



## **ALAMEDA-CONTRA COSTA TRANSIT DISTRICT**

### **MINUTES**

#### **Board of Directors - Regular Meeting**

CLOSED SESSION 4:00 PM for Agenda Items 8A-8E

HYBRID MEETING

AC Transit General Offices  
2nd Floor Board Room  
1600 Franklin Street, Oakland, CA 94612

Phone (669) 900 6833  
Webinar ID: 984 8717 5063  
Zoom link <https://actransit.zoom.us/j/9848717506>

**Wednesday, December 14, 2022 at 5:00 PM**  
**<https://bit.ly/3j5BGyW>**

#### **MEMBERS OF THE BOARD OF DIRECTORS**

**JOEL YOUNG, PRESIDENT (AT-LARGE)**  
**DIANE SHAW, VICE PRESIDENT (WARD 5)**  
**JOVANKA BECKLES (WARD 1)**  
**JEAN WALSH (WARD 2)**  
**SARAH SYED (WARD 3)**  
**MURPHY MCCALLEY (WARD 4)**  
**H. E. CHRISTIAN PEEPLES (AT-LARGE)**

#### **BOARD OFFICERS**

**MICHAEL A. HURSH, GENERAL MANAGER/CHIEF EXECUTIVE OFFICER**  
**JILL A. SPRAGUE, GENERAL COUNSEL/CHIEF LEGAL OFFICER**  
**LINDA A. NEMEROFF, BOARD ADMINISTRATIVE OFFICER/DISTRICT SECRETARY**

**1. CALL TO ORDER**

The Alameda-Contra Costa Transit District Board of Directors held a meeting on Wednesday, December 14, 2022, at 5:00 p.m.

The meeting was called to order at 3:45 p.m. for the purpose of Closed Session. All Board members were present, with the exception of Director Peeples who arrived at 3:47 p.m. The Board convened in Closed Session to discuss Items 7A-7E as listed on the agenda. Closed Session concluded at 4:42 p.m.

President Young called the Board of Directors meeting to order at 5:01 p.m.

**2. ROLL CALL**

**Present:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

**3. PUBLIC COMMENT**

[Written comment received prior to the meeting is attached hereto as Exhibit A.]

**Willie** commented on bus operators not being careful or attentive to safely secure disabled riders and asked AC Transit to address this concern.

**Omowale Fowles** advocated for the restoration of full service to Line 80. Fowles noted many people and consumer groups who expressed support this effort.

**4. MODIFICATIONS TO THE AGENDA**

There were no modifications to the agenda.

**5. CONSENT CALENDAR (AND CALL FOR PUBLIC COMMENT ON CONSENT ITEMS)**

MOTION: PEEPLES/SHAW to receive, approve or adopt the items on the Consent Calendar as indicated with the exception of Item 5.O. which was pulled off the consent calendar by Director McCalley. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.A.** Consider approving the minutes of the Joint Board of Directors/Retirement Board meeting held on October 19, 2022.

[22-619](#)

Staff Contact:

Linda Nemeroff, Board Administrative Officer/District Secretary

MOTION: PEEPLES/SHAW to Approve the minutes of the Joint Board of Directors/Retirement Board meeting held on October 19, 2022. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.B.** Consider approving the minutes of the Special Board of Directors

[22-628](#)

meeting on November 16, 2022.

Staff Contact:

Linda A. Nemeroff, Board Administrative Officer/District Secretary

MOTION: PEEPLES/SHAW to approve the minutes of the Special Board of Directors meeting on November 16, 2022. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.C.** Consider approving the minutes of the special Board of Directors meeting of December 2, 2022. [22-640](#)

Staff Contact:

Linda Nemeroff, Board Administrative Officer/District Secretary

MOTION: PEEPLES/SHAW to approve the minutes of the special Board of Directors meeting of December 2, 2022. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.D.** Consider the adoption of Resolution No. 22-046 making the necessary findings and re-authorizing the AC Transit Board of Directors and all District Advisory, Oversight, and Inter-Agency Liaison Committees to hold remote teleconference meetings during a declared state of emergency, subject to the requirements of the Brown Act, through January 13, 2023. [22-053p](#)

Staff Contact:

Linda A. Nemeroff, Board Administrative Officer/District Secretary

MOTION: PEEPLES/SHAW to adopt Resolution No. 22-046 making the necessary findings and re-authorizing the AC Transit Board of Directors and all District Advisory, Oversight, and Inter-Agency Liaison Committees to hold remote teleconference meetings during a declared state of emergency, subject to the requirements of the Brown Act, through January 13, 2023. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.E.** Consider receiving the Certificates of Election Results and the Official Canvas for Director At-Large Joel Young, Ward 4 Director Murphy McCalley, newly elected Ward 3 Director Sarah Syed, and Ward 5 Director Diane Shaw who was unopposed. [22-615a](#)

Staff Contact:

Linda Nemeroff, Board Administrative Officer/District Secretary

MOTION: PEEPLES/SHAW to receive the Certificates of Election Results and the Official Canvas for Director At-Large Joel Young, Ward 4 Director Murphy McCalley, newly elected Ward 3 Director Sarah Syed, and Ward 5 Director Diane Shaw who was

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unopposed. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.F.** Consider receiving the Accessibility Advisory Committee minutes of October 11, 2022. [22-626](#)

Staff Contact:

Ramakrishna Pochiraju, Executive Director of Planning & Engineering

MOTION: PEEPLES/SHAW to receive the Accessibility Advisory Committee minutes of October 11, 2022. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.G.** Consider approving the award of a contract to MarinShip Development Interest, LLC (of San Francisco) for the installation of a stormwater bioswale at the San Leandro Transit Center/San Leandro BART Station/BRT Southern Terminus. [22-642](#)

Staff Contact:

Ramakrishna Pochiraju, Executive Director of Planning & Engineering

MOTION: PEEPLES/SHAW to approve the award of a contract to MarinShip Development Interest, LLC (of San Francisco) for the installation of a stormwater bioswale at the San Leandro Transit Center/San Leandro BART Station/BRT Southern Terminus. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.H.** Consider receiving the Monthly Reports on Investments for September 2022. [22-600](#)

Staff Contact:

Chris Andrichak, Chief Financial Officer

MOTION: PEEPLES/SHAW to receive the Monthly Reports on Investments for September 2022. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.I.** Consider approving minor amendments to Board Policy 311 - Budgets [22-620](#)

Staff Contact:

Chris Andrichak, Chief Financial Officer

MOTION: PEEPLES/SHAW to approve minor amendments to Board Policy 311 - Budgets. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.J.** Consider receiving the semi-annual update on the Next Generation Clipper (C2) Program implementation. [22-606](#)

Staff Contact:

Ahsan Baig, Chief Information Officer

Beverly Greene, Executive Director of External Affairs, Marketing & Communications

MOTION: PEEPLES/SHAW to receive the semi-annual update on the Next Generation Clipper (C2) Program implementation. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.K.** Consider authorizing the General Manager to enter into contracts and approve annual renewal rates for Kaiser Permanente, Health Net, Vision Service Plan, MetLife Dental and Standard Life Insurance. [22-638](#)

Staff Contact:

Sebron Flenaugh III, Executive Director of Human Resources

MOTION: PEEPLES/SHAW to authorize the General Manager to enter into contracts and approve annual renewal rates for Kaiser Permanente, Health Net, Vision Service Plan, MetLife Dental and Standard Life Insurance. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.L.** Consider receiving the Monthly Legislative Report. [22-552](#)

Staff Contact:

Beverly Greene, Executive Director of External Affairs, Marketing & Communications

**Public Comment:**

**Steven Cooper** requested information regarding whether Senate Bill 917 would be moving forward into the next legislative session or if it is officially ended without action.

MOTION: PEEPLES/SHAW to receive the Monthly Legislative Report. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.M.** Consider approving amendments to, and the re-titling of, Board Policy 213 from "Prohibiting All Forms of Unlawful Employment Discrimination Including Sexual or Other Forms of Harassment" to "Prohibiting Unlawful Employment Discrimination, Harassment and Retaliation". [22-454](#)

Staff Contact:

Sebron Flenaugh III, Executive Directors of Human Resources

MOTION: PEEPLES/SHAW to approve amendments to, and the re-titling of, Board Policy 213 from "Prohibiting All Forms of Unlawful Employment Discrimination Including

Sexual or Other Forms of Harassment” to “Prohibiting Unlawful Employment Discrimination, Harassment and Retaliation”. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.N.** Consider the adoption of Resolution No. 22-047 authorizing the General Manager to enter into a Memorandum of Understanding with the American Federation of State, County and Municipal Employees (AFSCME) Local 3916 for an Appreciation Pay Bonus. [22-644](#)

Staff Contact:

Sebron Flenaugh III, Executive Director of Human Resources  
Michael Hursh, General Manager/Chief Executive Officer

MOTION: PEEPLES/SHAW to adopt Resolution No. 22-047 authorizing the General Manager to enter into a Memorandum of Understanding with the American Federation of State, County and Municipal Employees (AFSCME) Local 3916 for an Appreciation Pay Bonus. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 5.O.** Consider adopting the District’s three-year Disadvantaged Business Enterprise (DBE) Goal of 24% for Federal Fiscal Years (FFY) 2023 - 2025. [22-241b](#)

Staff Contact:

Michael Hursh, General Manager/Chief Executive Officer  
Lynette Little, Director of Civil Rights & Compliance

Director McCalley pulled Item 5.O. off the consent calendar to comment that he was pleased to see the DBE goal increased to 24%. There was no public comment offered.

MOTION: McCALLEY/SHAW to adopt the District’s three-year Disadvantaged Business Enterprise (DBE) Goal of 24% for Federal Fiscal Years (FFY) 2023 - 2025. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

## **6. REGULAR CALENDAR**

### **Finance and Audit Items - Chair Shaw**

- 6.A.** Consider receiving the Year-End Financial Statements and Independent Auditor’s Report for the Fiscal Year Ended June 30, 2022. [22-568](#)

Staff Contact:

Chris Andrichak, Chief Financial Officer

Chief Financial Officer Chris Andrichak presented the staff report. Brad Schelle of Crowe, LLC was also in attendance. Mr. Andrichak explained that although the independent financial auditor Crow, LLC issued a clean opinion, they noted a significant deficiency as outlined in attachments 9 and 11 of the report. The findings relate to the

projected and actuarial valuations of Other Post-Employment Benefits (OPEB) liability which has no effect on the operating expenses. Another deficiency was discovered in the lease accounting statements. In addition to the deficiencies, Staff Report 22-568 (page 3) was corrected to replace “increased” with “decreased” in the following statement on page 3: “It should also be noted that without the receipt of \$65.5 million of Federal Coronavirus Response and Relief Supplemental Appropriations (CRRSA) and American Rescue Plan (ARP) Act funding during the period the cumulative net position would have ~~increased~~ **decreased** modestly to \$107.3 at fiscal year-end.” Mr. Andrichak acknowledged the errors and explained that a corrective action plan is in place.

There was no public comment offered.

MOTION: YOUNG/PEEPLS to receive the Year-End Financial Statements and Independent Auditor’s Report for the Fiscal Year Ended June 30, 2022 including the outlined deficiencies and corrections. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 6.B.** Consider receiving a report from the District Parcel Tax Fiscal Oversight Committee on Measure VV/C1 tax proceeds for the year ended June 30, 2022. [22-583](#)

Staff Contact:

Chris Andrichak, Chief Financial Officer

Chief Financial Officer Chris Andrichak presented the staff report. There was no public comment offered.

MOTION: McCALLEY/YOUNG to receive a report from the District Parcel Tax Fiscal Oversight Committee on Measure VV/C1 tax proceeds for the year ended June 30, 2022. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

### Planning Items - Chair Beckles

- 6.C.** Consider receiving an update on the Metropolitan Transportation Commission’s (MTC) Regional Network Management (RNM) Business Case, including the proposed Near-term Framework. [22-641](#)

Staff Contact:

Ramakrishna Pochiraju, Executive Director of Planning & Engineering

[Written comment received prior to the meeting is incorporated into the file by reference.]

Director of Service Development and Planning Robert del Rosario presented the staff report.

**Public Comment:**

**Steven Cooper** urged the Board to not proceed with the March 1st launch of the Metropolitan Transportation Commission Regional Network Management (MTC RNM) Case without funding in-hand to manage expenses, which includes staff time, and resist pushback from the MTC regarding its unfair request for agency funding.

**Adina Levin**, Seamless Bay Area, commented on, and expressed support for, the MTC RNM proposal.

MOTION: PEEPLES/SYED to receive an update on the Metropolitan Transportation Commission's (MTC) Regional Network Management (RNM) Business Case, including the proposed Near-term Framework. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 6.D.** Consider adopting AC Transit's Bus Stop Furniture Guidelines. [22-403a](#)

Staff Contact:

Ramakrishna Pochiraju, Executive Director of Planning & Engineering

Transportation Planner Carissa Lee presented the staff report.

**Public Comment:**

**Omowale Fowles** noted that the Northbound bus stop at Ashby Avenue and Sacramento Street does not have a bus bench or other seating available for transit riders and requested this bus stop seating be added at this location.

MOTION: McCALLEY/WALSH to adopt AC Transit's Bus Stop Furniture Guidelines as presented. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 6.E.** Consider approving the submittal of the Short-Range Transit Plan (SRTP) to the Metropolitan Transportation Commission (MTC). [22-580](#)

Staff Contact:

Ramakrishna Pochiraju, Executive Director of Planning & Engineering

Senior Transportation Planner Nathan Landau presented the staff report.

**Public Comments:**

**Omowale Fowles** expressed concerns how the staff report notes that the Bayer Corporation expansion affects bus service along Seventh Street in Emeryville and asked staff to work with Bayer Corp to keep the street open.

**Adina Levin**, Seamless Bay Area, thanked staff for its work on the Short-range Transit Plan and commented on and how it addresses the finances involved on the Short-range Transit Plan.

MOTION: YOUNG/SHAW to approve the submittal of the Short-Range Transit Plan



(S RTP) to the Metropolitan Transportation Commission (MTC). The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

### Operations Items - Chair Young

- 6.F.** Consider receiving a report on how District Employees are engaged to provide feedback and suggestions, and how responses are facilitated [Requested by Director Walsh 1/12/2022]. [22-572](#)

Staff Contact:

Sebron Flenaugh III, Executive Director of Human Resources

Human Resources Manager Elisabeth West presented the staff report. Executive Director of Human Resources Sebron Flenaugh addressed questions. There was no public comment offered.

MOTION: WALSH/SHAW to receive the report and direct staff to provide a status/progress report on the initiatives discussed in six months. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 6.G.** Consider receiving the Quarterly Operations Performance Report for AC Transit Fixed Route Services during the First Quarter of Fiscal Year 22-23. [22-593](#)

Staff Contact:

Salvador Llamas, Chief Operating Officer

Assistant Director of Maintenance Chris Durant presented the staff report. There was no public comment offered.

MOTION: McCALLEY/BECKLES to receive the Quarterly Operations Performance Report for AC Transit Fixed Route Services during the First Quarter of Fiscal Year 22-23. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, McCALLEY, PEEPLES

- 6.H.** Consider receiving the Quarterly Protective Services Report for AC Transit during the First Quarter of Fiscal Year 2022-23. [22-599](#)

Staff Contact:

Salvador Llamas, Chief Operating Officer

Chief Operating Officer Salvador Llamas presented the staff report.

**Public Comment:**

**Omowale Fowles** commented on an incident and wished to express appreciation for a

Bus Operator who defused a situation on a bus.

**George Spies** requested information about what role the Alameda County Sheriff have in keeping the BRT corridor safe for pedestrians.

MOTION: SYED/SHAW to receive the Quarterly Protective Services Report for AC Transit during the First Quarter of Fiscal Year 2022-23. The motion carried by the following vote:

**Ayes:** YOUNG, SHAW, BECKLES, WALSH, SYED, MCCALLEY, PEEPLES

### **Board Administrative Matters - President Young**

- 6.I.** Announcement of appointments to the Nominating Committee for the selection of President and Vice President of the Board for 2023. [22-625](#)  
(Verbal)

Presenter:  
President Young

President Young announced the appointment of Directors Peeples, McCalley and Shaw to the Nominating Committee.

- 6.J.** Announcement of Interim Liaison Committee appointments. (verbal) [22-627](#)

Presenter:  
President Young

President Young announced the following interim Liaison Committee appointments: Director Syed is appointed to the City of Alameda/AC Transit Interagency Liaison Committee and Director Peeples is appointed to the Alameda County Transportation Commission (ACTC). President Young asked the District Secretary to notify the ACTC of the interim appointment of Director Peeples, which takes effect immediately.

### **7. CLOSED SESSION/REPORT OUT**

General Counsel Jill Sprague reported out on the following:

MOTION: PEEPLES/MCCALLEY to approve a settlement and compromise & release in the amount of \$105,000.00 on Cornelius v. AC Transit WCAB Case Nos. ADJ8599334, ADJ8926766, ADJ10406703, and ADJ8774612. The motion carried by the following vote:

**Ayes:** PEEPLES, MCCALLEY, BECKLES, WALSH, SYED, SHAW, YOUNG

MOTION: PEEPLES/YOUNG to approve a compromise & release in the amount of \$450,000.00 on Oliver v. AC Transit WCAB Case Nos. ADJ1967574, ADJ207089, ADJ1888509, ADJ2787478, ADJ2725287, ADJ586122, ADJ1408097, ADJ967580, ADJ2120880, ADJ690472, and ADJ1453735. The motion carried by the following vote:

**Ayes:** PEEPLES, YOUNG, BECKLES, WALSH, SYED, MCCALLEY, SHAW

**7.A. Conference with Legal Counsel – Existing Litigation**

(Government Code Section 54956.9 (a))

- Cornelius v. AC Transit, WCAB Case Nos. ADJ8599334; ADJ8926766; ADJ10406703; ADJ8774612

- Oliver v. AC Transit, WCAB Case Nos. ADJ1967574, ADJ207089, ADJ1888509, ADJ2787478, ADJ2725287, ADJ586122, ADJ1408097, ADJ967580, ADJ2120880, ADJ690472, ADJ1453735

**7.B. Conference with Legal Counsel – Potential Litigation (Two Cases)**

(Government Code Section 54956.9(b))

**7.C. Conference with Labor Negotiators**

(Government Code Section 54957.6):

Agency Designated Representative:

- General Manager Michael Hursh;

- Labor and Employee Relations Representative;

Employee Organizations: ATU Local 192, AFSCME Local 3916, IBEW Local 1245,

Unrepresented Employees

**7.D. Public Employee Performance Evaluation**

(Government Code Section 54957)

Title: General Manager, General Counsel, District Secretary

**7.E. Threat to Public Services and Facilities**

(Government Code Section 54957(a)):

Consultation with: Salvador Llamas, Chief Operating Officer.

**8. AGENDA PLANNING**

**8.A. Review of Agenda Planning Pending List.**

[22-065t](#)

Agenda Planning requests from Vice President Shaw and Directors Peeples and Walsh were accepted.

**9. GENERAL MANAGER'S REPORT**

General Manager Michael Hursh stated no additional information to report.

**9.A. General Manager's Report for December 14, 2022.**

[22-041t](#)

The General Manager's Report was presented for information only.

**10. BOARD/STAFF COMMENTS**

(Government Code Section 54954.2)

Board Members and Staff commented on meetings, conferences, and events they attended

since the last Board meeting.

**11. ADJOURNMENT**

Next Meeting: January 11, 2022 at 5:00 p.m.

There being no further business to come before the Board of Directors, the meeting adjourned at 7:20 p.m. The next meeting of the Board is scheduled for January 11, 2023 at 5:00 p.m.

Respectfully submitted,

/s/

Linda A. Nemeroff

District Secretary

**Item**

**3. PUBLIC COMMENT**

**Public Comments**

- Guest User: Hello Board of Directors, I am writing in to express my extreme discontent with the way the AFSCME contract continue to be disregarded by the Executive Staff. Recently, a grievance was filed on behalf of Division Management by AFSCME President regarding hybrid telework. The District failed to respond to the grievance. Therefore, The District's failure to adhere to the timelines of the grievance procedure caused the grievance to be deemed resolved in favor of the union. The Labor Relations Manager Acknowledged that the grievance was lost on time. The division management then proceeded to request telework days with our managers and majority of the requests were approved. A week later the Executive staff sent out an email stating that Transportation Managers and Supervisors need to report to work 5-days a week. The email did not acknowledge that all the elements were met as set forth in Admin Reg No.254A as well not mentioning that a grievance was filed and lost on time. The email completely disregarded the Collective Bargaining Agreement causing the morale to go down across the department. This especially being that we have jobs where we are enforcers of the CBA's, Board Policies and Operations User Guides. We expected to uphold bylaws and discipline people for violating them when we are constantly experiencing the district violating us and our CBA. Why are there contract negotiations and collective bargaining agreements but one party doesn't hold up their end of the agreement? All that I am asking is, if there is written language that is clear and concise, do the right thing by AFSCME as you would any other Union. Thank you for your time.