



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

### **MINUTES**

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

CLOSED SESSION 4:30 PM for Agenda Items 8A-8D

VIRTUAL MEETING

Phone (669) 900 6833

Webinar ID: 984 8717 5063

**Wednesday, April 27, 2022 at 5:00 PM**

**<https://bit.ly/3LsMhx4>**

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

**ELSA ORTIZ, PRESIDENT (WARD 3)**

**JOEL YOUNG, VICE PRESIDENT (AT-LARGE)**

**JOVANKA BECKLES (WARD 1)**

**JEAN WALSH (WARD 2)**

**MURPHY MCCALLEY (WARD 4)**

**DIANE SHAW (WARD 5)**

**H. E. CHRISTIAN PEEPLES (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, April 27, 2022, at 5:00 p.m.

The meeting was called to order at 4:16 p.m. for the purpose of Closed Session. All Board members were present. The Board convened in Closed Session to discuss Items 8A-8D as listed on the agenda. Closed Session concluded at 4:55 p.m.

President Ortiz called the Board of Directors meeting to order at 5:03 p.m.

**2. ROLL CALL**

Vice President Young was present for closed session but did not attend the open session meeting.

**Present:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

**3. WELCOME & INTRODUCTION OF NEW BOARD MEMBER**

New Ward 4 Director Murphy McCalley thanked the Board for the opportunity to complete the remainder of former Director Mark Williams' term. Director McCalley thanked the employees for their assistance in getting him up to speed on Board matters and expressed appreciation for all the employees who have endured hardships during the Covid-19 pandemic. Finally, Director McCalley looked forward to serving to improve the lives of the people of Ward 4.

**4. PUBLIC COMMENT**

**Sheela Gunn- Cushman** asked that signage at bus stops be lowered to assist in viewing by impaired riders like the signage at bus stops at BART. Gunn-Cushman also commented on her experience with bus drivers who insist on visually impaired riders being seated before they can complete the Clipper Card fare action, which Gunn-Cushman noted affects how AC Transit learns about Clipper Card use.

**Joe Kunzler** thanked drivers for providing safe service to the riders.

**Tom Yamaguchi** commented about the lack of bus service on Ashby Avenue and how the intended re-routing of Line 79 to replace the discontinued Line 80 has not been completed yet. Yamaguchi asked the Board to ensure the return of bus service for this community, including restoring bus service on the weekends.

**Chonita Chew** noted the need to reinstall Line 80 bus service and commented on the lack of work to address community concerns to bring back bus service. Chew expressed appreciation for the new Board Member Murphy McCalley and hoped for more electric buses in the Castro Valley area.

**5. MODIFICATIONS TO THE AGENDA**

There were no modifications to the agenda.

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

There was no public comment offered on the consent calendar.

MOTION: MCCALLEY/BECKLES to receive, approve or adopt the items on the Consent Calendar as indicated. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 6.A.** Consider authorizing members of the Board of Directors and General Manager to attend the American Public Transportation Association (APTA) 2022 APTAtech Conference on August 14-17, 2022 in Denver, Colorado. [22-259](#)

MOTION: MCCALLEY/BECKLES to authorize members of the Board of Directors and General Manager to attend the American Public Transportation Association (APTA) 2022 APTAtech Conference on August 14-17, 2022 in Denver, Colorado. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 6.B.** Consider authorizing the General Manager or his designee to file and execute grant applications and funding agreements, and certifications and assurances with the State of California for an allocation of Senate Bill 1 (SB 1) Local Partnership Program (Formulaic) to secure funding for the following projects; Purchase of Zero Emission Forklifts, D4 Entrance and Exit Gates, and D6 Security Enhancements Phase 2 projects. [22-217](#)

MOTION: MCCALLEY/BECKLES to authorize the General Manager or his designee to file and execute grant applications and funding agreements, and certifications and assurances with the State of California for an allocation of Senate Bill 1 (SB 1) Local Partnership Program (Formulaic) to secure funding for the following projects; Purchase of Zero Emission Forklifts, D4 Entrance and Exit Gates, and D6 Security Enhancements Phase 2 projects. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 6.C.** Consider receiving the Bi-Monthly budget update for the period of July 2021 through February 2022 of FY 2021-22. [22-227](#)

MOTION: MCCALLEY/BECKLES to receive the Bi-Monthly budget update for the period of July 2021 through February 2022 of FY 2021-22. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 6.D.** Consider receiving the Monthly Report on Investments for February 2022. [22-229](#)

MOTION: MCCALLEY/BECKLES to receive the Monthly Report on Investments for February 2022. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 6.E.** Consider adoption of Resolution No. 22-014 authorizing the General Manager, or his designee, to file and execute applications and funding agreements with the Metropolitan Transportation Commission (MTC) for Fiscal Year (FY) 2022-23 allocations of Transportation Development Act (TDA), State Transit Assistance (STA), Assembly Bill 1107 (AB 1107) and Regional Measure 2 (RM2) bridge toll revenues. [22-233](#)

MOTION: MCCALLEY/BECKLES to adopt Resolution No. 22-014 authorizing the General Manager, or his designee, to file and execute applications and funding agreements with the Metropolitan Transportation Commission (MTC) for Fiscal Year (FY) 2022-23 allocations of Transportation Development Act (TDA), State Transit Assistance (STA), Assembly Bill 1107 (AB 1107) and Regional Measure 2 (RM2) bridge toll revenues. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 6.F.** Consider authorizing the District to participate in a Department of Energy Advanced Research Projects Agency (ARPA)-Energy SCALEUP Program by contributing District data and staff time. [22-267](#)

MOTION: MCCALLEY/BECKLES to authorize the District to participate in a Department of Energy Advanced Research Projects Agency (ARPA)-Energy SCALEUP Program by contributing District data and staff time. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 6.G.** Consider authorizing the General Manager to exercise the five-year option to extend AC Transit's contract for transit advertising services on the District's bus fleet with Lamar Transit, LLC. [15-049b](#)

MOTION: MCCALLEY/BECKLES to authorize the General Manager to exercise the five-year option to extend AC Transit's contract for transit advertising services on the District's bus fleet with Lamar Transit, LLC. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 6.H.** Consider receiving a briefing on the Next Generation Clipper (C2) Program implementation. [22-178](#)

MOTION: MCCALLEY/BECKLES to receive a briefing on the Next Generation Clipper (C2) Program implementation. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

## **7. REGULAR CALENDAR**

### **Operations Items - Chair Young**

- 7.A.** Consider the adoption of Resolution 22-017 confirming the approval of an extension of the 2019-2022 Collective Bargaining Agreement with the Amalgamated Transit Union (ATU), Local 192 through June 30, 2025. [22-257](#)

General Counsel Jill Sprague presented the staff report.

There was no public comment offered.

MOTION: ORTIZ/MCCALLEY to adopt Resolution 22-017 confirming the approval of an extension of the 2019-2022 Collective Bargaining Agreement with the Amalgamated Transit Union (ATU), Local 192 through June 30, 2025. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 7.B.** Consideration of Centers for Disease Control and California Department of Public Health guidance regarding face masks on public transportation and at District facilities. (verbal) [22-287](#)

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

President Ortiz announced that the item did not follow the usual agenda planning process and was added to the agenda as an urgency item at the request of Directors Walsh and Beckles.

General Manager Michael Hursh explained that the U.S. Department of Homeland Security had dropped its masking requirement overnight and the Centers for Disease Control followed suit. He added that while the public was strongly encouraged to continue wearing masks and masks and hand sanitizer were available on buses, the mandate was dropped due to operator safety concerns, which could arise if operators

must enforce a mask mandate. This was also a concern shared by ATU International.

General Counsel Jill Sprague explained that a court in Florida ruled that the mask mandate was unenforceable and illegal, which resulted in numerous government agencies dropping their mask mandates while still recommending that people continue to wear masks. She added that the California Department of Public Health also dropped its mask mandate. Ms. Sprague advised that while the Department of Justice is appealing the decision, it would likely be a lengthy process and there is currently no federal or state requirement on which to base a continued mask mandate.

**Public Comment:**

**John Minot**, East Bay Transit Riders Union (EBTRU), urged the Board to find a way to implement a mask requirement to protect the most vulnerable riders. Minot asked the Board to follow the facts about masking and to make its own informed decision, not to “follow the pack” regarding other mask mandates/policies.

**Yvonne Williams** commented that a mask policy should not be a dual policy - one for riders and one for operators. Williams noted that whatever masking policy is decided, it should affect riders and bus drivers fairly and in the same way.

**Joe Kunzler** noted that the protection of the most vulnerable riders is paramount and a mask policy is necessary for public safety.

**Hamilton Carter** expressed concern for operators and vulnerable riders without a mask mandate in place. Carter commented on why a mask policy is necessary for public safety.

**Sheela Gunn-Cushman** commented on why a mask policy is necessary for public safety and offered personal experience why a mask policy is important and necessary to allow all riders to get to their destination.

**Patrice** noted how additional rules and the removal of a mask mandate does not help with operator safety and commented on personal observations to this viewpoint.

**Beth Kenny** noted support of the AC Transit mask mandate and commented on why a mask policy is necessary for public safety.

**Ron**, D6 Operator, expressed unhappiness with the ending of the mask mandate, noting the bad behavior of some disgruntled bus riders would make it less safe for bus operators.

**Raia Small**, Senior & Disability Action, commented on the higher risk of Covid-19 and “Long Covid” to bus riders who are people of color, youths, and seniors. Small noted that masking is a cheap and easy way to improve public safety and that the bus is the only way to get around for many riders.

**Chonita Chew**, United Seniors of Oakland and Alameda County, expressed a neutral position on a mask mandate but encouraged all seniors to wear masks. Chew expressed hope that masks and hand sanitizer remain on buses until the end of the year and that management keeps hand sanitizer dispensers on the buses filled.

**Devin** commented on why a mask policy is necessary for public safety and noted how a mask policy/mandate by the Board would show leadership to riders and district employees, which Devin stated is really needed right now.

**Mary Hector** commented on why a mask policy is necessary for public safety and how

research shows covid-19 exposure creates longer term health issues and that mask protection should be reinstated on all buses.

**Sultana Adams**, D3, Assitant Shop Steward, commented on why a mask policy is necessary for public safety and noted why the Board must continue a mask policy. Adams pointed out that many buses run at full capacity now and riders need to be protected through a mask mandate.

**Warren Cushman** expressed support for a mask mandate for the foreseeable future on buses and commented on the importance of safety for bus riders, especially disabled bus riders, in the face of the conflict arising from rights of mask-policy supporters and detractors.

**Tywonya**, D3 Operator, expressed the view that the Board and management show a lack of leadership regarding the mask mandate and that stronger leadership and clear communication to operators is needed.

**Jessica Lehman**, Senior and Disability Action, commented on why a mask policy is necessary for public safety and how the uncertainty of mask enforcement forces most vulnerable riders to rethink riding the bus for their regular needs.

**Vanessa Miller**, D6 Operator, commented on the challenges for bus operators in enforcing mask usage on buses without any backup and that the mixed message to the public creates an ongoing challenge with riders about the importance of the wearing masks properly on the buses.

**Emma Martin**, System Change Advocate, Center for Independent Living, affirmed the sentiment to reinstate a mask mandate on buses and commented on why a mask policy is necessary for public safety.

**Ted Jackson**, Ex Director, Center for Independent Living, commented on why a mask policy is necessary for public safety. Jackson expressed concern with the lack of a mask mandate, noting the community's fear for health and safety, and hoped for a Board vote to reinstate a mask mandate.

**Hamie** requested the reinstatement of a mask mandate for AC Transit because riding the buses is unsafe without the mandate in place.

**Dixie** made an unintelligible comment.

**Cherelle Jackson** requested that the Board ensure riders continue to have a safe experience on the bus and noted the Board must keep citizens protected.

#### **Board Discussion:**

Director Beckles expressed surprise with the rush to drop the mask mandate by so many federal agencies, including AC Transit, without discussing it beforehand. Director Beckles acknowledged the impact such a decision would have on those that are immune compromised or vulnerable, but also did not believe it was the responsibility of bus operators to enforce a mandate. She felt that having a mandate in place was necessary to protect populations that are high-risk and asked the Board to show leadership and not disregard the public demand to reinstate the mandate.

Director Walsh believed it was incumbent on the Board as policymakers to make people feel safe on transit. She further acknowledged the people who spoke at the meeting as well as those that had submitted written comments about how this decision affects

them. Director Walsh wished that the District had not acted so quickly to eliminate the mask mandate, especially when the District had been so cautious throughout the pandemic, and requested to reinstate the mask requirement.

Director Shaw thanked the speakers and recognized the concerns that were raised but acknowledged the incongruity of having a mask mandate on public transit when one did not exist for places like grocery stores. She also wanted to know if headsigns on buses could encourage people to wear masks. Mr. Hursh advised that staff had the ability to customize headsigns.

Director Peebles thanked the speakers and was generally supportive of encouraging people wear a mask but would not support the idea of making bus operators enforce a mask mandate. He added that there were not enough sheriff's deputies to enforce a mandate on all the buses and felt it was too dangerous to place such demands of bus operators.

Director McCalley was moved by the speakers and was very concerned about how the mandate would impact seniors, the disabled and vulnerable populations but also expressed concern for the safety of bus operators who would be placed in an awkward position to enforce a mandate.

President Ortiz supported the idea of using headsigns to encourage riders to wear a mask.

Director Beckles clarified that no one expected bus operators to enforce a mandate that was outside their job description and questioned just how dangerous it was to have a mandate that had already been in place for two years.

MOTION: WALSH/BECKLES to keep the mask requirement in place until July 18, 2022, which would provide an opportunity to work with bus operators and the public, monitor further health and legal implications, and be in line with the requirement being proposed by the Bay Area Rapid Transit District. The motion failed by a tie vote as follows:

**Ayes:** Beckles, Walsh, McCalley

**Nayes:** Ortiz, Shaw, Peebles

**Absent:** Young

#### **Planning Items - Chair Beckles**

- 7.C.** Consider the adoption of Resolution No. 22-013, authorizing one-year extensions to the service pilots considered at the Public Hearing held on March 30, 2022, which include:
- Continued service on Line 60 to South Hayward BART along Hesperian Boulevard and Tennyson Road through December 2023.

[22-140a](#)



- Continued service on Line 78 between the Fruitvale BART Station and Alameda Point through August 2023.

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

Senior Transportation Planner David Berman presented the staff report.

**Public Comment:**

**Ron**, D6 Operator, commented why ridership on Line 60 does not merit extension of the pilot program and would prefer to see improved service to the Eden Landing neighborhood or increased limited service on Line 83 during commute hours.

**Board Discussion:**

Director McCalley supported the extension of the pilot program.

Director Shaw supported the extension, and asked that a detailed ridership analysis of both lines be included in the performance reporting to evaluate the effect of the extension and ridership trends.

MOTION: PEEPLES/SHAW to adopt Resolution No. 22-013, authorizing one-year extensions to the service pilots on Lines 60 and 78 considered at the Public Hearing held on March 30, 2022. The motion carried by the following vote:

**Ayes:** Ortiz, Young, Beckles, Walsh, McCalley, Shaw, Peeples

**External Affairs Items - Chair Peeples**

- 7.D.** Consider receiving the Monthly Legislative Report and approval of legislative positions.

[22-114](#)

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

External Affairs Representative Steven Jones presented the report.

**Public Comment:**

**Stefen Hawkeen** asked an unintelligible question.

**George Spies** noted some details meriting support of this bill AB2336 and urged support.

**Zoom User** made profanity-filled comment.

MOTION: ORTIZ/WALSH to receive the Monthly Legislative Report and approve of legislative positions recommended by staff. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

- 7.E.** Consider resuming in-person Board meetings in a “hybrid” meeting format and provide feedback and/or direction to staff.

[21-272a](#)

District Secretary Linda Nemeroff presented the staff report.

**PUBLIC COMMENT:**

Jay made a rude comment.

**Board Discussion:**

Members of the Board shared their thoughts about returning to in-person Board meetings. Director Beckles felt it was premature to hold in-person meetings at this time due to local and federal health agency reports indicating that Covid case numbers are rising again, albeit with limited hospitalizations. The other members of the Board supported the idea of returning to in-person meetings (for the Board only) and for the public to participate remotely. Any members of the Board that wished to do so could also access the meeting remotely.

Director Peeples believed the public should be allowed to attend meetings in person at the appropriate time as long as they wear a mask and are vaccinated, which drew criticism from Director Beckles given the earlier discussion of a continued mask mandate on buses where patrons on the bus don't have to wear a mask or show proof of vaccination. Director Peeples noted that there is security in the building lobby to enforce it, which does not exist on the bus. Discussion of in-person attendance by the public would be taken up at a later date.

MOTION: SHAW/ORTIZ to resume in-person Board meetings for the Board of Directors only, without the public beginning in June. The motion carried by the following vote:

**Ayes:** Ortiz, Beckles, Walsh, McCalley, Shaw, Peeples

**Absent:** Young

**8. CLOSED SESSION/REPORT OUT**

There was nothing to report out of closed session.

**8.A. Conference with Legal Counsel – Potential Litigation (Two Cases)**

(Government Code Section 54956.9(b))

**8.B. 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

**8.C. Public Employee Performance Evaluation**

(Government Code Section 54957)

Title: General Manager, General Counsel, District Secretary

**8.D. Conference with Labor Negotiators**

(Government Code Section 54957.6):

Agency Designated Representative: President Ortiz

Board Officers: General Manager, General Counsel, District Secretary

**9. AGENDA PLANNING**

Directors are limited to two agenda planning requests per meeting. Each item requested shall have the concurrence of at least one other Director.

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

[22-065g](#)

Director Beckles requested a discussion about amending AC Transit's vaccination mandate to include weekly testing. Subsequent to the meeting, it was determined that the request fell within the scope of the Board's Rules for Procedure (Board Policy 101) pertaining to the reconsideration of a item that the Board had previously taken action on within the last six months and was not an agenda planning request.

Director Walsh requested a report on the employee health and wellness program, including the activities in place to ensure the health of employees. (Peeples concurred)

Director Shaw requested a report on public outreach regarding the network redesign and the communication plans that would be in place before the changes are implemented. (Ortiz concurred)

**10. GENERAL MANAGER'S REPORT****10.A. General Manager's Report for April 27, 2022.**

[22-041g](#)

The report was presented for information only.

**11. BOARD/STAFF COMMENTS**

(Government Code Section 54954.2)

Members of the Board commented on the events they attended since the last Board Meeting.

**12. ADJOURNMENT**

There being no further business to come before the Board of Directors, the meeting adjourned at 7:22 p.m. in honor of the memory of Major Henry C. Peeples, father of Board member H. E. Christian Peeples. The next meeting of the Board is scheduled for May 11, 2022, at 5:00 p.m.

Respectfully submitted,  
/s/ Linda A. Nemeroff, District Secretary