey Public Transportation Act of 1979", P.L. 1979, c. 150, (the "Act"), is named NJ TRANSIT Morris (NJTMorris), and is authorized to make and alter such By-Laws for the conduct of its affairs and business as it may deem appropriate. The By-Laws of NJTMorris follow:

I. NJTMorris

SECTION 1. OFFICES. The principal offices of NJTMorris shall be located at a location to be determined.. NJTMorris may have offices at such other places as the business of NJTMorris may require or make desirable as determined by the Board of Directors (the "Board").

SECTION 2. SEAL. NJTMorris shall have a seal which shall bear the words "NJTMorris" and shall be of such design as determined by the Board.

II. BOARD OF DIRECTORS

SECTION 1. GENERAL POWERS. The property, affairs, and business of NJTMorris shall be directed by the Board.

SECTION 2. NUMBER, TENURE AND QUALIFICATIONS. The Board shall be composed of members of the Board of NJ TRANSIT, which members shall serve as long as they are members of the NJ TRANSIT Board.

SECTION 3. REGULAR MEETINGS. Unless changed by the Board, regular monthly meetings of the Board shall be held at NJ TRANSIT corporate headquarters at a time and place to be established, concurrent with the meeting of the NJ TRANSIT Board. The June meeting shall serve as the annual meeting as provided under Section 4 of this Article II. Adequate notice as defined under the "Open Public Meetings Law," P.L. 1975 c.231, shall be given by the Secretary for regular meeting dates, time and locations or any changes to the meetings.

SECTION 4. ANNUAL MEETINGS. An annual meeting shall be held at which the Board shall adopt the annual notice of meetings required by the "Open Public Meetings Law."

SECTION 5. SPECIAL MEETINGS. Special Meetings of the Board may be called at any time by the Chairperson. Upon request of any two Board members, a meeting must be called. Such request shall state the purpose or purposes of the proposed special meeting. The Chairperson may fix a time and place to hold any special meeting. The Secretary shall be informed of the call of such special meetings sufficiently in advance to permit the Secretary to give adequate notice as defined under the "Open Public Meetings Law."

SECTION 6. EMERGENCY MEETINGS. Emergency meetings may be called by the Chairperson at any time in accordance with the "Open Public Meetings Law."

SECTION 7. QUORUM. Four members shall constitute a quorum. If a quorum shall not be present at any meeting of the Board, a majority of the Board members present may adjourn the meeting to another time and place. Notice of any such adjourned meeting shall be given in accordance with the requirements of the "Open Public Meetings Law."

SECTION 8. MANNER OF ACTING. On any question presented, the number of members present shall be recorded by the Secretary. Actions may be taken and motions and resolutions adopted by the Board upon the affirmative vote of at least four members .

SECTION 9. VACANCIES. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

SECTION 10. EXPENSES. Each public member of the Board shall be reimbursed for actual expenses necessarily incurred in the performance of NJT Morris duties unless otherwise reimbursed by NJ TRANSIT. The minutes of each meeting shall reflect the presence of each member in attendance.

III. OFFICERS

SECTION 1. NUMBER. The officers of NJTMorris shall be a Chairperson, Vice Chairperson, President, General Manager, Treasurer, and Secretary who shall be selected in accordance with Section 2 of this Article III. One or more Assistant Treasurers and Assistant Secretaries may be appointed in accordance with said Section 2. The Board may also appoint such other officers as it shall deem necessary who shall hold their offices for such terms as shall be determined by the Board and who shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

SECTION 2. APPOINTMENTS AND TERMS OF OFFICE. The Chairperson, Vice Chairperson and Secretary of NJ TRANSIT shall serve, ex officio, as Chairperson, Vice Chairperson and Secretary of NJTMorris. The Executive Director of NJ TRANSIT shall serve, ex officio, as President. The General Manager shall be appointed by the President with concurrence by the Board of Directors. The Treasurer shall be appointed by the President and serve at his/her discretion.

IV. DUTIES OF OFFICERS

SECTION 1. CHAIRPERSON. The Chairperson shall preside at all meetings of NJTMorris and shall have general control over the business and affairs of NJTMorris subject to the direction of the NJTMorris Board.

SECTION 2. VICE CHAIRPERSON. The Vice Chairperson shall perform the duties of the Chairperson in the event that the Chairperson is unable to perform such duties by reason of illness, disability or absence, or when requested to perform such duties by the Chairperson. The Vice Chairperson shall perform such other duties as may from time to time be assigned by the Chairperson of the Board.

SECTION 3. PRESIDENT. The President shall have all the power and authority delegated to him/her in accordance with these By-Laws, actions of the Board and shall, subject to the provisions of these By-Laws, be generally in charge of the business affairs of NJTMorris.

SECTION 4. GENERAL MANAGER. The General Manager shall have all the power and authority delegated to him/her by the President in accordance with the By-Laws and actions of the Board.

SECTION 5. SECRETARY. The Secretary shall keep the official records of NJTMorris and minutes of the actions taken at the Board meetings of NJTMorris and transmit the minutes of the Board to the Governor on behalf of NJTMorris. The Secretary shall keep the seal of NJTMorris, shall certify, when required to, copies of documents, and shall, from time to time, perform such other duties as shall be assigned to him/her by the Board. In the event an Assistant Secretary is not appointed, the Secretary may designate a person to perform his/her responsibilities in his/her absence. The Secretary may adopt a facsimile signature to be used in the performance of assigned responsibilities.

SECTION 6. TREASURER. The Treasurer shall have custody of all funds of NJTMorris. He/She shall perform, in general, all the duties incident to the office of Treasurer, and such other duties as may from time to time be assigned to him/her by the Board or President. In the event an Assistant Treasurer is not appointed, the Treasurer may designate a person to perform his/her functions in his/her absence. The Treasurer may adopt a facsimile signature to be used in the performance of assigned responsibilities.

SECTION 7. ASSISTANT SECRETARIES. If appointed, the Assistant Secretaries shall have such powers and shall perform such duties as may be assigned by the Secretary. In the absence of the Secretary, the Assistant Secretaries, in the order designated by the Secretary, shall have the powers and perform the duties of the Secretary.

SECTION 8. ASSISTANT TREASURERS. If appointed, the Assistant Treasurers shall have such powers and shall perform such duties as may be assigned by the Treasurer. In the absence of the Treasurer, the Assistant Treasurers, in the order designated by the Treasurer, shall have the powers and perform the duties of the Treasurer.

V. ORDER OF BUSINESS

The order of business at regular monthly meetings of the Board shall be:

- a. Roll Call
- b. Approval of the minutes of the previous meeting
- c. Report of Executive Director of NJ TRANSIT
- d. New Business

VI. ADMINISTRATIVE POWERS

Unless otherwise directed by the Board, and subject to the limitations, if any, of the budget adopted by the Board, the President shall have the following administrative powers which shall be in addition to any other powers conferred upon him/her by any other provision of these By-Laws.

SECTION 1. DELEGATION. The President may delegate, in whole or in part, any power, authority or discretion, conferred upon him/her by any of the provisions by these By-Laws or by any resolution heretofore or hereafter adopted by the Board, to any other officer or member of the staff, provided however, that any resolution adopted by the Board may preclude or otherwise limit any such delegation. The Secretary shall maintain a permanent record of all such delegations of authority and power which shall be promptly circulated to the Board.

SECTION 2. PERSONNEL. NJTMorris employees at executive and senior management levels are employees "at will", i.e., employees with supervisory and managerial responsibilities at the two most senior levels below the President within NJTMorris management structure. These employees may resign at any time and the President may terminate their employment at any time with or without cause in his/her sole discretion. The President may:

- a. Create, determine and prescribe the duties of new and existing positions and qualifications for appointments made thereto;
- b. Make promotions and demotions within the staff;
- c. Terminate appointments to the staff;
- d. Grant or authorize the granting of vacations, sick leave, other leaves of absence and to take all other necessary actions affecting personnel;
- e. Approve administer and maintain salaries, salary ranges and adjustments thereto, merit increases and employee benefit programs in accordance with Board approved policies and programs except that salaries for senior management shall be set after consultation with the Board; and
- f. Prepare, approve, and enact additions, deletions, and modifications to Personnel Policies and Procedures.

SECTION 3. CONTRACTING POWERS. The President shall, subject to provisions of the Act, have the following powers, the exercise of which shall be discretionary and not mandatory:

- a. To authorize or arrange for expenditures pursuant to contracts or purchase orders, upon such terms and conditions as he/she may deem proper, which expenditures are authorized in the operating budget, any appropriations act and or the capital program and are:
 1. Purchases of materials, supplies and non-professional services which directly support operations regardless of the contract value necessary for the continuing operation of Bus services which are awarded pursuant to competitive procurement procedures, e.g., purchases of communications, lubricants, chemical cleaners, diesel fuel, facility cleaning, maintenance services and security services, consignment repair of equipment, etc.
 2. Less than the following amounts for those items not included in (1) above
 - (a) \$1,000,000 if such contracts or purchase orders are awarded pursuant to competitive bidding procedures;
 - (b) \$250,000 if such contracts or purchase orders are awarded pursuant to Board-approved competitive procurement policies other than competitive bidding;
 - (c) \$25,000 (or such higher amount as determined by the Governor pursuant to Section 2 of N.J.S.A. 52:34-7) for any purchase;
 - (d) \$41,100 (or such higher amount as determined by the Governor pursuant to Section 2 of N.J.S.A.52:34-7) if such expenditures are for the construction, alteration, or repair of any building or facility; or
 - (e) \$250,000 when the operational needs in the ordinary course of business dictate the sole source procurement of goods or services which may under the Act be procured without a competitive process.

3. For any amount, if the President determines that an emergency exists which will seriously interrupt public transportation service or create a serious risk to health or safety or cause NJTMorris or the State to lose a significant amount of money or significantly jeopardize the assets of NJTMorris and actions need to be taken in advance of the next Board meeting; providing however, that when the expenditure exceeds \$500,000 the President may act only after consulting with the Chairperson, or in his/her absence, the Vice Chairperson. Any expenditure in excess of \$100,000 shall be reported to the Board.
- b. To execute such contracts on behalf of NJTMorris and to exercise any rights and to perform any obligations vested in or assumed by NJTMorris pursuant to Section 3, paragraph a above.
 - c. To require a bond or other instrument securing the performance of any such contract or purchase order executed by him/her whenever he/she deems it advisable under the circumstances.
 - d. In order to implement activities and projects for which funding has been authorized, to execute routine force account, interagency and other agreements with (1) federal, state, bi-state and local (county or municipal) agencies and institutions; (2) independent State Authorities, Transportation Management Associations (TMAs) and other non-profit organizations; (3) public and private railroads and other public and private transportation providers; (4) public and private utilities for the provision of customary utility services and for relocation or modification of their distribution systems as required by capital projects in order to advance and implement NJTMorris's operating budget and capital program.
 - e. To contract with NJ TRANSIT or any of the subsidiaries of NJ TRANSIT upon such terms and conditions as he/she may deem appropriate.

SECTION 4. SERVICE AND FARE MODIFICATIONS. The President may set or modify fares for new or promotional services consistent with Board adopted policy and make such minor service and fare modifications as are permitted by the Act.

SECTION 5. RECORD KEEPING. In accordance with applicable record retention policies, the President shall, keep records available for the Board of (1) all contracts, purchase orders and change orders entered

into pursuant to Section 3 of the Article VI; and (2) all actions taken pursuant to Sections 4,6,7,8,9 and 11 of this Article VI; and (3) appropriate financial information.

SECTION 6. LEASES, PERMITS AND LICENSES. On behalf of NJTMorris the President may enter into, amend and terminate:

- a. permits and licenses for the use and occupancy of NJTMorris owned property in accordance with NJTMorris policies and procedures and in accordance with terms and conditions set forth at N.J.A.C. 16:77-1.1 et seq., if applicable.
- b. agreements for the lease, as lessor, of real or personal property for a term not to exceed ten years (including options) where any such agreement includes any one of the following:
 - (1) is unconditionally revocable without cause by NJTMorris upon ninety days notice or less; or
 - (2) requires payment to NJTMorris of a fixed monetary consideration either alone or combined with a percentage or other variable additional rental or fee and such fixed consideration (exclusive of any separate obligations of the occupant or user to pay for utilities, insurance, services or other such obligation) does not exceed \$200,000 per annum in the case of real and personal property, and under the terms of such agreement NJTMorris does not incur any fixed liability for termination; or
 - (3) substitutes another for the contracting party to an existing agreement provided that the monetary consideration under such agreement does not exceed \$200,000 per annum in the case of real and personal property; or
 - (4) is a renewal, extension, amendment or modification of an existing agreement with terms and conditions at least as favorable to NJTMorris, provided that the monetary consideration under such agreement does not exceed \$200,000 per annum in the case of real and personal property.

c. agreements for the lease, as lessee, of real or personal property for a term not to exceed 10 years (including options) where any such agreement includes any one of the following:

- (1) is unconditionally revocable without cause by NJTMorris upon ninety days notice or less; or
- (2) requires payment by NJTMorris of a fixed monetary consideration and such fixed consideration (exclusive of any separate obligations of NJTMorris to pay for utilities, insurance, services or other such obligation) does not exceed \$200,000 per annum in the case of real and personal property; and under the terms of such agreement NJTMorris does not incur any fixed liability for termination; or
- (3) substitutes another for the contracting party to an existing agreement provided that the monetary consideration under such agreement does not exceed \$200,000 per annum in the case of real and personal property; or
- (4) is a renewal, extension, amendment or modification of an existing agreement with terms and conditions at least as favorable to NJTMorris provided that the monetary consideration under such agreement does not exceed \$200,000 per annum in the case of real and personal property.

SECTION 7. INTERVENTION BEFORE LEGISLATIVE AND REGULATORY BODIES. The President may authorize intervention and participation on behalf of NJTMorris in proceedings before federal and state legislative bodies; and, may request the Attorney General to intervene and participate on behalf of NJTMorris before regulatory bodies or any other administrative tribunal of the United States or of the State of New Jersey or their subdivisions.

SECTION 8. ACCEPTANCE OF PERFORMANCE. The President may accept and approve performance by any contractor under any contract.

SECTION 9. LEGAL ADVICE AND LITIGATION. The President may request the Attorney General to provide advice and request the Attorney General to initiate, intervene or take any other action with regard to litigation on behalf of NJTMorris and pay all judgments.

SECTION 10. FINAL CERTIFICATION. The President may make final certification for payment, in accordance with procedures he/she shall establish, of all duly authorized and authenticated items of expenditure for payment from any NJTMorris funds from whatever source derived.

SECTION 11. TRANSFER OF FUNDS. Subject to the limitations of applicable law, the President may transfer funds among items of the budget.

SECTION 12. SCOPE OF ADMINISTRATIVE POWERS. The powers herein vested in the President shall not be construed or deemed to affect the power of the Board to act in any case, but where the Board exercises a power in any such case, such action shall not be construed or deemed to affect the power of the President to act in similar cases in the future.

VII. BUDGET

Whenever reference in these By-Laws is made to a budget it shall mean a budget approved or adopted by the Board.

VIII. BANKING, RETIREMENT PLANS AND OPERATING INVESTMENT CASH

All funds and cash or cash equivalents, publicly traded securities and assets of defined contribution plans shall be deposited in such banks, or other financial institutions, or Trustees, as approved by the Board, or Treasurer as described herein, or such funds, assets, and cash of NJTMorris may be invested from time to time as the Board may direct.

The Treasurer is authorized to invest and deposit funds of NJTMorris in any obligations or depositories which are consistent with the investment policies of the State of New Jersey Cash Management Fund as permitted under P.L. 1950, c.270 and subsequent legislation or as otherwise prescribed by the Board, including money market funds, commercial paper, instruments of United States Government Agencies and United States Treasury.

Board approval is required to: establish an initial account relationship with banks and other financial institutions for which the Board has not previously directed and prescribed; or, effectively sever or end the banking or financial relationship. Board approval is not required to establish (1) additional accounts at banks or other financial institutions which relationships were previously Board-approved and (2) relationships with credit/debit card issuers, processing banks and related companies for the electronic transmission and/or settlement of transactions involving passenger fares, merchandise, commodities or electronic settlement of accounts due to or owed by NJTMorris in the ordinary course of business.

IX. AMENDMENTS AND SUSPENSIONS

The provisions of these By-Laws may be amended or suspended, in whole or part, by a resolution duly adopted at any Board meeting.

DRAFT

ITEM 1102-03: SMART BUS TECHNOLOGY: AWARD OF PROCUREMENT-BY-EXCEPTION CONTRACT FOR HARDWARE, SOFTWARE AND SERVICES FROM CLEVER DEVICES, LTD.

BENEFITS

NJ TRANSIT management seeks to expand the reach of significant customer benefits received from the smart bus platform, currently being delivered on 1,145 NABI buses, to the entire NJ TRANSIT bus fleet by procuring additional smart bus platforms from the manufacturer, Clever Devices, of Plainview, New York. This will provide for a common, enhanced experience across the entire bus fleet for NJ TRANSIT's customers.

Significant customer benefits enabled by this platform include a robust customer information system that provides accurate and timely bus stop announcements with accompanying sign display, destination signs for specific route, and spotter display to ensure accurate fare application. Further, the platform enables options for NJ TRANSIT to deliver value-added features such as location-based messages of interest.

The greatest customer benefit of equipping all NJ TRANSIT buses with the smart bus platform will be the ability (through new radio system or commercial wireless) to deliver real-time bus location and next bus information to any web-enabled device. This will provide customers the information they need to know where their bus is and when it is expected to be at their stop.

Finally, the smart bus platform provides operational benefit that directly translates into customer benefit. This includes: automatic passenger counting to enable NJ TRANSIT to make accurate and timely schedule changes to meet customer demand; analyze information from bus engine and drive train to enable proactive maintenance thus increasing dispatch rates and making more buses available for service; automated bus route database updates to ensure customers are receiving accurate bus stop information after schedule and/or route pattern changes; and enhanced voice and data communications to provide rapid delivery of road/traffic/safety information to driver thus increasing passenger safety and minimizing delays.

PURPOSE

Smart bus technology enables NJ TRANSIT Bus Operations to improve the quality and reliability of service delivered to customers while simultaneously reducing operating costs. Under the NABI bus procurement in 2007, all of NJ TRANSIT's newest buses arrive from the factory already equipped with smart bus technology from Clever Devices for automatic stop announcements, automatic vehicle condition monitoring, automatic passenger counting and single-point operator sign on, and from DriveCam, Inc, of San Diego, California, for video surveillance.

When delivery of the 1,145 smart buses currently authorized is complete, approximately 52 percent of the NJ TRANSIT fleet (including NJ TRANSIT Bus Operations and a portion of contract carrier services) will have been equipped with smart bus technology. Approximately 1,040 other existing transit, cruiser and articulated buses will not yet have been equipped.

Authorization of this contract will provide for the installation of additional smart bus equipment suites for the remaining un-equipped portion of the bus fleet, thus extending the benefits of smart bus technology to transit customers throughout the State. This installation will be completed in two phases. Phase 1 includes automated vehicle announcements, automated vehicle maintenance, destination and spotter displays, and radio communication system support. Phase 2 includes real-time position reporting with web access; automatic passenger counting with reporting system; and, a replacement computer-aided dispatch system.

Clever Devices has proprietary control over the parts, components and services needed for NJ TRANSIT's further use of their technology. New smart bus components must conform to current NJ TRANSIT equipment standards, be interchangeable with the existing inventory, and be compatible with the existing back-office support systems. In addition, new back-office support systems, such as smart bus communications controllers and management software, must be compatible with the existing onboard equipment. Because of these unique requirements and the fact that the materials and services are available from only one source of supply, and to ensure standardization of parts throughout the bus fleet, this procurement is exempt from competitive procurement under N.J.A.C. 16:72-1.5(d) and Executive Order No. 37.

ACTION (Justification: Customer Information, State of Good Repair)

Staff seeks authorization to enter into a procurement-by-exception contract with Clever Devices LTD of Plainview, New York, for hardware, software and services at for the installation of smart bus equipment on approximately 1,040 existing transit, cruiser and articulated busts at a total cost not to exceed \$22,000,000, plus five percent for contingencies, subject to the availability of funds.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization: \$ 22,000,000 + 5% contingency

Total Project Cost: \$ 23,100,000

Projected Date of Completion: December 2012

Anticipated Source of Funds: Federal, State and Other

Diversity Goal: N/A - Sole Source Procurement

NJ Build Amount: None

Future/Related Authorization: N/A

Impacts of Subsequent Operating Budgets: FY13 and beyond - \$2,200,000 in annual maintenance costs

RESOLUTION

WHEREAS, through a competitive procurement process in 2007, NJ TRANSIT procured 1,145 new cruiser buses equipped with smart bus technology provided by Clever Devices ; and

WHEREAS, NJ TRANSIT intends to expand this smart bus technology to the entire fleet thus realizing significant customer benefits; and

WHEREAS, standardization of the smart bus technology will result in cost efficiencies and allow NJ TRANSIT to utilize the full scope of Clever Device products, and

WHEREAS, it has been determined that Clever Devices, LTD is the sole source vendor for the installation of this smart bus technology in accordance with NJ TRANSIT Procurement Regulations N.J.A.C. 16:72-1.5 and Executive Order No. 37;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to enter into a procurement-by-exception contract with Clever Devices LTD of Plainview, New York, for hardware, software and services at for the installation of smart bus equipment on approximately 1,040 existing transit, cruiser and articulated busts at a total cost not to exceed \$22,000,000, plus five percent for contingencies, subject to the availability of funds.

ITEM 1102-04: RIVER LINE PENNSAUKEN SIDING UPGRADE: AMENDMENT TO DESIGN-BUILD-OPERATE-MAINTAIN (DBOM) CONTRACT FOR CONSTRUCTION OF SIGNAL IMPROVEMENTS AND CONSTRUCTION SUPPORT FOR TRACKWORK

BENEFITS

NJ TRANSIT is constructing the Pennsauken Transit Center on a vacant site at DeRousse Avenue at the junction of the River LINE and the Atlantic City Rail Line in Pennsauken. A connection between these two lines will afford customers the opportunity to travel between the Delaware River towns, Atlantic City and Philadelphia.

The River LINE is a light rail service between Camden and Trenton, a 34.5-mile corridor serving 19 communities in three counties. The Atlantic City Rail Line is a 66-mile corridor providing service between Atlantic City and Philadelphia, serving eight communities in two counties and two states.

The Pennsauken Transit Center will be located approximately equidistant from the 36th Street Station (to the south) and the Route 73/Pennsauken Station (to the north), in single-track territory. Adding a new station will result in increasing the overall travel time between Camden and Trenton. To minimize this impact, the existing double-track territory north of the Pennsauken Transit Center will be extended in the vicinity of the Pennsauken Siding so that River LINE vehicles traveling in opposite directions will be able to operate without stopping.

PURPOSE

In June 1999, Southern New Jersey Rail Group, LLC (Rail Group) was awarded a contract to design, build, operate, and maintain the River LINE light rail project. Authorization of this amendment to that contract will allow Rail Group to perform the signal improvements needed to support the Pennsauken Siding upgrade. The scope of work includes the design of the signal improvements, signal equipment purchase, installation, and testing. Additionally, Rail Group will provide construction support for the installation of the siding track, which will be performed by NJ TRANSIT forces.

ACTION (Justification: System Expansion)

Staff seeks authorization to amend the design-build-operate-maintain (DBOM) contract (No. 97CJ052) with Southern New Jersey Rail Group, LLC (Rail Group) of Camden, New Jersey, for the design, procurement, installation, testing, and implementation of signal improvements and for construction support for trackwork for the Pennsauken Siding improvements for the Pennsauken Transit Center River LINE station project at a cost not to exceed \$2,206,800, plus five percent for contingencies, for a total contract authorization of \$663,012,403 plus annual adjustments as set forth in the contract, subject to the availability of funds.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization: This Authorization \$ 2,206,800 + 5% contingency.
Total Authorization \$663,012,403 + annual adjustment

Total Project Cost: \$ 4,086,000 (Pennsauken Siding only)

Projected Date of Completion: June 2011

Anticipated Source of Funds: Transportation Trust Fund

Diversity Goal: 3% DBE on this amendment

NJ Build Amount: None

Related/Future Authorizations: Pennsauken Transit Center Phase II construction
Pennsauken Transit Center Phase II construction
management
Pennsauken Transit Center property acquisition

Impact on Subsequent Operating Budget \$ 20,000 annually (Pennsauken Siding only)

RESOLUTION

WHEREAS, the River LINE is a 34.5-mile corridor between Camden and Trenton serving 19 communities in three counties; and

WHEREAS, the Atlantic City Line is a 66-mile corridor between Philadelphia and Atlantic City serving eight communities in two counties and two states; and

WHEREAS, NJ TRANSIT is constructing the Pennsauken Transit Center to connect the River LINE and the Atlantic City Line; and

WHEREAS, the existing Pennsauken Siding on the River LINE needs to be lengthened in order to provide sufficient track length for River LINE vehicles to operate without stopping; and

WHEREAS, NJ TRANSIT previously selected Southern New Jersey Rail Group, LLC through a competitive procurement process to design, build, operate, and maintain the River LINE;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to amend the design-build-operate-maintain (DBOM) contract (No. 97CJ052) with Southern New Jersey Rail Group, LLC (Rail Group) of Camden, New Jersey, for the design, procurement, installation, testing, and implementation of signal improvements and for construction support for trackwork for the Pennsauken Siding improvements for the Pennsauken Transit Center River LINE station project at a cost not to exceed \$2,206,800, plus five percent for contingencies, for a total contract authorization of \$663,012,403, plus annual adjustments as set forth in the contract, subject to the availability of funds.

ITEM 1102-05: GENERAL OFFICE BUILDING (GOB) UNINTERRUPTIBLE POWER SUPPLY (UPS) AND HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM REPLACEMENT: CONSTRUCTION CONTRACT AWARD

BENEFITS

The NJ TRANSIT General Office Building (GOB) in Maplewood houses a data center with Information Systems Department (IS) equipment for NJ TRANSIT support functions as well as front-line Bus Operations radio tower communications. These functions include the bus radio system, interactive voice response (IVR) system, disaster recovery site for email and payroll, farebox file transfers, station control units for signage and public address system on the River LINE, and ATIS (trip planning) used by Customer Service and the NJ TRANSIT website.

The data center is currently served by three outdated uninterruptible power supply (UPS) systems which are subject to random outages. The replacement of the existing UPS systems with larger and more efficient UPS systems will provide enhanced operational reliability and power capacity, while simultaneously reducing the footprint of the equipment, freeing up data center floor space for future IS system growth as needed.

PURPOSE

Authorization of this contract will allow for the installation of three new UPS systems, five new cooling units, and six new power distribution cabinets, plus the associated demolition of the existing UPS systems, cooling units, and their circuit breakers/wiring/plumbing.

ACTION (Justification: Reliability)

Staff seeks authorization to enter into a contract (No. 11-002X) with John O'Hara Company, Inc. of East Orange, New Jersey, for the installation of new UPS systems, cooling units, and power distribution cabinets; the demolition of the existing UPS systems and cooling units; and the associated demolition and upgrades to their circuit breakers, wiring, and plumbing, at a cost not to exceed \$2,126,148, plus five percent for contingencies, subject to the availability of funds.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization: \$ 2,126,148 + 5% contingency.

Total Project Cost: \$ 2,500,000

Projected Date of Completion: January 2012

Anticipated Source of Funds: Transportation Trust Fund

Diversity Goal: 22% SBE

***NJ Build* Amount:** \$ 10,631

Related/Future Authorizations: None

**Impacts on Subsequent
Operating Budgets:** \$30,000 savings on rental cost

RESOLUTION

WHEREAS, the replacement of the existing uninterruptible power supply (UPS) systems will increase data center operating efficiency, reliability and power capacity, and reduce the data center footprint, allowing for future IS equipment expansion; and

WHEREAS, the replacement of the existing cooling systems will provide increased reliability, and provide incremental capacity to support data center expansion; and

WHEREAS, the new power distribution cabinets will increase system efficiency and improve redundant backup power to this mission critical equipment; and

WHEREAS, following the completion of a competitive procurement process, John O'Hara Company, Inc. submitted the lowest responsive and responsible bid;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to enter into a contract (No. 11-002X) with John O'Hara Company, Inc. of East Orange, New Jersey, for the installation of new UPS systems, cooling units, and power distribution cabinets; the demolition of the existing UPS systems and cooling units; and the associated demolition and upgrades to their circuit breakers, wiring, and plumbing, at a cost not to exceed \$2,126,148, plus five percent for contingencies, subject to the availability of funds.

ITEM 1102-06: SALE OF PROPERTY TO CITY OF ELIZABETH KNOWN AS BLOCK 6, LOTS 1407, 1411 AND 1634, ELIZABETH, COUNTY OF UNION, NEW JERSEY

BENEFITS

Selling the vacant property known as Block 6, Lots 1407, 1411 and 1634 on Union Street, in the City of Elizabeth, County of Union, New Jersey (The Property) to the City of Elizabeth will provide NJ TRANSIT with \$1.5 million in non-farebox revenue. NJ TRANSIT will be relieved of the cost of insuring, securing and maintaining The Property.

PURPOSE

One of NJ TRANSIT's objectives is to maximize the value of its assets. NJ TRANSIT has been requested to sell Block 6, Lots 1407, 1411 and 1634, 100-118 Union Street, City of Elizabeth, County of Union, (The Property) to the City of Elizabeth for the continuation of Elizabeth's Midtown Redevelopment Project. The Property is located across the street from the westbound side of the NEC and Elizabeth's parking deck adjacent to the NEC in an area that has been selected for redevelopment. The sale will allow the City to commence development of The Property and support Elizabeth's efforts to revitalize the area in close proximity to NJ TRANSIT's Elizabeth Rail Station. In January 2010, Elizabeth passed a Bond Funding Ordinance to fund the purchase of The Property and in January 2011, passed an Ordinance authorizing its purchase.

NJ TRANSIT staff determined that The Property is excess property and has no current or future transportation purpose. The Property consists of 1.05 acres on Union and West Jersey Streets. NJ TRANSIT acquired The Property with State funds on July 1, 1981.

ACTION

Staff seeks authorization to take all actions necessary to sell in fee to the City of Elizabeth 1.05 acres of property known as Block 6, Lots 1407, 1411 and 1634, 100-118 Union Street, City of Elizabeth, County of Union, State of New Jersey for \$1.5 million.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization: To take all actions necessary to sell in fee to the City of Elizabeth 1.05 acres of property known as Block 6, Lots 1407, 1411 and 1634,

100-118 Union Street, City of Elizabeth,
County of Union, State of New Jersey for \$1.5
million.

Total Project Cost:	N/A
Anticipated Source of Funds:	N/A
Projected Date of Completion:	June 2011
Diversity Goals/Participation:	N/A
Operating Budget Impacts:	Additional revenue of \$1.5M

RESOLUTION

WHEREAS, the New Jersey Public Transportation Act of 1979, P.L. 1979, c. 150 authorizes NJ TRANSIT to lease, purchase and sell or otherwise dispose of, on terms which NJTRANSIT may prescribe, real and personal property; and

WHEREAS, NJ TRANSIT actively seeks to identify excess property with no current or future transportation use with the intention of selling such property to produce non-farebox revenue for NJ TRANSIT; and

WHEREAS, NJ TRANSIT has determined that it has no current or future use for property known as Block 6, Lots 1407, 1411 and 1634, 100-118 Union Street, City of Elizabeth, County of Union, State of New Jersey (The Property) and has declared The Property excess and available for sale; and

WHEREAS, The City of Elizabeth seeks to purchase The Property consisting of 1.05 acres of vacant land for commercial redevelopment; as part of its Midtown Redevelopment Project; and

WHEREAS, selling The Property will provide NJ TRANSIT with \$1.5 million in non-farebox revenue; and

WHEREAS, NJ TRANSIT staff has negotiated with the City of Elizabeth for the sale of a fee interest in The Property for \$1.5 million;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is hereby authorized to take all actions necessary to sell in fee to the City of Elizabeth 1.05 acres of property known as Block 6, Lots 1407, 1411 and 1634, 100-118 Union Street, City of Elizabeth, County of Union, State of New Jersey for \$1.5 million.

CONSENT CALENDAR

ITEM 1102-07: EXTENSION OF VISION SERVICE PLAN INCORPORATED (VSP) CONTRACT

BENEFITS

Authorization of the extension of the contract with Vision Service Plan Incorporated (VSP), will provide uninterrupted vision care benefits for NJ TRANSIT agreement, non-agreement and retired employees, while a procurement process is undertaken to source for a potential new carrier, negotiate contracts and implement the new program. Vision care benefits will be extended for an additional twelve months, from January 1, 2011 through December 31, 2011, at no incremental increase in cost to NJ TRANSIT.

PURPOSE

Vision Service Plan's contract for the vision care benefits expired December 31, 2010. An RFP will be advertised for an insurance carrier to administer group vision care plans under a self-insured funding agreement.

The initiation of the procurement process for this contract was delayed due to the recent procurement process undertaken by the staff to secure new healthcare carriers. As a result, staff is requesting that the existing contract be extended with the current carrier, VSP, who administers vision care benefits for NJ TRANSIT's employees and retirees.

The extension is requested for twelve months for the VSP vision care plan from January 1, 2011 through December 31, 2011. This twelve-month extension allows time for an effective procurement process, contract negotiations and implementation of this plan. Additionally, the staff will concurrently be executing procurement processes for life, long-term disability, accident, and income continuation plans. The timing of this extension also allows the contract effective date to stay in line with NJ TRANSIT's life, long-term disability, accident, and income continuation plan contracts.

ACTION

Staff seeks authorization to extend NJ TRANSIT's contract with its current insurance carrier, VSP, for group vision care plans, for a period of twelve months, beginning January 1, 2011, at a cost not to exceed \$58,000.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACT:

Requested Authorization:	<u>Administrative fees: (Estimated 12 months)</u>
	Vision Plan: Administration Fees:
	\$ 58,000

Total Project Cost:	N/A
Projected Date of Completion:	December 31, 2011: Vision Service Plan Incorporated
Anticipated Source of Funds:	FY 2011 / FY 2012 Operating Budgets
Diversity Goal:	N/A
<i>NJ Build Amount:</i>	N/A
Related/Future Authorizations:	None
Impacts on Subsequent Operating Budgets:	Authorization for an extension of this contract will have no immediate effect on future Operating Budgets. However, awarding and negotiating the new contract following this extension will impact future budgets, that financial impact is not known at this time.

RESOLUTION

WHEREAS, NJ TRANSIT will issue Request for Proposals (RFP) for a carrier to administer all group vision care plans provided to its active and retired agreement and non-agreement employees; and

WHEREAS, there will be multiple Request for Proposals distributed simultaneously for multiple benefit plans including, vision care, life, long-term disability, accident and income continuation administration, the cumulative volume of the information in the various proposals appear likely to cause the evaluation and implementation process to take longer than anticipated; and

WHEREAS, a longer evaluation process may affect the awarding and implementation of the vision care contract with new carrier; and

WHEREAS, the activities related to the implementation of vision care carrier will materially impact resources related to the procurement of carrier for the life, long-term disability, accident, and income continuation plans; and

WHEREAS, NJ TRANSIT wishes to ensure the continuation of vision care for its active employees and retirees during this period;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to extend NJ TRANSIT's contract with its current vision care carrier, for a period of twelve months, beginning January 1, 2011, at a cost not to exceed, \$58,000, to ensure continuation of coverage for NJ TRANSIT employees and retirees until contract with new carrier is implemented.

ITEM 1102-08: LABOR NEGOTIATIONS SPECIAL COUNSEL

BENEFITS

The Attorney General designated McElroy, Deutsch, Mulvaney & Carpenter, LLP as special counsel to provide NJ TRANSIT with legal counsel and representation in connection with police union collective bargaining agreement negotiations. This authorization will enable McElroy, Deutsch, Mulvaney & Carpenter, LLP to continue providing legal services and retaining court reporters, experts and other providers of mediation and arbitration supplement services, should they become necessary in the course of this work.

PURPOSE

There are two collective bargaining agreements between the NJ TRANSIT Police Department and its agreement employees and three labor unions. The agreement with the PBA covers 185 sworn officers consisting of police officers and detectives. The current PBA collective bargaining agreement expired on June 30, 2010. The FOP covers 48 sworn officers consisting of sergeants and lieutenants. The current FOP collective bargaining agreement also expired on June 30, 2010. The newly formed CWA covers 31 civilian police employees consisting of police dispatchers and fare enforcement officers. Negotiations are currently underway with the CWA to negotiate the first collective bargaining agreement.

The scope of the duties of the Special Labor Counsel is to:

- Review proposals, develop strategy and participate in negotiations in conjunction with the negotiating teams;
- Determine legal implications of negotiating strategy;
- Represent the NJ TRANSIT Police Department in labor litigation matters; and
- Represent the NJ TRANSIT Police Department before the Public Employment Relations Commission and the National Mediation Board in arbitration proceedings.

The sworn employees of the NJ TRANSIT Police Department are members of the Police and Firemen's Retirement System. This is a complex and specialized area of expertise for which Special Counsel is required.

ACTION

Staff seeks authorization to compensate the law firm of McElroy, Deutsch, Mulvaney & Carpenter, LLP as special counsel to the NJ TRANSIT Police Department with respect to the aforementioned services at an amount not to exceed \$137,000, subject to the availability of funds.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	\$ 137,000
Total Project Cost:	\$ 137,000
Anticipated Source of Funds:	Operating Budget
Projected Date of Completion:	August 2011 (All three unions)
Diversity Goal:	N/A

RESOLUTION

WHEREAS, the Attorney General designated McElroy, Deutsch, Mulvaney & Carpenter, LLP as special counsel to provide the NJ TRANSIT Police Department with legal counsel and representation in connection with collective bargaining agreement negotiations; and

WHEREAS, this is a complex and specialized area of expertise for which Special Counsel is required; and

WHEREAS, this authorization will enable McElroy, Deutsch, Mulvaney & Carpenter, LLP to provide legal services and retain court reporters, experts and other providers of mediation and arbitration supplement services, should they become necessary in the course of this work;

NOW, THEREFORE, BE IT RESOLVED the Chairman or Executive Director is authorized to compensate the law firm of McElroy, Deutsch, Mulvaney & Carpenter, LLP as special counsel to the NJ TRANSIT Police Department with respect to the aforementioned services at an amount not to exceed \$137,000, subject to the availability of funds.

ITEM 1102-09: REGULATIONS: READOPTION WITH AMENDMENTS TO REGULATIONS N.J.A.C. 16:77 USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY

BENEFITS

NJ TRANSIT as an instrumentality of the State government is responsible to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the programs by which NJ TRANSIT proposes to fulfill its responsibility is through the issuance of permits for certain fees to use its railroad right-of-way for various types of occupations. Permits are license agreements for the use and occupancy of railroad property by a utility, municipality or private entity.

The provisions of Executive Order No. 66 (1978) require that NJ TRANSIT review its regulations every five years to determine their continuing usefulness. N.J.A.C. 16:77 Use or Occupancy of NJ TRANSIT-owned Property, is scheduled to expire April 4, 2011 (Exhibit A). These regulations were reviewed by staff and were found to be necessary, reasonable, adequate, efficient and responsive to the purpose for which they were originally promulgated and is proposing to readopt and amend the regulations.

The proposed amendments primarily relate to what NJ TRANSIT believes are reasonable increases in the permit fees which have not been increased since 2005. NJ TRANSIT recommends an estimated general increase of 20 percent to be applied to the existing fee schedule.

The proposed amended regulations were published in the New Jersey Register on September 7, 2010 (Exhibit B). The proposed amendments are described in a summary (Exhibit C). The public comment period expired on November 6, 2010. No comments were received.

These amended regulations will allow the issuance of permits for the occupancy of railroad property by a utility, municipality, or private entity. Staff recommends that the Board authorize the readoption of the regulations "Use or Occupancy of NJ TRANSIT-owned Property" with amendments.

PURPOSE

In accordance with the provisions of Executive Order No. 66 (1978), NJ TRANSIT proposes to readopt, with amendments, N.J.A.C. 16:77, "Use or Occupancy of NJ TRANSIT-owned Property."

ACTION

Staff seeks authorization to take all actions necessary to readopt the regulations governing N.J.A.C. 16:77 et. seq. Use or Occupancy of NJ TRANSIT-owned Property with amendments consistent with this Board item and exhibits, format the regulations as appropriate and to take all other actions necessary to effectuate the final readoption and promulgation.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization: Readoption of regulation "Use or Occupancy of NJ TRANSIT-owned Property" with amendments.

Total Project Cost: N/A

Projected Date of Completion: April 2011

Anticipated Source of Funds: N/A

Diversity Goal: No goods or services to be procured.

Related Authorizations: N/A

Impacts on Subsequent Operating Budgets: Approximately \$325,000 annually

RESOLUTION

WHEREAS, staff seeks authorization to take all actions necessary to readopt the regulations N.J.A.C. 16:77 et seq. Use or Occupancy of NJ TRANSIT-owned Property with amendments; and

WHEREAS, the current regulations (Exhibit A) were reviewed by staff and were found to be necessary, reasonable, adequate, efficient and responsive to the purpose for which it was originally promulgated and as a result, staff is proposing amendments to the regulations; and

WHEREAS, the regulations were published in the New Jersey Register on September 7, 2010 (Exhibit B). The proposed amendments are described in a summary (Exhibit C). The public comment period expired on November 6, 2010 and no comments were received; and

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director or his designee is authorized to take all actions necessary to readopt the regulations governing N.J.A.C. 16:77 et seq., Use or Occupancy of NJ TRANSIT-owned Property with amendments consistent with this Board item and exhibits, format the regulations as appropriate and to take all other actions necessary to effectuate the final readoption and promulgation.

TRANSIT PROPERTY USE OR OCCUPANCY

16:77-1.1

CHAPTER 77

USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY

Authority

N.J.S.A. 27:25-5(e), (h) and (k) and 27:25-7(b).

Source and Effective Date

R.2005 d.376, effective October 6, 2005. See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 77, Use or Occupancy of NJ Transit-Owned Property, expires on April 4, 2011. See: 42 N.J.R. 2016(a).

Chapter Historical Note

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was adopted as R.1984 d.625, effective January 21, 1985. See: 16 N.J.R. 2415(b), 17 N.J.R. 205(a).

Pursuant to Executive Order No. 66(1978), Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was readopted as R.1995 d.111, effective January 27, 1995. See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a). Pursuant to Executive Order No. 66(1978), Chapter 77 expired on January 27, 2000.

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was adopted as new rules by R.2000 d.208, effective May 15, 2000. See: 32 N.J.R. 389(a), 32 N.J.R. 1781(b).

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was adopted as R.2005 d.376, effective October 6, 2005. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. PERMITS AND CONDITIONS

- 16:77-1.1 Definitions
- 16:77-1.2 Permit applications
- 16:77-1.3 Permit conditions
- 16:77-1.4 Administrative fees
- 16:77-1.5 Permit fees; general conditions
- 16:77-1.6 Permit fees; transverse occupation
- 16:77-1.7 Permit fee; longitudinal occupations
- 16:77-1.8 Other provisions

SUBCHAPTER 1. PERMITS AND CONDITIONS

16:77-1.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings:

“Cable” consists of more than two conductors insulated from each other, with or without a protective covering, either self-supporting or having a common support.

“Coaxial television cable” means a transmission line cable having an inner conductor surrounded by insulation and an outer sheath serving as the second conductor.

“Communication wires” means wires used for telegraph, telephone, fire alarm, police, and signal circuits, for public or private communication of signal service, which operate at a voltage not exceeding 400 volts to ground or 750 volts between any two points of the circuit and transmitted power of which does not exceed 150 watts.

“Composite coaxial cable” means a cable made up of one or more transmission lines in which one conductor is centered inside a metallic tube that serves as the second conductor. Other standard insulated conductors may be included in the same overall sheath.

“Individual service” means a service to a single individual building.

“Involved jurisdiction” means the New Jersey Transit Corporation (NJ TRANSIT), its authorized representative(s), NJ TRANSIT’s authorized railroad operator, and any railroad operating on NJ TRANSIT owned property, where appropriate.

“Lightfiber, fiberoptic and glassfiber cable” means any cable using light as a transmitter and receiver and a glass or plastic fiber as the transmission medium.

“Longitudinal occupation” means any occupation of NJ TRANSIT-owned property other than a transverse occupation as defined in this section.

“Messenger wires” means any support wire which carries no current, signal or communication transmission and has a specific purpose to assist in installing, servicing and replacing overhead occupancies. Messenger wires shall be considered as part of the wires or cables supported and no charge shall be assessed therefor.

“Municipality” means a local governing body such as a borough, township, city or village.

“NJ TRANSIT-owned property” means railroad property in the States of New Jersey, New York and Pennsylvania owned and/or operated by NJ TRANSIT regardless of the operating agent or active status of the railroad.

“Permit” means the written permission to use or occupy NJ TRANSIT-owned property. Uses or occupancies of NJ TRANSIT-owned property shall include, but not be limited to:

1. Transverse or longitudinal crossings on, over, or under NJ TRANSIT-owned property:
 - i. Aerial or underground wires and cables (communications and power);
 - ii. Poles, towers, guys and anchors;
 - iii. Pipes and sewers;
 - iv. Uses for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facility NJ TRANSIT determines a permit is required.

16:77-1.1

TRANSPORTATION

2. Uses or occupancies for short term activities, of less than one year duration.

“Permittee” means the owner of a facility which is to be constructed, installed or maintained on NJ TRANSIT-owned property, or a user of said property for a fixed term.

“Power wires” means all wires used for transmitting a supply of electrical energy except those defined as “communication wires” above.

“Transverse occupation” means that part of any overhead or under-grade line which crosses a track or tracks or any NJ TRANSIT-owned right-of-way.

“Wire” means a solid or stranded single conductor, either bare or insulated.

Amended by R.1989 d.133, effective March 6, 1989.

See: 21 N.J.R. 13(c), 21 N.J.R. 638(b).

Added “Municipality”.

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

“Messenger wire” defined further.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Amended by R.2005 d.376, effective November 7, 2005.

See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

Rewrote definitions “Cable”, “Communication wires”, “Individual service”, “Involved jurisdictions”, “Longitudinal occupation”, “NJ TRANSIT-owned property”, “Permit” and “Permittee”.

16:77-1.2 Permit applications

(a) No person, company, corporation, business, governmental agency or other entity may use or occupy NJ TRANSIT-owned property without obtaining a permit from NJ TRANSIT. All requests for permits shall be submitted in writing and addressed to:

NJ TRANSIT
Real Estate Division
Manager, Property Management—Permits
One Penn Plaza East
Newark, New Jersey 07105-2246

(b) Once a request for permit has been received, the applicant shall be responsible to NJ TRANSIT for application fees, regardless of permit completion. The application fee will be \$250.00 for each permit.

(c) Once stamped drawings have been entered into the review process, the applicant shall be responsible to the involved jurisdiction for the applicable review fees, regardless of permit completion.

(d) No refund of any fees shall be made after an application for a permit has been submitted.

(e) NJ TRANSIT will notify the applicant of its decision regarding the issuance of a permit. If NJ TRANSIT approves the application, after being reviewed by the involved jurisdiction,

a permit will be sent to the applicant for completion. It shall be the applicant’s responsibility to complete the permit and return it to NJ TRANSIT with the designated fee(s). No permit shall be issued unless all designated fee(s), have been paid to the involved jurisdiction.

(f) If at any time the permittee seeks to modify its use or occupancy of the NJ TRANSIT-owned property, the permittee shall be required to apply for a new permit according to the provisions of this section.

(g) Upon expiration of a permit, NJ TRANSIT may issue a new permit without requiring the permittee to submit a new application. A new occupancy fee will be assessed in accordance with the fee schedule rates in effect at the time.

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Stylistic changes.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Amended by R.2005 d.376, effective November 7, 2005.

See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

In (b), substituted “a request for permit” for “an application” and added “The application fee will be \$250.00 for each permit.”; in (c), substituted “stamped drawings have” for “an application has”; in (d), added “of any fees”; rewrote (e); in (g), added “occupancy”.

16:77-1.3 Permit conditions

(a) The permittee shall provide the indemnification and insurance coverage required by NJ TRANSIT.

1. The permittee shall indemnify, defend, keep and save harmless NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, contractors, and other railroad(s) operating on the affected property, their successors, assigns, agents, employees, servants or officials, and each and every one of them, (the “indemnified parties”) against all claims, just or unjust, made against the indemnified parties on account of injuries, deaths, losses of any kind whatsoever, damages, suits, liabilities, judgments, claims for infringement of patent, trademark or copyright, cost and expenses which may in anywise accrue against the indemnified parties in consequence of the granting of a permit or which may in anywise result therefrom, and whether or not it shall be alleged or determined that the cause thereof was the negligent acts or omissions of the indemnified parties and the permittees shall appear, defend and pay, as its own expense, all costs, including counsel fees, arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the indemnified parties in any such action, the permittee shall, at its own expense, satisfy and discharge the same.

2. The railroad operations at or near the facilities involve some risk, and the permittee, as part of the consideration for a permit, and with full knowledge and appreciation of such risk, shall release and waive any right to ask

TRANSIT PROPERTY USE OR OCCUPANCY

for or demand any special, direct, incidental, indirect, punitive, reliance or consequential damages, whether foreseeable or not, for or on account of any loss or injury to any property of the permittee and its employees, including property in the care, custody, and control of the permittee, and to the facilities and contents thereof that are over, under, upon, or in the property of NJ TRANSIT, including loss of, or interference with, service or use thereof, or loss of profits or revenue, cost of capital, cost of replacement services, claims of customers or third parties, whether or not it shall be alleged or determined that the cause thereof was breach of contract, breach of warranty, negligent acts or omissions of the indemnified parties or the permittee, their successors, assigns, contractors, agents, employees, servants and officials or of other persons.

(b) The permittee shall properly safeguard all work performed under the conditions of the permit. If considered necessary by the involved jurisdiction, the permittee will be required to employ additional safety devices including uniformed traffic directors.

(c) Upon approval of a permit, the permittee shall give notice in writing to the involved jurisdiction, at least 14 days prior to use, work, or occupancy of NJ TRANSIT-owned property.

(d) Construction work materials and workmanship shall conform to NJ TRANSIT specifications.

(e) Work or occupancy shall not begin until a formal written notice to proceed is issued to the permittee by NJ TRANSIT.

(f) All uses, work or occupancy within NJ TRANSIT-owned property shall be subject to the review by the involved jurisdiction affecting the safety and operations of the trains. The safety and continuity of railroad operation shall be of the first importance and shall be at all times protected and safeguarded, and the permittee, and the permittee's contractor and/or subcontractors shall perform and arrange all use, work, and occupancy accordingly. All use and work shall be performed carefully and shall be regulated so as to avoid interruption and interference of train movements and damage to the tracks and all other facilities and appurtenances.

(g) Upon completion of installation or vacation of the site, the permittee shall restore the affected area to the satisfaction of NJ TRANSIT and/or involved jurisdiction.

(h) NJ TRANSIT assumes no obligations whatsoever in connection with the use, work, and/or occupancy by the permittee and is not obligated to make any repairs to the property or furnish people, equipment or materials in connection with use, work and/or occupancy by the permittee. The use, work, and/or occupancy provided for by the permit shall be performed at no cost to the involved jurisdiction.

(i) The permittee shall reimburse the involved jurisdiction for all actual costs incurred by the involved jurisdiction as a

result of the permit project which shall include, but not be limited to, inspectors, watchmen, operators, flagmen, and other personnel. All costs will be billed at the then current billing rates which are subject to revision. The permittee shall remit payment to NJ TRANSIT within 30 days after receipt of an invoice. The permittee shall pay NJ TRANSIT a late charge of three percent of the total unpaid invoice amount for every month any invoice is owed and outstanding until the invoice is paid in full.

(j) The permittee shall have the responsibility during the term of the permit to maintain its facility in a safe and proper manner, to the satisfaction of the involved jurisdiction. If repair or maintenance of the permittee's facility is required, the permittee must notify NJ TRANSIT in writing and request permission to perform the repair or to maintain such facility. The permittee may not begin such work without prior written approval from NJ TRANSIT.

1. In the event of an emergency, the permittee shall take immediate corrective action upon notification of the involved jurisdiction.

(k) If it is deemed necessary by NJ TRANSIT, the permittee shall be required to submit a deposit in an amount sufficient to guarantee that, should the permittee fail to restore the disturbed area in a safe and proper manner, there will be enough money to pay for the cost of any work performed by the involved jurisdiction in consequence of that failure. This guarantee shall not operate to waive the permittee's complete responsibility with regard to restoring the affected area. When NJ TRANSIT deems it necessary to demand a deposit pursuant to this subsection, NJ TRANSIT will return to the permittee any unused funds upon the completion of the approved corrective measures. The deposit will be reduced by costs incurred by NJ TRANSIT including, but not limited to, administrative fees, personnel, equipment and damages.

(l) When occupations require movement or relocation of facilities by NJ TRANSIT, NJ TRANSIT and/or the appropriate involved jurisdiction shall prepare an estimate of cost. Using this estimate, NJ TRANSIT shall request as a condition in granting the permit, a written agreement by the permittee, stating that the permittee shall assume all expenses involved in the movement or relocation of facilities and any expenses for additional facilities necessitated by the move. Upon the written request of NJ TRANSIT, the permittee shall promptly change the location of its facilities, or any of them, at the sole expense of the permittee and within 30 days after such request is made, so as to enable NJ TRANSIT to make any alterations or improvements upon its property and any changes in or additions to its facilities that it may deem necessary or advisable at any time, and nothing shall in any way be so construed as to limit NJ TRANSIT in the full and free use and occupation of the full width of its right-of-way and property at the location.

(m) Upon the termination of the permit, the permittee, subject to the review and approval by NJ TRANSIT, shall

remove all permit related facilities and shall restore the affected area to the satisfaction of NJ TRANSIT. The permittee is responsible for all costs incurred for restoring the affected area.

(n) The involved jurisdiction reserves the right to impose special conditions in appropriate cases, as required at its sole discretion.

(o) The fees set forth within this chapter for transverse and longitudinal occupations are minimums. NJ TRANSIT reserves the right to negotiate higher fees for any occupation in order to accommodate circumstances and conditions specific to individual applications.

Amended by R.1990 d.143, effective March 5, 1990.
See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Indemnification and insurance requirements clarified.
Amended by R.1995 d.111, effective February 21, 1995.
See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).
Amended by R.2005 d.376, effective November 7, 2005.
See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

Rewrote (a); in (c), substituted "14" for "seven"; rewrote (e); in (f), deleted "," following "protected"; in (g), added "completion of installation or"; rewrote (i)-(l); in (n), added "at its sole discretion".

16:77-1.4 Administrative fees

(a) The charges in this section are intended to cover the cost of processing of papers and other incidental expenses incurred by NJ TRANSIT, and are in addition to the application fee and the occupation fees in this chapter.

(b) Administrative fees will be charged as follows:

1. Wire and cable crossings and longitudinal occupation over or under NJ TRANSIT-owned property:
 - i. All transverse crossings not exceeding 300 volts to one individual service..... \$198.00
 - ii. All other transverse crossings \$408.00
 - iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of voltage \$828.00
2. Pipe, sewer crossings, surface drainage and longitudinal occupations over or under NJ TRANSIT-owned property:
 - i. Pipe not exceeding three inches inside diameter to one individual service..... \$198.00
 - ii. All other transverse crossings \$408.00
 - iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of pipe contents..... \$828.00
3. All surface drainage not contained within a pipe and occupying NJ TRANSIT property \$810.00

4. Any application for any type of permit by a municipality or county..... \$198.00
5. Additional fees:
 - i. All occupations requiring engineering reviews will be assessed an additional fee as compensation to NJ TRANSIT Rail Operations.
 - ii. In addition, when railroad personnel or services are utilized by the permittee, reimbursement to NJ TRANSIT Rail Operations or other involved jurisdictions will be made within 30 days of receipt of billing.
 - iii. Any longitudinal or transverse occupation, regardless of the size of the facility, requiring more than one field excursion by NJ TRANSIT personnel shall be charged an additional \$120.00 for every outing beyond the single outing allotted each application.

Amended by R.1989 d.133, effective March 6, 1989.
See: 21 N.J.R. 13(c), 21 N.J.R. 638(b).

Added new (a)5 and recodified (a)5 to (a)6.
Amended by R.1990 d.143, effective March 5, 1990.
See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased.
Amended by R.1995 d.111, effective February 21, 1995.
See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).
Amended by R.2005 d.376, effective November 7, 2005.
See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

Added new (a); recodified former (a) as (b) and rewrote subsection, including increasing administrative fees.

16:77-1.5 Permit fees; general conditions

(a) Use or occupancy permit fees are subject to the following conditions:

1. The permit fee equals the annual occupancy rate multiplied by the estimated duration of occupancy in years, not to exceed 20 years and no less than one year unless otherwise described within this schedule.
2. The minimum annual permit fee under any application shall be \$198.00.
3. Should the facility be terminated at any time less than the estimated years of occupancy, the permit fees collected are not subject to a refund.
4. NJ TRANSIT reserves the right to consider additional fees for crossings in excess of 200 feet. When increased preparation costs are incurred, the increases will be passed on to the permittee.
5. Any occupation of NJ TRANSIT property other than transverse track crossings will be charged as a longitudinal crossing based on the lineal foot of the occupation.
6. Fees are based on a minimum right-of-way width of 30 feet with the annual rate applicable up to a 200-foot width. For all crossings in excess of 200 linear feet, and no more than 700 linear feet, the facility will be calculated as a

TRANSIT PROPERTY USE OR OCCUPANCY

longitudinal occupation. Any facility crossing exceeding 700 linear feet, NJ TRANSIT reserves the right to negotiate. The formula for a transverse occupation over 200 feet is as follows:

First 200 LF: x = base rate
200 LF to 700 LF: y = longitudinal fee divided by four.
Over 700 LF: NJ TRANSIT reserves the right to negotiate fee(s).

Add all components (x + y) to establish the annual fee.

7. All fees for occupancies encased as a group or otherwise bundled or joined together will be calculated as if they were individual occupations.

8. Should the facility be modified during the term of the permit, during the processing of a new permit, or there is a supplement to an existing permit, the associated increase in fees will be charged. If a new permit is approved, an amount proportionate to the time remaining on the superseded permit will be credited toward the new fee.

9. In the event the facility goes beyond its paid estimated life, a new fee will be assessed in accordance with the fee schedule rates in effect at that time.

(b) An annual occupancy fee for attachments will be charged as follows when higher rates are not fixed:

- 1. Attachments of aerial wires and cables to poles and other structures of NJ TRANSIT-owned facilities used in wire line construction:
i. Up to and including 32,500 volts for each attachment to NJ TRANSIT-owned cross-arms or brackets \$11.00
ii. Up to and including 32,500 volts for each attachment to permittee's cross-arms or brackets when those brackets are attached to a NJ TRANSIT-owned facility \$8.00
iii. Wires over 32,500 volts attached to the NJ TRANSIT-owned cross-arms or brackets \$19.00 per attachment
iv. Wires over 32,500 volts and attached to permittee's cross-arms or brackets when those brackets are attached to NJ TRANSIT-owned facilities \$17.00 per attachment
2. Attachments of aerial wires and cables to buildings or other structures:
i. Each wire or cable attached to NJ TRANSIT's bridges or structures, including railroad or highway bridges \$19.00 per attachment

- 3. Attachments of cable terminals to poles, buildings, or structures, including highway bridges and railroad bridges owned by NJ TRANSIT:
i. Each cable terminal, loading coil, transformer, or like device is subject to special consideration in each case, but not less than \$72.00.
4. Charges for attachment(s) of pipelines carried along NJ TRANSIT-owned property on bridges or other supports are subject to special consideration in each case if permitted by current New Jersey Department of Transportation specifications.
5. Charges for attachments of pipes to bridges, buildings, or structures of the NJ TRANSIT-owned property are subject to special consideration in each case.

(c) An annual occupancy fee for guy wire crossings and overhanging cross-arms and power wires and cables of transmission lines outside of NJ TRANSIT-owned right-of-way will be calculated as follows:

- 1. Each guy wire crossing NJ TRANSIT-owned property but not anchored thereon \$11.00
2. Cross-arms overhanging NJ TRANSIT-owned property from poles located outside thereof, one or more cross-arms on any pole \$8.00
3. Power wires and cables overhanging NJ TRANSIT-owned property from poles located outside thereof shall be calculated at the rates specified in N.J.A.C. 16:77-1.6(b) and (c) "Permit fees: transverse occupations" and on a pro-rated basis, depending upon the number of overhanging wires, excluding the neutral, ground static or lighting wires.

(d) Occupation charges for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facilities not covered by this section will be subject to special consideration.

(e) The minimum permit fee under any agreement where a miscellaneous use of occupancy is involved, not previously defined, shall be \$198.00. The applicant may be subject to possible charges which may result from expenses incurred by NJ TRANSIT's subsidiaries or involved jurisdictions. (NOTE: Permit fees for miscellaneous use or occupancy of NJ TRANSIT-owned property will be determined and charged on an individual basis because of the various types of requests.)

(f) All permits will be charged a fee in accordance with this section; however, at no time shall any fee for an existing occupancy be less than the fee established by the previous owner(s) unless there has been a significant reduction in the occupancy. The discount in the fee shall be calculated as a ratio between the old occupancy and fee to the new configuration and fee. Any increase in occupancy shall warrant an increase in the existing fee.

EXHIBIT A

16:77-1.5

DEPT. OF TRANSPORTATION

(g) Short-term use or occupancy fees are subject to the following conditions:

1. The permit fee equals the annual occupancy rate prorated for the estimated duration of occupancy.
2. The minimum permit fee under any application shall be \$198.00.
3. Should the facility be terminated at any time less than the estimated period of occupancy, the fees collected are not subject to a refund.
4. At no time shall a short-term use and/or occupancy fee be less than the estimated annual fee for the same use covered under the long-term fee schedule.
5. Should the facility be modified during the term of the permit, a new permit and fee will be required. If a new permit is approved, an amount proportionate to the time remaining on the superseded permit will be credited toward the new fee.
6. In the event the facility goes beyond its paid estimated life, a new fee will be assessed in accordance with the fee schedule rates in effect at that time.

(h) NJ TRANSIT may negotiate lower permit fees when requested to do so by any municipal applicant acting on its own behalf.

Amended by R.1989 d.133, effective March 6, 1989.
See: 21 N.J.R. 13(c), 21 N.J.R. 638(b).

Added (h).

Amended by R.1990 d.143, effective March 5, 1990.
See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased; fee discounts permitted under certain circumstances.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Amended by R.2005 d.376, effective November 7, 2005.

See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

Rewrote the section, including increasing fees throughout.

16:77-1.6 Permit fees; transverse occupation

(a) All fees in this section are based on a minimum right-of-way width of 30 feet, with a fee applicable up to a 200 foot width. For all crossings in excess of 200 feet, an adjustment in the annual fee will be assessed and calculated in accordance with the example contained within this schedule under N.J.A.C. 16:77-1.5(a)6.

(b) Aerial and underground wire (power and communication) crossings not exceeding 200 feet in length will be charged an annual occupancy fee as follows:

1. Power:
 - i. All crossings up to but not exceeding 6,900 volts \$198.00
 - ii. Over 6,900 volts but not exceeding 32,500 volts \$365.00
 - iii. Over 32,500 volts but not exceeding 50,000 volts \$607.00
 - iv. Over 50,000 but not exceed-

- v. ing 345,000 volts \$810.00
- Over 345,000 volts but not exceeding 500,000 volts \$1,218
- vi. Over 500,000 volts \$1,620
- vii. Ducts or pipes carrying conductors NO CHARGE
- viii. Manholes (each) \$103.00

(NOTE: Attachments of wires, cables, etc. to bridges, buildings, poles or structures of railroad are subject to special consideration in each case. Crossings of right-of-way by pipe type cable consisting of one or more high voltage cables encased in a steel pipe, under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted or thermal sand will be subject to special consideration and each case will be handled individually.)

2. Communication:
 - i. Telephone and other communication cables (not including composite coaxial cables or fiberoptic cables);
 - (1) Cable containing not more than 500 pairs \$198.00
 - (2) Cable containing 501 to 1,100 pairs \$352.00
 - (3) Cable containing 1,101 to 1,800 pairs \$510.00
 - (4) Cable containing over 1,800 pairs \$814.00
 - ii. Composite coaxial cables and coaxial television cables containing not more than four conductors \$296.00
 - iii. All cables containing over four conductors shall be at a rate of \$42.00 for each additional conductor.
3. Fiberoptics:
 - i. Fiberoptic cable crossings used for long distance telephone and data transmission and for retail distribution to more than 500 households and/or retail businesses \$2,070
 - ii. Fiberoptic cable crossings used for retail distribution to 500 or less than 500 households and/or retail businesses \$1,104

(c) Poles, towers, guys, and anchors and spare ducts or pipes will be charged an annual fee as follows:

1. Single wooden pole (per pole) \$48.00
2. All other supporting structures other than the auxiliary facilities and appurtenances listed in (c)3, 4, 5, 6, 7 below \$96.00
3. Each brace, stub, pole, or anchor \$48.00

TRANSIT PROPERTY USE OR OCCUPANCY

16:77-1.6

- 4. Each guy anchored on or crossing NJ TRANSIT-owned property \$10.00
- 5. All towers, if not included in a longitudinal occupation shall be assessed per tower leg at \$62.00
- 6. Each span guy wire crossing \$48.00
- 7. Spare or unoccupied ducts or pipes, each (when the duct shall be occupied in the future by a cable, the annual fee for the facility occupying the duct shall govern and the \$48.00 charge cease) \$48.00

8. Guys, stubs, anchors, and push or pull braces required by specification for the support of a crossing pole on NJ TRANSIT-owned right-of-way and at the request of NJ TRANSIT shall be considered as part of the crossing pole and no charge will be made therefor.

(NOTE: The above charges in (c)1-8 are in addition to the wire and cable occupation charges provided in (b)1-3 above.)

(d) Annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length will be calculated as follows:

- 1. Circular lines carrying no pressure:
 - i. Pipes up to and including 12 inches ID \$198.00
 - ii. Pipes over 12 inches and not exceeding 24 inches ID \$276.00
 - iii. Pipes over 24 inches and not exceeding 60 inches ID will be charged at a rate of \$6.00 per inch of ID over the first 24 inches. This rate is in addition to a minimum fee of \$296.00
 - iv. Pipes over 60 inches ID will be charged at a rate of \$3.78 per inch of ID over the first 60 inches. This rate is in addition to a minimum fee of \$607.00
 - v. All surface drainage not contained within a pipe and occupying NJ TRANSIT property \$810.00
- 2. Circular lines under pressure and carrying non-flammable, non-explosive, or non-combustible supporting materials, except coal and water slurry:
 - i. Pipes up to and including 12 inches ID \$240.00
 - ii. Pipes over 12 inches but not exceeding 24 inches ID \$304.00
 - iii. Pipes over 24 inches ID and not exceeding 60 inches ID will be charged at a rate of \$11.00 per inch of ID over the first 24 inches. This rate is in addition to the minimum fee of \$304.00
 - iv. Pipes over 60 inches ID will be

- charged at a rate of \$8.00 per inch of ID over the first 60 inches. This rate is in addition to the minimum fee of \$648.00
- 3. Circular lines under pressure and carrying flammable, explosive, or combustible supporting materials, except coal and water slurry:
 - i. Pipes not exceeding three inches inside nominal diameter—minimum charge for any one crossing \$296.00
 - ii. Pipes over three inches inside nominal diameter and not exceeding 12 inches inside diameter—minimum charge for any one crossing \$408.00
 - iii. Pipes over 12 inches inside diameter and not exceeding 24 inches inside diameter shall be charged at a rate of \$19.00 per inch of ID over the first 12 inches. This rate is in addition to a minimum charge for any one crossing of \$408.00
 - iv. Pipes exceeding 24 inches in inside diameter shall be charged at a rate of \$18.00 per inch of ID over the first 24 inches. This is in addition to a minimum charge for any one crossing of \$648.00

4. Charges for non-circular pipes shall be determined by the diameter of a circular pipe having an equivalent cross-sectional area.

5. Charges for pipe tunnels or other special underground construction shall be subject to special consideration.

6. Pipe lines carried over NJ TRANSIT-owned property or other support structures are subject to special consideration in each case if permitted by NJ TRANSIT current specifications.

7. Manholes (each) \$96.00

8. Charges for attachments of pipes to bridges, buildings, or structures of the NJ TRANSIT-owned property are subject to special consideration in each case.

9. Where pipe or pipes are encased in a protective pipe of larger diameter, no charge shall be made for the protective encasement.

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Amended by R.2005 d.376, effective November 7, 2005.

See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

Rewrote (b)-(d), including increasing fees throughout.

16:77-1.6

DEPT. OF TRANSPORTATION

9. Where pipe or pipes are encased in a protective pipe of larger diameter, no charge shall be made for the protective encasement.

Amended by R.1990 d.143, effective March 5, 1990. See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Amended by R.2005 d.376, effective November 7, 2005.

See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

Rewrote (b)-(d), including increasing fees throughout.

16:77-1.7 Permit fee; longitudinal occupations

(a) Recognizing the many variables and intangibles involved in each longitudinal occupation of NJ TRANSIT-owned property, each application shall be considered on its own merits, with minimum permit fee per year of occupancy being applied as set below.

(b) For occupations less than one mile in length, the charge shall be a proportionate amount of the rates calculated to the nearest dollar but no fee for any wire cable, duct, or pipe occupation shall be less than the charge for one-quarter mile of such occupation.

(c) The following charges cover the complete transmission line occupation and additional charges are not to be made unless there are attachments to NJ TRANSIT-owned facilities. For the purpose of determining voltage, guy wires, messengers and grounded conductors shall be considered as zero voltage. All other conductors shall be rated at voltage to other conductors, whichever is higher.

1. Aerial wires:

- i. Transmission line, highest voltage not exceeding 6,900 volts \$2,022 per circuit per mile.
ii. Transmission line over 6,900 volts up to, but not including, 32,500 volts \$3,643 per circuit per mile.
iii. Transmission line 32,500 volts, up to and including 50,000 \$5,064 per circuit mile.
iv. Transmission line, 50,000 volts and over. The fee will be based on a negotiated rate.

2. Aerial and underground cables:

- i. All longitudinal fiberoptic facility occupancy fees will be arrived at through negotiations.
ii. Telephone communication cables (not including composite coaxial cables):
(1) Cable containing not more than 1,100 pairs \$2,022 per cable per mile.

(2) Cable containing 1,101 to 1,800 pairs \$3,643 per cable per mile.

(3) Cable containing over 1,800 pairs: The fee will be negotiated at a rate not less than \$3,643 per cable per mile.

(4) For underground communication cables, the minimum charge is \$4,050 per cable per mile.

iii. Composite coaxial cable and coaxial television cables subject to negotiation but not less than \$4,926 per cable per mile.

iv. Underground power cables:

(1) When a cable is buried in an open trench and covered with soil: \$2,918 per circuit per mile.

(2) When a cable is buried in an open trench and surrounded with from six to 12 inches of thermal sand: \$5,064 per circuit per mile.

(3) When a cable is encased in a steel pipe under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted sand: \$5,064 per mile or \$11.00 per inch of nominal diameter of the largest pipe per 100 feet of occupation or fraction thereof, whichever is greater.

v. Spare or unoccupied ducts or pipes, each per mile \$607.00

vi. Manholes, splicing chambers or pull boxes, each when these structures are necessary for longitudinal occupation No Charge

vii. An additional charge shall be made for use of NJ TRANSIT-owned property duct lines based on the negotiated value of the facility.

(NOTE: Charges shown under (c)2v, vi and vii above are in addition to the charges shown under (c)2ii to iv inclusive.)

(d) All manholes necessary for periodic inspection, cleaning and maintenance will be covered under the longitudinal

TRANSIT PROPERTY USE OR OCCUPANCY

16:77-1.8

pipeline fee. On transverse occupations all manholes will be charged in excess of the transverse facilities occupancy fee.

(e) Fees for all structures other than manholes will be arrived at through negotiations. Examples of these structures are meter chambers, siphon chambers, substations, pump stations, well sites, towers, etc.

(f) An annual occupancy fee for pipes and sewers will be charged as follows:

1. Circular lines carrying no pressure: \$5.00 per inch of inside nominal diameter or fraction thereof per 100 feet of occupation or fraction thereof per 100 feet of occupation or fraction thereof.

2. Circular lines under pressure and carrying non-flammable, non-explosive, and non-combustible supporting materials, except coal and water slurry: \$5.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

3. Circular lines under pressure and carrying flammable, explosive, and combustible supporting materials, and coal and water slurry: \$11.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

4. Charges of non-circular pipes shall be determined by the diameter of a circular pipe having an equivalent cross-sectional area.

5. Charges for pipe tunnels or other special underground construction shall be subject to special consideration.

Amended by R.1990 d.143, effective March 5, 1990.
See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased.

Amended by R.1995 d.111, effective February 21, 1995.
See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Amended by R.2005 d.376, effective November 7, 2005.
See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

In (c) and (f), increased fees throughout; rewrote (e).

16:77-1.8 Other provisions

(a) For those applicants having over 200 occupancy permits with NJ TRANSIT, the Corporation reserves the right to negotiate permanent occupancy permits for any occupancy having an annual fee of \$300.00 or less at the time of application. The permittee shall pay to NJ TRANSIT a lump sum which will be equivalent to 20 times the annual rate which will satisfy the annual fee for the life of the facility occupation so long as it remains unchanged. No refunds will be given for any facility which is terminated, cancelled, removed, or abandoned. Permittees who qualify for this option, request such option and are accepted by NJ TRANSIT, will receive a single "blanket agreement" with an attachment containing a list of the affected occupancies covered under individual permits. Acceptance of any request for a blanket agreement and lump sum payment will be at the sole discretion of NJ TRANSIT which shall not be unreasonably exercised. The existence of this option does not obligate NJ TRANSIT to enter into a blanket agreement with any permittee.

(b) Any facility which is altered in such a manner so as to increase the annual fee beyond the original \$300.00 limit will result in that permit being extracted from the blanket agreement and a new annual fee will be calculated, based on the existing fee schedule, and assessed annually thereafter. Monetary credit will be allocated to the new facility fee based on the unused portion of the initial 20 year period. No credit will be given for any facility requiring reassessment which has exceeded the initial 20 years of occupancy.

New Rule R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Repeal and New Rule, R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Formerly "Automatic annual fee increases".

Amended by R.2005 d.376, effective November 7, 2005.

See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

In (a) and (b), substituted "20" for "16" throughout.

TRANSPORTATION

(d) The Commission may also issue such cautionary letters or letters of reprimands to pilots for violation of any provision of this chapter, as it deems appropriate.

16:64-6.4 Suspension, limitation or revocation of a license

(a) The commission may suspend, limit or revoke the license and/or the branch of a pilot for any one of the following grounds:

1.-5. (No change.)

6. The pilot meets any of the grounds in N.J.A.C. 16:64-7.3 or 7.15; [or]

7. The pilot has failed to perform his or her piloting duties as a prudent pilot would under the prevailing circumstances[.]; or

8. The pilot has materially misrepresented or failed to provide a relevant fact to the Commission.

(b)-(d) (No change.)

(a)

**NEW JERSEY TRANSIT CORPORATION
Use or Occupancy of NJ TRANSIT-Owned Property
Proposed Readoption with Amendments: N.J.A.C.
16:77**

Authorized By: New Jersey Transit Corporation, James Weinstein,
Executive Director.

Authority: N.J.S.A. 27:25-5(e), (h) and (k) and 27:25-7(b).

Calendar Reference: See Summary below for explanation of
exception to calendar requirements.

Proposal Number: PRN 2010-203.

Submit comments by November 6, 2010 to:

Joyce J. Zuczek
New Jersey Transit Corporation
One Penn Plaza East
Newark, NJ 07105-2246

The agency proposal follows:

Summary

The New Jersey Transit Corporation (hereinafter "NJ TRANSIT") was established by the New Jersey Public Transportation Act of 1979 (N.J.S.A. 27:25-1 et seq.) as an instrumentality of the State government responsible to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the programs by which NJ TRANSIT proposed to fulfill this responsibility is through the issuance for permits for certain fees to use its railroad right-of-way for various types of occupations. Permits are license agreements for the use and occupancy of railroad property by a utility, municipality or private entity. In accordance with the sunset provisions of Executive Order No. 66 (1978)/N.J.S.A. 52:14B-5.1, N.J.A.C. 16:77, Use or Occupancy of NJ TRANSIT Owned Property will expire on October 6, 2010. By filing this notice or proposal with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to April 4, 2011, pursuant to N.J.S.A. 52:14B-5.1c. NJ TRANSIT proposes to readopt N.J.A.C. 16:77 with amendments.

N.J.A.C. 16:77 establishes guidelines, procedures and fees pursuant to which NJ TRANSIT will operate its use or occupancy program. They were in effect in essentially their present form since 1985. The proposed amendments primarily relate to what NJ TRANSIT believes are reasonable increases in the administrative and permit fees, which have not been increased since 2005. Since January 2005 to December 2009, the cost of living has increased by 14.57, which is an average annual increase of approximately 3 percent. Based in part on this projection, NJ TRANSIT recommends an estimated general increase of 20 percent to be applied to the existing schedule.

A review of each of the subchapters of N.J.A.C. 16:77, proposed for readoption follows:

N.J.A.C. 16:77-1.1, Definitions, contains the definitions of words and terms used in the rules, so that the meanings designated by NJ TRANSIT may be commonly understood by the public.

N.J.A.C. 16:77-1.2, Permit applications, contains the procedure for the application of permits.

N.J.A.C. 16:77-1.3, Permit conditions, contains the permit conditions.

N.J.A.C. 16:77-1.4, Administrative fees, contains the description of the administrative fees.

N.J.A.C. 16:77-1.5, Permit fees: general conditions, contains the description of the permit fees: general conditions.

N.J.A.C. 16:77-1.6, Permit fees: transverse occupation, contains the description of the permit fees: transverse occupations.

N.J.A.C. 16:77-1.7, Permit fees: longitudinal occupations, contains the description of the permit fees: longitudinal occupations.

N.J.A.C. 16:77-1.8, Other provisions, authorizes permanent occupancy permits for low-value occupations for those applicants with a large number of occupancy permits.

A review of each of the proposed amendments follows:

At N.J.A.C. 16:77-1.1, the definition of "communication wires" is proposed for amendment to delete the word "telegraph" because the term is outdated.

At N.J.A.C. 16:77-1.2(b), the \$250.00 application fee has been increased to \$300.00 in accordance with NJ TRANSIT's recommendation of an estimated general increase of 20 percent to be applied to the existing fee schedule.

At N.J.A.C. 16:77-1.3(a)1, language has been added to include certain vehicles operated by contractors hired by NJ TRANSIT.

At N.J.A.C. 16:77-1.4(b)1 through 5, 1.5(a)2, (b)1, 2 and 3, (c)1 and 2, (e) and (h)2, 1.6(b), (c) and (d)1, 2, 3 and 7, 1.7(c) and (f)1, 2 and 3 and 1.8, the fees are proposed to be increased 20 percent (and rounded up to the next whole dollar) in accordance with the proposed general cost of living increase.

New N.J.A.C. 16:77-1.5(f) adds that a permit will be issued at no charge where a facility is relocated, upon NJ TRANSIT's written request, to NJ TRANSIT-owned property from a public thoroughfare, where no charge is made for such facility.

As the Corporation has provided for a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments will have a minimal social impact on the citizens of New Jersey as a whole but will specifically impact the permittees who presently or may in the future occupy and use NJ TRANSIT property. Those parties affected will have to pay the fees set forth in the chapter, as increased by the proposed amendments.

Economic Impact

The rules proposed for readoption with amendments to increase fees will have a positive impact on NJ TRANSIT. More revenues will be available to reduce the administrative costs to NJ TRANSIT to accommodate requests for occupancies, thereby not increasing the deficits of its bus and rail operations. In addition, the impact on the users, especially the major utility companies, is considered reasonable. The cost is calculated based on the cost-of-living index from January 2005 through December 2009. It is anticipated that it can be borne by the parties in the ordinary course of business. Besides the administrative and permit fees, the costs of application and meeting the permit conditions must be borne by the applicant/permittee. These costs vary based upon the nature of the use or occupancy of NJ TRANSIT-owned property.

Federal Standards Statement

The rules proposed for readoption with amendments are not subject to any Federal Standards and therefore, a Federal standards analysis is not applicable.

Job Impact

The rules proposed for readoption with amendments will not affect the creation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments have no impact on the agriculture industry.

PROPOSALS

TRANSPORTATION

Regulatory Flexibility Analysis

Based on review of NJ TRANSIT's current permits, very few small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., will be impacted by the rules proposed for readoption with amendments. If any are affected, the compliance requirements consist of applying for a permit under N.J.A.C. 16:77-1.2, meeting the N.J.A.C. 16:77-1.3 permit conditions and payment of the appropriate administrative and permit fees. Compliance with the permit conditions will involve both capital costs and, probably, the engaging of professional services, such as engineers and attorneys. The amount of such costs depends upon the nature of the project and the permittee's internal staff resources. Given the historic lack of small business applicants/permittees, NJ TRANSIT has not provided different requirements for such entities. In addition, no apparent correlation exists between the need for compliance with these rules to ensure the safe and proper use of NJ TRANSIT-owned property and the business size of an applicant/permittee.

Smart Growth Impact

The rules proposed for readoption with amendments have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

NJ TRANSIT does not anticipate any impact on housing affordability as a result of the rules proposed for readoption with amendments. The rules establish guidelines, procedures and fees pursuant to which NJ TRANSIT will operate its use or occupancy program. As such, the rules will have no effect on housing units or on the average cost of housing.

Smart Growth Development Impact

NJ TRANSIT does not anticipate any impact upon smart growth development or the implementation of the State Development and Redevelopment Plan as a result of the rules proposed for readoption with amendments. The rules establish guidelines, procedures and fees pursuant to which NJTRANSIT will operate its use or occupancy program. The rules will have no effect on affordable housing or on new construction within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:77.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 1. PERMITS AND CONDITIONS

16:77-1.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings:

... "Communication wires" means wires used for [telegraph,] telephone, fire alarm, police[,] and signal circuits, for public or private communication of signal service, which operate at a voltage not exceeding 400 volts to ground or 750 volts between any two points of the circuit and transmitted power of which does not exceed 150 watts.

16:77-1.2 Permit applications

(a) (No change.)

(b) Once a request for a permit has been received, the applicant shall be responsible to NJ TRANSIT for application fees, regardless of permit completion. The application fee will be [~~\$250.00~~] **\$300.00** for each permit.

(c)-(g) (No change.)

16:77-1.3 Permit conditions

(a) The permittee shall provide the indemnification and insurance coverage required by NJ TRANSIT.

1. The permittee shall indemnify, defend, keep and save harmless NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, NJ TRANSIT's contractors, operators[,] and other railroad(s) operating on the affected property, their successors, assigns, contractors, agents, employees, servants or officials[,] and each and every one of them or any other

designee of NJ TRANSIT, (the "indemnified parties") against all claims, just or unjust, made against the indemnified parties on account of injuries, deaths, losses of any kind whatsoever, damages, suits, liabilities, judgments, claims for infringement of patent, trademark or copyright, cost and expenses [which] that may in [anywise] anyway accrue against the indemnified parties in consequence of the granting of a permit or which may in [anywise] anyway result therefrom, and whether or not it shall be alleged or determined that the cause thereof was the negligent acts or omissions of the indemnified parties and the permittee[s] shall appear, defend and pay, as its own expense, all costs, including counsel fees, arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the indemnified parties in any such action, the permittee shall, at its own expense, satisfy and discharge the same.

2. (No change.)

(b)-(o) (No change.)

16:77-1.4 Administrative fees

(a) (No change.)

(b) Administrative fees will be charged as follows:

1. Wire and cable crossings and longitudinal occupation over or under NJ TRANSIT-owned property:

i. All transverse crossings not exceeding 300 volts to one individual service. \$[198.00]238.00

ii. All other transverse crossings. \$[408.00]490.00

iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of voltage. \$[828.00]994.00

2. Pipe, sewer crossings, surface drainage and longitudinal occupations over or under NJ TRANSIT-owned property:

i. Pipe not exceeding three inches inside diameter to one individual service. \$[198.00]238.00

ii. All other transverse crossing. \$[408.00]490.00

iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of pipe contents. \$[828.00]994.00

3. All surface drainage not contained within a pipe and occupying NJ TRANSIT property. \$[810.00]972.00

4. Any application for any type of permit by a municipality or county. \$[198.00]238.00

5. Additional fees:

i.-ii. (No change.)

iii. Any longitudinal or transverse occupation, regardless of the size of the facility, requiring more than one field excursion by NJ TRANSIT personnel shall be charged an additional \$[120.00]144.00 for every outing beyond the single outing allotted each application.

16:77-1.5 Permit fees; general conditions

(a) Use or occupancy permit fees are subject to the following conditions:

1. (No change.)

2. The minimum annual permit fee under any application shall be \$[198.00]238.00.

3.-9. (No change.)

(b) An annual occupancy fee for attachments will be charged as follows when higher rates are not fixed:

1. Attachments of aerial wires and cables to poles and other structures of NJ TRANSIT-owned facilities used in wire line construction:

i. Up to and including 32,500 volts for each attachment to NJ TRANSIT-owned cross-arms or brackets \$[11.00]13.00

ii. Up to and including 32,500 volts for each attachment to permittee's cross-arms or brackets when those brackets are attached to a NJ TRANSIT-owned facility. \$[8.00]10.00

iii. Wires over 32,500 volts attached to the NJ TRANSIT-owned cross-arms or brackets. \$[19.00]23.00 per attachment

iv. Wires over 32,500 volts and attached to permittee's crossarms or brackets when those brackets are attached to NJ TRANSIT-owned facilities. \$[17.00]20.00 per attachment

2. Attachments of aerial wires and cables to buildings or other structures:

i. Each wire or cable attached to NJ TRANSIT'S bridges or structures, including railroad or highway bridges. . . . \$[19.00]23.00 per attachment

TRANSPORTATION

3. Attachments of cable terminals to poles, buildings[,] or structures, including highway bridges and railroad bridges owned by NJ TRANSIT:

i. Each cable terminal, loading coil, transformer[,] or like device is subject to special consideration in each case, but not less than \$[72.00]86.00.

4.-5. (No change.)

(c) An annual occupancy fee for guy wire crossings and overhanging cross-arms and power wires and cables of transmission lines outside of NJ TRANSIT-owned right-of-way will be calculated as follows:

1. Each guy wire crossing NJ TRANSIT-owned property but not anchored thereon. \$[11.00]13.00

2. Cross-arms overhanging NJ TRANSIT-owned property from poles located outside thereof, one or more cross-arms on any pole. \$[8.00]10.00

3. (No change.)

(d) (No change.)

(e) The minimum permit fee under any agreement where a miscellaneous use of occupancy is involved, not previously defined, shall be \$[198.00]238.00. The applicant may be subject to possible charges, which may result from expenses incurred by NJ TRANSIT's subsidiaries or involved jurisdictions. (NOTE: Permit fees for miscellaneous use or occupancy of NJ TRANSIT-owned property will be determined and charged on an individual basis because of the various types of requests.)

(f) A Permit will be issued at no charge where a facility is relocated, upon NJ TRANSIT's written request, to NJ TRANSIT-owned property from a public thoroughfare.

[(f)] (g) (No change in text.)

[(g)] (h) Short-term use or occupancy fees are subject to the following conditions:

1. (No change.)

2. The minimum permit fee under any application shall be \$[198.00]238.00.

3.-6. (No change.)

[(h)] (i) (No change in text.)

16:77-1.6 Permit fees; transverse occupation

(a) (No change.)

(b) Aerial and underground wire (power and communication) crossings not exceeding 200 feet in length will be charged an annual occupancy fee as follows:

1. Power:

i. All crossings up to but not exceeding 6,900 volts. \$[198.00]238.00

ii. Over 6,900 volts but not exceeding 32,500 volts. \$[365.00]438.00

iii. Over 32,500 volts but not exceeding 50,000 volts. \$[607.00]728.00

iv. Over 50,000 volts but not exceeding 345,000 volts. ... \$[810.00]972.00

v. Over 345,000 volts but not exceeding 500,000 volts. \$[1,218]1,462

vi. Over 500,000 volts. \$[1,620]1,944

vii. (No change.)

viii. Manholes (each) \$[103.00]124.00

(NOTE: Attachments of wires, cables, etc. to bridges, buildings, poles or structures of railroad are subject to special consideration in each case. Crossings of right-of-way by pipe type cable consisting of one or more high voltage cables encased in a steel pipe, under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted or thermal sand will be subject to special consideration and each case will be handled individually.)

2. Communication:

i. Telephone and other communication cables (not including composite coaxial cables or fiberoptic cables)[;]:

(1) Cable containing not more than 500 pairs. \$[198.00]238.00

(2) Cable containing 501 to 1,100 pairs. \$[352.00]422.00

(3) Cable containing 1,101 to 1,800 pairs. \$[510.00]612.00

(4) Cable containing over 1,800 pairs. \$[814.00]977.00

ii. Composite coaxial cables and coaxial television cables containing not more than four conductors. \$[296.00]355.00

iii. All cables containing over four conductors shall be at a rate of \$[42.00]51.00 for each additional conductor.

3. Fiberoptics:

i. Fiberoptic cable crossings used for long distance telephone and data transmission and for retail distribution to more than 500 households and/or retail businesses. \$[2,070]2,484

ii. Fiberoptic cable crossings used for retail distribution to 500 or less than 500 households and/or retail businesses. \$[1,104]1,325

(c) Poles, towers, guys[,] and anchors and spare ducts or pipes will be charged an annual fee as follows:

1. Single wooden pole (per pole) \$[48.00]58.00

2. All other supporting structures other than the auxiliary facilities and appurtenances listed in (c)3, 4, 5, 6[,] and 7 below. \$[96.00]115.00

3. Each brace, stub, pole[,] or anchor. \$[48.00]58.00

4. Each guy anchored on or crossing NJ TRANSIT-owned property. \$[10.00]12.00

5. All towers, if not included in a longitudinal occupation shall be assessed per tower leg at. \$[62.00]74.00

6. Each span guy wire crossing. \$[48.00]58.00

7. Spare or unoccupied ducts or pipes, each (when the duct shall be occupied in the future by a cable, the annual fee for the facility occupying the duct shall govern and the \$[48.00]58.00 charge cease). \$[48.00]58.00

8. (No change.)

(NOTE: The above charges in (c)1-8 are in addition to the wire and cable occupation charges provided in (b)1-3 above.)

(d) Annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length will be calculated as follows:

1. Circular lines carrying no pressure:

i. Pipes up to and including 12 inches ID. \$[198.00]238.00

ii. Pipes over 12 inches and not exceeding 24 inches ID. \$[276.00]331.00

iii. Pipes over 24 inches and not exceeding 60 inches ID will be charged at a rate of \$[6.00]8.00 per inch of ID over the first 24 inches. This rate is in addition to a minimum fee of. \$[296.00]355.00

iv. Pipes over 60 inches ID will be charged at a rate of \$[3.78]5.00 per inch of ID over the first 60 inches. This rate is in addition to a minimum fee of. \$[607.00]728.00

v. All surface drainage not contained within a pipe and occupying NJ TRANSIT property. \$[810.00]972.00

2. Circular lines under pressure and carrying non-flammable, non-explosive[,] or non-combustible supporting materials, except coal and water slurry:

i. Pipes up to and including 12 inches ID. \$[240.00]288.00

ii. Pipes over 12 inches but not exceeding 24 inches ID. \$[304.00]365.00

iii. Pipes over 24 inches ID and not exceeding 60 inches ID will be charged at a rate of \$[11.00]13.00 per inch of ID over the first 24 inches. This rate is in addition to the minimum fee of. \$[304.00]365.00

iv. Pipes over 60 inches ID will be charged at a rate of \$[8.00]10.00 per inch of ID over the first 60 inches. This rate is in addition to the minimum fee of. \$[648.00]778.00

3. Circular lines under pressure and carrying flammable, explosive[,] or combustible supporting materials, except coal and water slurry:

i. Pipes not exceeding three inches inside nominal diameter—minimum charge for any one crossing. \$[296.00]355.00

ii. Pipes over three inches inside nominal diameter and not exceeding 12 inches inside diameter—minimum charge for any one crossing. \$[408.00]490.00

iii. Pipes over 12 inches inside diameter and not exceeding 24 inches inside diameter shall be charged at a rate of \$[19.00]23.00 per inch of ID over the first 12 inches. This rate is in addition to a minimum charge for any one crossing of. \$[408.00]490.00

iv. Pipes exceeding 24 inches in inside diameter shall be charged at a rate of \$[18.00]22.00 per inch of ID over the first 24 inches. This is in addition to a minimum charge for any one crossing of. ... \$[648.00]778.00

4.-6. (No change.)

7. Manholes (each) \$[96.00]116.00

8.-9. (No change.)

16:77-1.7 Permit fees; longitudinal occupations

(a)-(b) (No change.)

EXHIBIT B

OTHER AGENCIES

PROPOSALS

(c) The following charges cover the complete transmission line occupation and additional charges are not to be made unless there are attachments to NJ TRANSIT-owned facilities. For the purpose of determining voltage, guy wires, messengers and grounded conductors shall be considered as zero voltage. All other conductors shall be rated at voltage to other conductors, whichever is higher.

- 1. Aerial wires:
 - i. Transmission line, highest voltage not exceeding 6,900 volts. \$[2,022]2,426 per circuit per mile.
 - ii. Transmission line over 6,900 volts up to, but not including, 32,500 volts. \$[3,643]4,372 per circuit per mile.
 - iii. Transmission line 32,500 volts, up to and including 50,000. \$[5,064]6,077 per circuit mile.
 - iv. Transmission line, 50,000 volts and over. The fee will be based on a negotiated rate.

- 2. Aerial and underground cables:
 - i. (No change.)
 - ii. Telephone communication cables (not including composite coaxial cables):

- (1) Cable containing not more than 1,100 pairs. \$[2,022]2,426 per cable per mile.
- (2) Cable containing 1,101 to 1,800 pair. \$[3,643]4,372 per cable per mile.
- (3) Cable containing over 1,800 pairs: The fee will be negotiated at a rate not less than \$[3,643]4,372 per cable per mile.
- (4) For underground communication cables, the minimum charge is \$[4,050]4,860 per cable per mile.

iii. Composite coaxial cable and coaxial television cables subject to negotiation but not less than. \$[4,926]5,911 per cable mile.

- iv. Underground power cables:
 - (1) When a cable is buried in an open trench and covered with soil. \$[2,918]3,502 per circuit per mile.
 - (2) When a cable is buried in an open trench and surrounded with from six to 12 inches of thermal sand. \$[5,064]6,077 per circuit per mile.
 - (3) When a cable is encased in a steel pipe under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted sand. \$[5,064]6,077 per mile or \$[11.00]13.00 per inch of nominal diameter of the largest pipe per 100 feet of occupation or fraction thereof, whichever is greater.

v. Spare or unoccupied ducts or pipes, each per mile. . . \$[607.00]728.00

vi.-vii. (No change.)

(NOTE: Charges shown under (c)2v, vi and vii above are in addition to the charges shown under (c)2ii to iv inclusive.)

(d)-(e) (No change.)

(f) An annual occupancy fee for pipes and sewers will be charged as follows:

1. Circular lines carrying no pressure: \$[5.00]6.00 per inch of inside nominal diameter or fraction thereof per 100 feet of occupation or fraction thereof [per 100 feet of occupation or fraction thereof].

2. Circular lines under pressure and carrying non-flammable, non-explosive[,] and non-combustible supporting materials, except coal and water slurry: \$[5.00]6.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

3. Circular lines under pressure and carrying flammable, explosive[,] and combustible supporting materials, and coal and water slurry: \$[11.00]13.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.

4.-5. (No change.)

16:77-1.8 Other provisions

(a) For those applicants having over 200 occupancy permits with NJ TRANSIT, the Corporation reserves the right to negotiate permanent occupancy permits for any occupancy having an annual fee of \$[300.00]360.00 or less at the time of application. The permittee shall pay to NJ TRANSIT a lump sum, which will be equivalent to 20 times the annual rate [which] that will satisfy the annual fee for the life of the facility occupation so long as it remains unchanged. No refunds will be given for any facility which is terminated, cancelled, removed[,] or abandoned. Permittees who qualify for this option, request such option

and are accepted by NJ TRANSIT, will receive a single "blanket agreement" with an attachment containing a list of the affected occupancies covered under individual permits. Acceptance of any request for a blanket agreement and lump sum payment will be at the sole discretion of NJ TRANSIT, which shall not be unreasonably exercised. The existence of this option does not obligate NJ TRANSIT to enter into a blanket agreement with any permittee.

(b) Any facility which is altered in such a manner so as to increase the annual fee beyond the original \$[300.00]360.00 limit will result in that permit being extracted from the blanket agreement and a new annual fee will be calculated, based on the existing fee schedule, and assessed annually thereafter. Monetary credit will be allocated to the new facility fee based on the unused portion of the initial 20 year period. No credit will be given for any facility requiring reassessment which has exceeded the initial 20 years of occupancy.

OTHER AGENCIES

(a)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Administrative Rules; Authority Assistance Programs

Proposed Readoptions with Amendments: N.J.A.C. 19:30 and 19:31

Proposed Repeal: N.J.A.C. 19:31-5

Proposed Repeals and New Rules: N.J.A.C. 19:30-4.2 and 19:31-8.14

Proposed Recodifications with Amendments: N.J.A.C. 19:30-3.3 and 3.4 as 3.6 and 3.7, respectively

Proposed Readoption: N.J.A.C. 12A:31

Authorized By: New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.

Authority: N.J.S.A. 34:1B-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-186.

Submit written comments by November 6, 2010 to:

Maureen Hassett, SVP Governance & Public Information
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990

The agency proposal follows:

Summary

The New Jersey Economic Development Authority ("EDA" or "Authority") proposes to readopt N.J.A.C. 19:30 and 19:31, and N.J.A.C. 12A:31, which, pursuant to N.J.S.A. 52:14B-5.1c, are scheduled to expire July 22, 2010. In accordance with N.J.S.A. 52:14B-5.1c., the submission of this notice of proposal to the Office of Administrative Law extended that expiration date 180 days to January 18, 2011.

The Authority has reviewed the subchapters contained in N.J.A.C. 19:30, 19:31 and 12A:31, and determined that they are necessary, reasonable and proper for the purpose in which they were originally promulgated.

Accordingly, the Authority proposes to readopt certain subchapters without amendments, to readopt certain other subchapters with amendments to implement statutory revisions and/or to update provisions necessary for the implementation of applicable programs, and to repeal a subchapter pertaining to expired programs, as summarized below:

EXHIBIT C

**REGULATIONS: READOPTION WITH AMENDMENTS TO REGULATIONS
N.J.A.C. 16:77 USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY**

A review of each of the proposed amendments follows:

At N.J.A.C. 16:77-1.1, the definition of “Communication wires” is proposed for amendment to delete the word “telegraph” because the term is outdated.

At N.J.A.C. 16:77-1.2(b), the \$250.00 application fee has been increased to \$300.00 in accordance with NJ TRANSIT’s recommendation of an estimated general increase of 20 percent to be applied to the existing schedule.

At N.J.A.C. 16:77-1.3(a)1, language has been added to include certain vehicles operated by contractors hired by NJ TRANSIT.

At N.J.A.C. 16:77-1.4(b)1 through 5, 1.5(a)2, (b)1, 2 and 3, (c)1 and 2, (e) and (h)2, 1.6(b), (c) and (d)1, 2, 3 and 7, 1.7(c) and (f)1, 2 and 3 and 1.8, the fees are proposed to be increased 20 percent (and rounded up to the next whole dollar) in accordance with the proposed general cost of living increase.

New N.J.A.C. 16:77-1.5(f) adds that a permit will be issued at no charge where a facility is relocated, upon NJ TRANSIT’s written request, to NJ TRANSIT-owned property from a public thoroughfare.

ITEM 1102-10: REAL ESTATE – ACTION TO RESCIND PREVIOUS BOARD RESOLUTION NO. 0808-65 FOR SALE OF BLOCK 75, LOTS 10-15 (PORTIONS), IN CAMDEN COUNTY TO CAMDEN REDEVELOPMENT AGENCY AND TO AUTHORIZE SALE TO CAMDEN COUNTY IMPROVEMENT AUTHORITY

BENEFITS

This Board action rescinds the previous Board Item (No.0808-65) for the sale of an existing 0.22-acre unused parking lot on portions of Lots 10, 11, 12, 13, 14 and all of Lot 15 in Block 75, City of Camden, Camden County, State of New Jersey to Camden Redevelopment Agency and authorizes the sale of an existing 0.22-acre property consisting of an unused parking lot and vacant building on Lots 10, 12, 13, 14, 15 and a portion of Lot 11 in Block 75, City of Camden, Camden County, State of New Jersey (the "Property") to Camden County Improvement Authority. NJ TRANSIT will be relieved of the cost of insuring, securing and maintaining the unused parking lot and vacant building and will gain non-farebox revenue of \$610,000 by selling the property. The sale is subject to Camden County Improvement Authority passing a resolution approving the purchase of the property and obtaining funding for the purchase from Rutgers University which is financing the development project.

PURPOSE

One of NJ TRANSIT'S objectives is to maximize the value of the assets to NJ TRANSIT. This authorization provides for the sale of a 0.22-acre property consisting of an unused parking lot and vacant building located on Lots 10, 12, 13, 14, 15 and a portion of Lot 11 in Block 75, City of Camden, Camden County, New Jersey to Camden County Improvement Authority. Subsequent to the August 2008 Board authorization, Camden Redevelopment Agency notified NJ TRANSIT that it was not able to purchase the property due to current economic conditions and lack of financing. In August 2010, Camden County Improvement Authority contacted NJ TRANSIT seeking the subject property as part of future construction of higher education facilities for Rutgers University Camden Campus Expansion.

NJ TRANSIT staff determined that the subject property is excess property and has no current or future transportation purpose. NJ TRANSIT acquired the subject property solely with state funds; no federal approval is required for the sale of this property.

ACTION

Staff seeks authorization to take all necessary actions to rescind Board Item No. 0808-65 and to sell Lots 10, 12, 13, 14, 15 and a portion of Lot 11 in Block 75, City of Camden, Camden County, State of New Jersey to Camden County Improvement Authority at a cost of \$610,000, subject to Camden County Improvement Authority's approval of a resolution to purchase the property and obtaining funding for the purchase from Rutgers University which is financing the development project.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:

Staff seeks authorization to take all necessary actions to rescind Board Item No. 0808-65 and to sell Lots 10, 12, 13, 14, 15 and a portion of Lot 11 in Block 75, City of Camden, Camden County, State of New Jersey to Camden County Improvement Authority at a cost of \$610,000, subject to Camden County Improvement Authority's approval of a resolution to purchase the property and obtaining funding for the purchase from Rutgers University which is financing the development project.

Total Project Cost:

N/A

Projected Date of Completion:

May 2011

Anticipated Source of Funds:

N/A

Diversity Goal:

N/A

Related Authorizations:

N/A

Impacts of Subsequent Operating Budgets:

Additional Revenue of \$610,000

RESOLUTION

WHEREAS, the New Jersey Public Transportation Act of 1979, P.L. 1979, c. 150 authorizes NJ TRANSIT to lease, purchase and sell, or otherwise dispose of, on terms which NJ TRANSIT may prescribe, real and personal property; and

WHEREAS, NJ TRANSIT actively seeks to identify excess property with no current or future transportation use with the intention of selling such property to produce non-farebox revenue for NJ TRANSIT; and

WHEREAS, NJ TRANSIT has determined that it has no current or future use for the Property and has declared the Property excess and available for sale; and

WHEREAS, in August 2008, NJ TRANSIT Board authorized the sale of the Property to Camden Redevelopment Agency who subsequently notified NJ TRANSIT that it was unable to purchase the Property due to current economic conditions and lack of financing; and

WHEREAS, Camden County Improvement Authority seeks to purchase the Property at a cost of \$610,000, subject to Camden County Improvement Authority's approval of a resolution to purchase the property and obtaining funding for the purchase from Rutgers University which is financing the development project;

NOW, THEREFORE, BE IT RESOLVED staff seeks authorization to take all necessary actions to rescind Board Item No. 0808-65 and to sell Lots 10, 12, 13, 14, 15 and a portion of Lot 11 in Block 75, City of Camden, Camden County, State of New Jersey to Camden County Improvement Authority at a cost of \$610,000, subject to Camden County Improvement Authority's approval of a resolution to purchase the property and obtaining funding for the purchase from Rutgers University which is financing the development project.