



ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

MINUTES

Board of Directors - Regular Meeting

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

Wednesday, January 22, 2020 at 5:00 PM
Closed Session - 4:00 PM (Items 8A-8D)

MEMBERS OF THE BOARD OF DIRECTORS

JOE WALLACE, PRESIDENT (WARD 1)
ELSA ORTIZ, VICE PRESIDENT (WARD 3)
GREG HARPER (WARD 2)
MARK WILLIAMS (WARD 4)
DIANE SHAW (WARD 5)
H. E. CHRISTIAN PEEPLES (AT-LARGE)
JOEL YOUNG (AT-LARGE)

BOARD OFFICERS

MICHAEL A. HURSH, GENERAL MANAGER
JILL A. SPRAGUE, GENERAL COUNSEL
LINDA A. NEMEROFF, DISTRICT SECRETARY

1. CALL TO ORDER

The Alameda-Contra Costa Transit District Board of Directors held a meeting on Wednesday, January 22, 2020, at 5 p.m.

The Board of Directors convened in Closed Session at 4:06 p.m. to discuss items 8A-8D as listed on the agenda. All Board members were present. Closed Session concluded at 4:30 p.m.

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

2. ROLL CALL

Present: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

3. PRESENTATION

Steve Walluch with Platinum Advisors gave an update on State legislative activities.

3.A. Update on State Legislative Activities.[20-071](#)

Steve Wallauch of Platinum Advisors gave an update on state legislative activities, including an overview of the Governor's budget, transportation funding, forecasted appropriation of Cap & Trade Program funds, workforce training programs, the proposed climate resiliency bond, and legislative items that might be of interest to the District.

Vice President Ortiz commented on AB 1350 (Gonzalez): free student bus passes, saying that the legislature would need to ensure that transit operators receive stable funding with a cost of living increase to ensure the District is fully reimbursed if the law is passed. Mr. Wallauch agreed that the bill was concerning because it was uncertain at this point how it would be funded.

Director Williams inquired about SB 278 (Beall): Faster Bay Area proposal, asking what Bay Area Senators thought about the bill. Mr. Wallauch advised that there was a lot of sensitivity to a sales tax measure in each of the counties in the Bay Area. He added that there was an effort to provide a tax credit to low income residents as well as a means-based fare. These were serious concerns.

Director Williams also asked about Assemblyman Chiu's proposal that would create a commission charged with coordinating transit service in the Bay Area and establish a regional "network manager" that would have authority over all transit operators' schedules and fares. Mr. Wallauch advised that there were concerns about how this proposal would work. President Wallace expressed his opinion that low income riders always seem to suffer more from regional planning efforts. Vice President Ortiz expressed her sense that there has been a movement afoot to consolidate all the Bay Area transit agencies into one large organization. Director Peeples commented that this has been part of the Metropolitan Transportation Commission's job and they haven't done it. Mr. Wallauch advised that there was already legislation in place to

create a transit commission. Director Young expressed an interest in having District representation on any commission that is formed. Director Harper commented that the region needed a seamless bus transit system.

With regard to the fuel tax, Director Young asked if there had been any discussions of what is going to happen when people are buying less fuel. Mr. Wallauch advised that the state is looking to possibly address this through a vehicle miles traveled program along with research on how other states are implementing similar programs.

The report was presented for information only.

4. PUBLIC COMMENT

There were no public comments offered.

5. MODIFICATIONS TO THE AGENDA

There were no modifications to the agenda.

6. CONSENT CALENDAR

Approval of the Consent Agenda

MOTION: ORTIZ/PEEPLES to receive and approve the items on the Consent Calendar, as indicated. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

6.A. Consider approving Board of Directors minutes of January 8, 2020. [20-006](#)

6.B. Consider authorizing Director Peeples to attend the ZEBRA Infrastructure OEM Roundtable on February 19-20, 2020, in Seattle, Washington. [20-072](#)

6.C. Consider receiving the Monthly Report on Investments for November, 2019. [20-044](#)

6.D. Consider receiving the monthly legislative report. [20-014](#)

7. REGULAR CALENDAR

External Affairs Items - Chair Ortiz

7.A. Consider approving the District's Federal and State Legislative Advocacy Programs for 2020. [20-011](#)

Director of Legislative Affairs and Community Relations Claudia Burgos presented the staff report.

MOTION: PEEPLES/WILLIAMS to approve the District's Federal and State Legislative Advocacy Programs for 2020. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

7.B. Consideration of recommendations regarding proposed amendments to Transit District Law.

[20-048](#)

Assistant General Counsel Jill Sprague presented the staff report.

Vice President Ortiz asked for clarification of the following recommendations, which were addressed by staff without any further discussion or amendments:

- Recommendation #5 of the staff report, related to filling the vacancies on the Board. Ms. Sprague responded that the extension of time to fill a vacancy from 60 days to 90 days would allow the Board more time to fill a vacancy.
- Recommendation #7, PUC § 24937, related to publication of annual financial report. General Manager Michael Hursh advised that 90 days was enough time to perform the audit and staff was requesting additional time.

Vice President Ortiz also requested changes in the following recommendations:

- Recommendation #7, PUC § 24932, to clarify “the attorney” as it not clear whether it relates to General Counsel or legal attorneys. Vice President Ortiz asked that the term “attorney” be changed to “General Counsel” in the statute.
- Recommendation #7, PUC § 24936(h) related to full devotion of General Manager’s time to the business of the District. Vice President Ortiz requested that this provision be extended to all Board Officers, including the General Counsel and District Secretary. Director Peeples agreed, but believed that there was a need for some flexibility. It was proposed that the code section apply to all Board Officers, but the Board could approve exceptions on case-by-case basis upon request by a Board Officer. Vice President Ortiz concurred.

With regard to Recommendation #4 related to PUC § 24647-Elections and staff’s concerns regarding the California Voting Rights Act, Director Young advised that he had reviewed the statute, had done independent research, received legal education and had discussed it with an attorney who specialized in this area of the law and had concluded that the risk to the District would exist regardless of whether the statute was amended or not. He further advised that in his research, much of the litigation is directed at public entities that have boards or councils that are entirely at-large. He further believed the District was well positioned to defend itself if sued in the future.

Director Young requested a change to PUC § 24647 that would amend the qualifications to get on the ballot by either gathering signatures (written petition) or by paying a fee (similar to the assembly, senate or county offices). He added that the Board could determine the number of signatures to be gathered and the associated fee by ordinance or resolution, as deemed appropriate. [Note: § 24647 is applicable to ward and at-large candidates].

MOTION: YOUNG/PEEPLES to approve the staff recommendations with the three changes requested by Vice President Ortiz and Director Young. The motion carried by

the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

7.C. Consider approving an amendment to Board Policy 702 - Conflicts of Interest and Standards for Ethical Conduct

[20-059](#)

General Counsel Denise Standridge presented the staff report, advising that an issue had arisen concerning a director's violation of the Brown Act and Board Policy by disclosing closed session information. Ms. Standridge advised that the nature of the policy amendment is to exclude anyone from closed session who has disclosed confidential information about the subject of the closed session without first obtaining approval from the Board of Directors.

Director Harper admitted that he was the director who had removed information from closed session because he did not believe it was confidential, because there was not the required discussion about how the information related to terms in the contract being negotiated. He argued that Government Code Section 54963(e) states that it is not a violation of the Brown Act to disclose information that is not confidential. He believed that the change in policy amounted to an attempt to eliminate his defense. He further accused the District of using closed session too broadly, thereby keeping far too much information, in his estimation, from the press, riders, and the public. He believed that the policy language contained in section E needed to expressly say "confidential" information in order to be consistent with the law.

President Wallace asked Ms. Standridge to respond, but was advised that without a waiver of privilege from the Board of the confidential legal opinion, it was difficult to have a discussion about the issue.

MOTION: PEEPLES/WALLACE To waive the privilege with respect to aforementioned legal opinion except for the appendices to said opinion. The motion carried by the following vote:

AYES:7: Peeples, Wallace, Harper, Williams, Shaw, Young, Ortiz

Ms. Standridge advised that outside counsel had provided the specific language for the Policy 702 amendment, noting that the amendment is under section E. of the policy pertaining to confidential information and assumes that the information being referenced in this section is only confidential information. She added that the staff report was very clear that there was a violation of the Brown Act and the Board Policy and this is confirmed in the legal opinion from outside counsel.

Public Comment:

Yvonne Williams, President of ATU Local 192, commented on Director Harper's actions, noting that it was an attempt to discredit ATU and paint the workforce as lazy and unwilling to show up for work and provide service to the public. She believes Director Harper's actions were worthy of censure by the Board given his tenure on the Board

and blatant ignorance of the rules.

MOTION: YOUNG/WILLIAMS to approve an amendment to Board Policy 702 - Conflicts of Interest and Standards for Ethical Conduct The motion carried by the following vote:

Ayes: Ortiz, Wallace, Williams, Peeples, Young, Shaw

Nayes: Harper

Planning Items - Chair Peeples

- 7.D.** Consider receiving a report on the evaluation of the in-service double deckers with a recommendation to purchase more when funds become available. [20-012](#)

Senior Transportation Planner Linda Morris presented the staff report.

Vice President Ortiz asked staff to comment on the manufacturing concerns associated with the double-decker buses. Chief Operating Officer Salvador Llamas advised that the original buses had minor issues concerning the design of the air conditioning vents and retrofitting of the rest of fleet was necessary by the manufacturer to correct the issue.

Director Shaw commented on the popularity of the buses among riders, and asked if the cities would be willing to help defray the cost of tree trimming if the double-decker buses were rolled out on other lines. Ms. Morris advised that staff planned to identify the routes early in the process to allow more time for cities to trim trees along the route.

Director Shaw asked if other bus facilities would be upgraded to accommodate the buses. Ms. Morris advised that Division 3 in Richmond was the only yard that could accommodate the buses, but there were plans to upgrade Division 4 in Oakland so the buses could be stored in a more central location.

Director Williams asked if operators would be taken off of local service in his area to operate Transbay service in other areas. Ms. Morris advised that Regional Measure 3 funding provided specific funding for the Transbay service which also included operating money.

Director Harper commented on staff's foresight in implementing double-decker buses as a way to address BART capacity issues.

Director Peeples asked about the implications of the purchase of Alexander Dennis by New Flyer. Mr. Llamas noted that this would improve responsiveness in providing supplies and support of the vehicles.

MOTION: ORTIZ/WALLACE to receive a report on the evaluation of the in-service double deckers with a recommendation to purchase more when funds become available. The

motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

- 7.E.** Consider adopting the AC Transit Clean Corridors Plan 2020, which updates the original Clean Corridors Plan, to coordinate the rollout of zero-emission buses to equity goals while considering vehicle range. [20-017](#)

Service Planning Manager Michael Eshleman presented the staff report.

Director Shaw asked if staff factored a city's climate action plan into their recommendations. Mr. Eshleman advised that staff is working with cities to ensure everyone is working together to meet local, regional and state climate goals.

Director Harper questioned whether it made sense for current blocks and routes to have that much impact over the next 20 to 30 years, noting that when Division 3 was closed, buses operated out of other divisions. He encouraged staff to take a broader view of facility usage and fuel cost, rather than current blocks and routes. Mr. Eshleman advised that blocks and routes were more important now and would become less important as time goes on.

MOTION: ORTIZ/WALLACE to adopt the AC Transit Clean Corridors Plan 2020, which updates the original Clean Corridors Plan, to coordinate the rollout of zero-emission buses to equity goals while considering vehicle range. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

- 7.F.** Consider approving amendments to Board Policy 546 - Standards for Operation of Supplementary Service. [20-016](#)

Service Planning Manager Michael Eshleman presented an overview of the policy amendments.

Vice President Ortiz commented that due to the Portantino bill (school start times), the District would need to receive information about bell times from schools earlier than stated in the policy in order to estimate the cost and determine whether the District will be able to provide the service. General Manager Michael Hursh agreed, but felt that staff needed to keep the issues related to the Portantino bill separate because it would involve a lot of one-time shifting of the bell times. He added that the District has made it clear to school districts that the Portantino bill is a game changer and we are not making any commitments on what we can do.

Director Shaw inquired about the irregular minimum days and dismissals, and wanted to know if there were any students left when the regular service runs and whether operators should be assigned to other routes in those instances. Mr. Eshleman advised that there is minimum ridership. Mr. Hursh commented that Transbay and Supplemental service were priority services, adding that supplemental service is still

open to the public.

Director Harper hoped that we could try to be as accommodating as possible to the schools.

Public Comment:

Kimberly Raney, Executive Director of Transportation for the Oakland Unified School District, commented that one issue they have with policy change involves irregular days and early dismissals. She added that these changes would impact Skyline and Monterra Schools and would affect about 1,000 students and asked that special consideration be given on minimum days, citing equity concerns. OUSD will work with the District to ensure the District is not hurt operationally.

MOTION: YOUNG/WALLACE to Approved Consider approving amendments to Board Policy 546 - Standards for Operation of Supplementary Service. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

- 7.G** Consider adoption of Resolution 20-010 supporting a Bus-only lane on the Bay Bridge. [Requested by Vice President Ortiz] [20-074](#)

There was no presentation of the staff report.

Vice President Ortiz commented that a transit only lane was needed on the Bay Bridge to improve bus service and help relieve congestion on the bridge and overcrowding on BART. She added that Assemblyman Banta would consider introducing legislation to create the lane and a coalition of different stakeholders is being organized. She asked the Board to support the resolution, which was also being considered by several other agencies and cities. She further advised that accessing the bridge and exiting the bridge would be part of the proposal.

Director Peeples commented that he has been working on this effort for 20 years and was glad to see it gaining momentum.

Public Comment:

Ian Monroe, East Bay for Everyone, commented in support of the resolution.

David Vartanoff commented in support of the resolution.

Derek Sagehorn, East Bay for Everyone, commented that his organization was part of the Tranbay coalition and they are excited about the resolution which is gaining momentum. He further advised that the bus only lane would benefit transit riders and bus operators.

Yvonne Williams, President of ATU Local 192, thanked Vice President Ortiz for reaching out to the Union who was in favor of it and would lend its support to the effort.

MOTION: WILLIAMS/WALLACE to adopt Resolution 20-010 supporting a Bus-only lane

on the Bay Bridge. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

Operations Items - Chair Shaw

- 7.H.** Consider the adoption of Ordinance No. 17 Fare Evasion Citation and Adjudication Process for the Alameda-Contra Costa Transit District. [19-208c](#)

There was no presentation of the staff report.

President Wallace commented that it was going to take time for the public to get accustomed to paying the fare and the new machines off the bus.

MOTION: YOUNG/ORTIZ to adopt Ordinance No. 17 Fare Evasion Citation and Adjudication Process for the Alameda-Contra Costa Transit District. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

- 7.I.** Consider adoption of Resolution 20-002 approving the new classification of Drug and Alcohol Compliance Representative and the revised classification of Payroll Administrator. [20-004](#)

There was no presentation of the staff report.

MOTION: ORTIZ/WALLACE to adopt Resolution 20-002 approving the new classification of Drug and Alcohol Compliance Representative and the revised classification of Payroll Administrator. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

- 7.J.** Consider receiving status update on the recruitment and hiring effort for bus operators and mechanics. [Requested by Director Shaw - 11/13/19] [20-018](#)

[A recruitment video was presented at the meeting.]

Human Resource Manager Yvonne Castro and Marketing and Communications Manager Nichele Laynes presented the staff report.

Director Williams inquired about the Unity Council's involvement in recruitment efforts. Acting Senior Human Resources Administrator Monique Chappell reported that the District has reviewed candidate driving records to ensure they meet the District's driving standards and is considering 15-20 applicants. Staff is working to ensure that we meet established timeline to have the cohorts ready to start their first class. She also commented on feedback received about the program.

Director Harper asked about retention. Ms. Castro advised that it was important to help candidates understand the opportunities that AC Transit provides and the resources available to them. General Manager Michael Hursh advised that the District

has also partnered with ATU to create an operator mentor program that pairs veterans' operators with new operators to help them get acclimated to the job. He also commented on new operator graduations and how bus operators connect with the community and recognize operators out at the divisions.

Director Shaw asked if staff partnered with community colleges to offer courses that would help train mechanics. Ms. Castro advised that staff shares current openings with local colleges and is looking for ways to partner with them.

Director Harper advised that he had heard complaints about the application and hiring process. He added that Human Resources needs to take a look at its processes to be more flexible.

Public Comment:

Kennard Plummer, Business Agent for ATU Local 192, commented on the hiring of people with little or no education which has led to fewer people completing the program. In addition, new operators are not being given enough time to acclimate to what it takes to drive a bus, which is causing new operators a lot of stress, especially at night.

Latrina Meredith, Vice President of ATU Local 192, complained about the Human Resource Department saying that there is not enough communication with applicants about the status of their applications and that it took too long to process them. She also complained about the testing process.

MOTION: ORTIZ/WILLIAMS to receive status update on the recruitment and hiring effort for bus operators and mechanics. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

- 7.K.** Consider receiving a report on wheel chair ramp/lift maintenance, operator pre-checks and how lift issues are managed including an analysis of the September 2019 road calls. [Requested by Director Shaw - 10/9/19]

[20-037](#)

Director of Maintenance Cecil Bandon presented the staff report.

MOTION: WILLIAMS/WALLACE to receive a report on wheel chair ramp/lift maintenance, operator pre-checks and how lift issues are managed including an analysis of the September 2019 road calls. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

- 7.L.** Consider adopting Board Policy 211 - Lactation Accommodation Policy.

[20-060](#)

There was no presentation of the staff report.

MOTION: YOUNG/ORTIZ to approve Board Policy 211 - Lactation Accommodation Policy. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

Board Administrative Matters:

- 7.M.** Consider adopting Resolution No. 20-008 honoring the legacy and achievements of Art Shanks, co-founder of Oakland's Cypress Mandela Training Center. [Requested by Director Williams - 1/8/20] [20-064](#)

MOTION: ORTIZ/YOUNG to adopt Resolution No. 20-008 honoring the legacy and achievements of Art Shanks, co-founder of Oakland's Cypress Mandela Training Center. The motion carried by the following vote:

Ayes: Ortiz, Wallace, Harper, Williams, Peeples, Young, Shaw

- 7.N.** Announcement of Chair and Liaison Committee assignments for Calendar Year 2020. [20-058](#)

President Wallace announced the following Chair assignments for Calendar Year 2020:

External Affairs - Vice President Ortiz
Planning - Director Shaw
Operations - Director Young
Finance & Audit - Director Peeples

Liaison Committee assignments were entered into the record as Staff Report 20-058.

8. CLOSED SESSION/REPORT OUT

Assistant General Counsel Jill Sprague advised that there was nothing to report out of Closed Session.

8.A. Conference with Legal Counsel – Existing Litigation

(Government Code Section 54956.9 (a))

- Lehman, et al. v. Transbay Joint Powers Authority, et al., SFCSC Case No. CGC-16-553758
- Ying, et al. v. Transbay Joint Powers Authority, et al., SFCSC Case No. CGC-17-559210
- Turgeon, et al. v. Transbay Joint Powers Authority, et al., SFCSC Case No. CGC-18-564417

8.B. Conference with Legal Counsel – Potential Litigation

(Government Code Section 54956.9(b)) (Two Cases)

8.C. Conference with Labor Negotiators

(Government Code Section 54957.6):

Agency Designated Representative:

- General Manager Michael Hursh;
 - Acting Executive Director of Human Resources Nathaniel Kramer;
- Employee Organizations: ATU Local 192, AFSCME Local 3916, IBEW Local 1245,
Unrepresented Employees

8.D. Public Employee Performance Evaluation

(Government Code Section 54957)

Title: General Manager, General Counsel, District Secretary

9. AGENDA PLANNING**9.A. Review of Agenda Planning Pending List.**[20-010a](#)

Director Shaw requested a report on what it would take to eliminate fareboxes on new Transbay busessince the majority of Transbay riders use Clipper. (Director Young concurred)

10. GENERAL MANAGER'S REPORT**10.A. General Manager's Report for January 22, 2020.**[20-008a](#)**11. BOARD/STAFF COMMENTS**

(Government Code Section 54954.2)

Members of the Board commented on meetings and events attended since the last Board meeting.

12. ADJOURNMENT

Next Meeting: February 12, 2020 at 5:00 p.m.

There being no further business to come before the Board of Directors, the meeting adjourned at 6:59 p.m. The next meeting of the Board is scheduled for February 12, 2020 at 5:00 p.m.

Respectfully submitted,

/S/

Jelena Harada

Assistant District Secretary