



ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

MINUTES

Board of Directors - Regular Meeting

CLOSED SESSION 4:15 PM for Agenda Items 7A-7D

VIRTUAL MEETING

Phone (669) 900 6833

Webinar ID: 984 8717 5063

Wednesday, June 8, 2022 at 5:00 PM

<https://bit.ly/3O7pata>

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, June 8, 2022, at 5:00 p.m.

The meeting was called to order at 4:15 p.m. for the purpose of Closed Session. All Board members were present. The Board convened in Closed Session to discuss Items 7A-7E as listed on the agenda. Closed Session concluded at 4:26 p.m.

President Ortiz called the Board of Directors meeting to order at 5:02 p.m.

2. ROLL CALL

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

3. PUBLIC COMMENT

Carol Jefferson requested information about the calculation and distribution of Appreciation Pay and asked whether Hazard Pay would return with the restart of the mask mandate.

Sara Ogilvy requested the reinstatement of the bus stops at Thomas L. Berkley Way located at 20th Street at Webster Street in Downtown Oakland that will close on July 12, 2022.

4. MODIFICATIONS TO THE AGENDA

There were no modifications to the agenda.

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

There was no comment offered on the Consent Calendar.

There was no public comment offered on the Consent Calendar.

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

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

5.A. Consider approving Board of Directors minutes of April 27, 2022. [22-092](#)

MOTION: PEEPLES/YOUNG to approve the Board of Directors minutes of April 27, 2022.

The motion carried by the following vote:

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

5.B. Consider approving Board of Directors minutes of May 25, 2022. [22-094](#)

MOTION: PEEPLES/YOUNG to approve the Board of Directors minutes of May 25, 2022.

The motion carried by the following vote:

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

5.C. Consider the adoption of Resolution No. 22-022 making the necessary [21-053k](#)

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 July 8, 2022.

MOTION: PEEPLES/YOUNG to adopt Resolution No. 22-022 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 July 8, 2022. The motion carried by the following vote:

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

- 5.D.** Consider adoption of Resolution No. 22-024 re-appointing Janet Abelson, Beverly Johnson and Matt Williams to a three-year term on the Alameda-Contra Costa Transit District Parcel Tax Fiscal Oversight Committee and authorize the District Secretary to conduct a recruitment to fill a vacancy for a three-year term commencing on September 1, 2022. [22-347](#)

MOTION: PEEPLES/YOUNG to adopt Resolution No. 22-024 re-appointing Janet Abelson, Beverly Johnson and Matt Williams to a three-year term on the Alameda-Contra Costa Transit District Parcel Tax Fiscal Oversight Committee and authorize the District Secretary to conduct a recruitment to fill a vacancy for a three-year term commencing on September 1, 2022. The motion carried by the following vote:

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

- 5.E.** Consider receiving the Accessibility Advisory Committee minutes of April 12, 2022. [22-322](#)

MOTION: PEEPLES/YOUNG to receive the Accessibility Advisory Committee minutes of April 12, 2022. The motion carried by the following vote:

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

- 5.F.** Consider authorizing the General Manager or his designee to file and execute applications and funding agreements with the Department of Homeland Security (DHS) for the Fiscal Year (FY) 2022 Transit Security Grant Program (TSGP) to upgrade security and badge systems throughout the District. [22-327](#)

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MOTION: PEEPLES/YOUNG to authorize the General Manager or his designee to file and execute applications and funding agreements with the Department of Homeland Security (DHS) for the Fiscal Year (FY) 2022 Transit Security Grant Program (TSGP) to upgrade security and badge systems throughout the District. The motion carried by the following vote:

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

- 5.G.** Consider review of Board Policy 665 - Procedure for Reviewing Amendments to the Alameda - Contra Costa Transit District Retirement Plan with no recommended amendments. [22-291](#)

MOTION: PEEPLES/YOUNG to receive report on the review of Board Policy 665 - Procedure for Reviewing Amendments to the Alameda - Contra Costa Transit District Retirement Plan with no recommended amendments. The motion carried by the following vote:

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

- 5.H.** Consider receiving preliminary status report on the District's proposed three-year Disadvantaged Business Enterprise (DBE) goal for Federal Fiscal Years (FFY) 2023 - 2025, and authorize staff to give public notice of the proposed goal for a 30-day comment period. [22-241](#)

MOTION: PEEPLES/YOUNG to receive the preliminary status report on the District's proposed three-year Disadvantaged Business Enterprise (DBE) goal for Federal Fiscal Years (FFY) 2023 - 2025, and authorize staff to give public notice of the proposed goal for a 30-day comment period. The motion carried by the following vote:

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

- 5.I.** Consider review of Board Policy 236-Disability and Leave of Absence Policy with no recommended amendments. [22-310](#)

MOTION: PEEPLES/YOUNG to receive report on the review of Board Policy 236-Disability and Leave of Absence Policy with no recommended amendments. The motion carried by the following vote:

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

- 5.J.** Consider authorizing the General Manager to enter into an extension of the contract with MV Transportation to operate the Dumbarton Express service for the period of July 1, 2022 to December 31, 2022. [11-256m](#)

MOTION: PEEPLES/YOUNG to authorize the General Manager to enter into an extension of the contract with MV Transportation to operate the Dumbarton Express service for the period of July 1, 2022 to December 31, 2022. The motion carried by the following vote:

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

- 5.K.** Consider authorizing the General Manager to enter into an extension of the Dumbarton Bridge Regional Operations Consortium (DBROC) Cooperative Agreement from July 1, 2022 to December 31, 2022, in conjunction with the six-month extension of the service contract. [11-256n](#)

MOTION: PEEPLES/YOUNG to authorize the General Manager to enter into an extension of the Dumbarton Bridge Regional Operations Consortium (DBROC)

Cooperative Agreement from July 1, 2022 to December 31, 2022, in conjunction with the six-month extension of the service contract. The motion carried by the following vote:

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

- 5.L.** Consider authorizing the General Manager to execute Cooperative Agreements with the City of Berkeley and City of Oakland for the Rapid Corridors Project. [22-315](#)

Director of Service Development and Planning Robert del Rosario addressed questions from Director Walsh regarding the equipment, the responsibilities of the parties and how the effectiveness of the equipment would be measured. There was no public comment offered.

MOTION: WALSH/PEEPLS to authorize the General Manager to execute Cooperative Agreements with the City of Berkeley and City of Oakland for the Rapid Corridors Project. The motion carried by the following vote:

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

6. REGULAR CALENDAR

External Affairs Items - Chair Peeples

- 6.A.** Consider approving amendments to Articles 1 through 3 of Board Policy 101 - Board of Directors Rules for Procedure. [22-350](#)

District Secretary Linda Nemeroff presented the staff report. There was no public comment offered.

Director McCalley suggested that Section 3.3(i) be amended to identify the “audited financial statements” as the financial report to be published within 180 days after the end of the fiscal year.

MOTION: YOUNG/ORTIZ to approve amendments to Articles 1 through 3 of Board Policy 101 - Board of Directors Rules for Procedure with an additional amendment to Section 3.3(i) identifying the “audited financial statements” as the financial report to be published within 180 days after the end of the fiscal year. The motion carried by the following vote:

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

Finance and Audit Items - Chair Shaw

- 6.B.** Consider adoption of Resolution No. 22-023 approving the FY 2022-23 Recommended Operating and Capital Budgets. [22-158c](#)

[The document entitled "New Position Requests" was provided at the meeting for the Board's consideration.]

Director of Budget and Management Richard Oslund presented the staff report. There was no public comment offered.

Director McCalley asked for clarification on the fluctuation in two budget line items. Staff addressed the questions, including President Ortiz's question about the fiscal uncertainty when the American Rescue Plan Act (ARPA) funds are depleted by FY 2025.

MOTION: ORTIZ/PEEPLES to adopt Resolution No. 22-023 approving the FY 2022-23 Recommended Operating and Capital Budgets. The motion carried by the following vote:

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

6.C. Consider receiving the Semi-Annual Retirement Board Report. [22-260a](#)

There was no presentation of the report and no public comment was offered. Retirement Systems Manager Hugo Wildmann addressed Director Walsh's questions about investment strategy explaining that there is currently no Retirement Board policy that prevents investments in fossil fuels and weapons.

MOTION: PEEPLES/YOUNG to receive the Semi-Annual Retirement Board Report. The motion carried by the following vote:

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

Planning Items - Chair Beckles

6.D. Consider receiving a report regarding the impacts of AB 784 on the permitting process for District capital projects. [22-298](#)

Director of Capital Projects Joe Callaway presented the staff report. There was no public comment offered.

Director Peeples commented in support of the bill as it relates to in-house permitting services; however, he asked for the staff's attentiveness in maintaining and developing solid working relationships with local jurisdictions. Director Peeples further commented that a written policy is needed to outline the District's communications with local jurisdictions and solicit their comment on AC Transit projects that would require permitting and inspection services.

Vice President Young wanted to know more about the practicalities of in-house inspections and permitting. Mr. Callaway explained that the plan is to hire a permit manager to manage the services instead of on-call engineers, which would yield significant savings in the long run.

MOTION: ORTIZ/PEEPLES to receive a report regarding the impacts of AB 784 on the permitting process for District capital projects. The motion carried by the following vote:

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

Operations Items - Chair Young

- 6.E.** Consider receiving a briefing on AC Transit's Data Governance Program. [22-142](#)

Director of Systems and Software Development Manjit Sooch presented a staff report. There was no public comment offered.

Directors Shaw and Walsh commented positively on the report and were excited about the prospect of having a data governance policy and the opportunities it would offer.

Director Shaw commented on the complex manual processes currently used to verify the accuracy of data and hoped to see improvement in this area. Director Shaw stressed the importance of open data and transparency not only for decision-making but also for empowering the community to harvest data and then provide feedback. Director Shaw was pleased with staff's efforts and encouraged more focus in the customer relationship management (CRM) arena to understand and improve the customer experience.

Director Walsh concurred and asked about open data availability and what the plans are to make it available for public use. Ms. Sooch explained that the District's open data portal is available and used by individuals and app developers. She further explained that the District would continue to expand the data sets available for public use.

Director Walsh added that she would like to see missed trips data, ridership, and the Sheriff's performance data available for analysis as well.

MOTION: SHAW/PEEPLES to receive a briefing on AC Transit's Data Governance Program. The motion carried by the following vote:

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

Board Administrative Matters - President Ortiz

- 6.F.** Consider receiving a report of investigation findings related to public statements made at the December 8, 2021, Board meeting regarding the AFSCME Collective Bargaining Agreement (CBA) and former AFSCME president, Shellie Beck. [22-346](#)

General Counsel Jill Sprague gave an overview of the complaint, the investigation, findings and conclusions. There was no public comment offered.

Director Peeples asked if a more extensive version of the report was publicly available. Ms. Sprague advised that the report would need to be redacted prior to release. Director Peeples expressed his hope that his friends in AFSCME leadership would provide the report that is in the agenda packet to all AFSCME members to try to clear the air in this matter. Director Beckles agreed.

Director Beckles asked who requested the investigation, to which Ms. Sprague advised that the investigation was requested by Shellie Beck who filed a complaint. Director Beckles believed that the AFSCME members involved in the investigation should not suffer repercussions for repeating information that they heard from a trusted union representative. She cautioned that any disciplinary action against employees for speaking up could be perceived as retaliatory.

Director Shaw asked about next steps. Ms. Sprague advised that it was a personnel matter.

MOTION: YOUNG/SHAW to receive report of investigation findings related to public statements made at the December 8, 2021, Board meeting regarding the AFSCME Collective Bargaining Agreement (CBA) and former AFSCME president, Shellie Beck. The motion carried by the following vote:

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

- 6.G.** Consider approving amendments to the General Manager, General Counsel, and District Secretary's Employment Agreements. [22-328](#)

Prior to taking action, President Ortiz gave an oral report summarizing the compensation and fringe benefits associated with each contract as required by the Brown Act. There was no public comment offered.

MOTION: SHAW/YOUNG to approve amendments to the General Manager, General Counsel, and District Secretary's Employment Agreements. The motion carried by the following vote:

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

7. CLOSED SESSION/REPORT OUT

General Counsel Jill Sprague reported on the following:

MOTION: PEEPLES/MCCALLEY to authorize settlement in the amount of \$152,130.00 plus open future medical for the right knee and bilateral shoulders only in the matter of Valda McDaniel v. AC Transit; WCAB Case Nos. ADJ4546426 and ADJ2930687. The motion carried by the following vote:

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

Absent: Beckles

7.A. Conference with Legal Counsel – Existing Litigation

(Government Code Section 54956.9 (a))

- Valda McDaniel v. AC Transit; WCAB Case Nos. ADJ4546426 and ADJ2930687

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. Conference with Labor Negotiator

(Government Code Section 54957.6):

Agency Designated Representative: President Ortiz

Board Officers: General Manager, General Counsel, District Secretary

8. 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.

8.A. Review of Agenda Planning Pending List.

[22-065j](#)

Director Walsh requested a review of the routine reports on the Agenda Pending Planning List. (Shaw concurred)

Director Walsh requested that her March 23 request about service restoration is advanced to a meeting in the near future. (Beckles concurred)

Director Shaw requested an update on the facility changes at Division 6 in Hayward, specifically the parking closure and other recent changes. (Peeples concurred)

Director Peeples requested a report codifying the communications between AC Transit and local jurisdictions related to permitting and inspection processes. (Ortiz concurred)

9. GENERAL MANAGER'S REPORT

9.A. General Manager's Report for June 8, 2022.

[22-041j](#)

The report was provided for information only.

10. BOARD/STAFF COMMENTS

(Government Code Section 54954.2)

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

11. ADJOURNMENT

There being no further business to come before the Board of Directors, the meeting adjourned at 6:21 p.m. The next meeting of the Board is scheduled for June 22, 2022, at 5:00 p.m.

Respectfully submitted,

/s/

Linda A. Nemeroff

District Secretary