



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, August 10, 2022 at 5:00 PM

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

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, August 10, 2022, at 5:00 p.m.

The meeting was called to order at 4:17 p.m. for the purpose of Closed Session. All Board members were present. The Board convened in Closed Session to discuss Items 7A-7D as listed on the agenda. Closed Session concluded at 4:47 p.m.

President Ortiz called the Board of Directors meeting to order at 5:06 p.m.

2. ROLL CALL

Present: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

3. PUBLIC COMMENT

Public speakers commented on the importance of bus operators having access to continuous training when transferring to a new division. Concerns were raised that many bus operators whose schedules now have them working out of a new division must rely heavily on self-training and that the Board and Management should take steps to give these bus operators the continuous training they deserve. These public speakers included:

Sultana Adams, D3 Bus Operator & Shop Steward

Brandi Donaldson

Quella Thompson

Jimanette James, Bus Operator and Asst Shop Steward

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 public comment offered on the Consent Calendar.

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

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

5.A. Consider approving Board of Directors minutes of July 27, 2022. [22-098](#)

MOTION: SHAW/McCALLEY to approve the Board of Directors minutes of July 27, 2022.

The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

5.B. Consider receiving the Accessibility Advisory Committee minutes of June 14, 2022. [22-443](#)

MOTION: SHAW/McCALLEY to receive the Accessibility Advisory Committee minutes of June 14, 2022. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 5.C.** Consider the adoption of Resolution No. 22-030 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 September 9, 2022. [22-053k](#)

MOTION: SHAW/McCALLEY to adopt Resolution No. 22-030 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 September 9, 2022. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 5.D.** Consider receiving the FY 2021-22 Fourth Quarter Travel and Meeting Expense Report for Directors and Board Officers. [22-432](#)

MOTION: SHAW/McCALLEY to receive the FY 2021-22 Fourth Quarter Travel and Meeting Expense Report for Directors and Board Officers. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 5.E.** Consider the adoption of Resolution No. 22-029 establishing the Appropriations Limit for Fiscal Year 2022-23 at \$625,563,311. [22-408a](#)

MOTION: SHAW/McCALLEY to adopt Resolution No. 22-029 establishing the Appropriations Limit for Fiscal Year 2022-23 at \$625,563,311. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 5.F.** Consider adoption of Resolution No. 22-032 authorizing the General Manager or his designee to file and execute applications with the Metropolitan Transportation Commission (MTC) for MTC's FY2022 Transit Capital Priorities (TCP) Zero-Emission Bus (ZEB) Infrastructure Set-Aside Program, including Federal Transit Administration (FTA) Sections 5307 funds, to fund the Hydrogen Fueling Infrastructure project at Division 6 in Hayward. [22-457](#)

MOTION: SHAW/McCALLEY to adopt Resolution No. 22-032 authorizing the General Manager or his designee to file and execute applications with the Metropolitan Transportation Commission (MTC) for MTC's FY2022 Transit Capital Priorities (TCP) Zero-Emission Bus (ZEB) Infrastructure Set-Aside Program, including Federal Transit Administration (FTA) Sections 5307 funds, to fund the Hydrogen Fueling Infrastructure

project at Division 6 in Hayward. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 5.G.** Consider receiving the Quarterly Report on the District's involvement in external planning processes. [22-418](#)

Director Peeples suggested that each Board Member review the external planning report content pertaining to their ward.

MOTION: SHAW/McCALLEY to receive the Quarterly Report on the District's involvement in external planning processes. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 5.H.** Consider authorizing the General Manager to enter into a one-year agreement with two (2) one-year options with Service Wear Apparel. [16-057d](#)

MOTION: SHAW/McCALLEY to approve authorization of the General Manager to enter into a one-year agreement with two (2) one-year options with Service Wear Apparel. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 5.I.** Consider authorizing the General Manager to negotiate and execute the 2022 Clipper Amended and Restated Memorandum of Understanding with the Metropolitan Transportation Commission for the Next Generation Clipper C2 program. [22-444](#)

MOTION: SHAW/McCALLEY to approve authorization of the General Manager to negotiate and execute the 2022 Clipper Amended and Restated Memorandum of Understanding with the Metropolitan Transportation Commission for the Next Generation Clipper C2 program. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

6. REGULAR CALENDAR

External Affairs Items - Chair Peeples

- 6.A.** Consider receiving the Monthly Legislative Report and approval of legislative positions, if necessary. [22-438](#)

External Affairs Representative Steven Jones presented the staff report. There was no public comment offered.

Director McCalley inquired about the status of SB 917, and President Ortiz inquired about the status of funding for the bill. Mr. Jones advised that the bill was scheduled for hearing on August 11th and was in suspense. He further advised that no funding had been appropriated to date.

MOTION: YOUNG/ORTIZ to receive the Monthly Legislative Report. The motion carried

by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 6.B.** Consider receiving the FY 2021-2022 Fourth Quarter Report of the External Affairs, Marketing, and Communications Department for April, May, June of 2022.

[22-442](#)

Director of External Affairs and Community Relations Claudia Burgos presented the staff report. There was no public comment offered.

Director Walsh asked if there was a mechanism available for operators to forward feedback from the public. Customer Service Manager Margaret Tseng responded that riders have the option of completing a paper form that is available on the bus or use the electronic form available on the District's website. In either case, staff will respond directly to the rider. In addition, Director Walsh inquired about a reference in the report to revenue programs and commented positively about commendations received by bus operators.

Director McCalley commented on the need to use plain language when promoting things like the Zero Emission Bus Transition Report instead of acronyms the public doesn't recognize.

MOTION: ORTIZ/YOUNG to receive the FY 2021-2022 Fourth Quarter Report of the External Affairs, Marketing, and Communications Department for April, May, June of 2022. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

Planning Items - Chair Beckles

- 6.C.** Receive an update on transit shelter contracting scenarios, associated cost estimates, and local jurisdiction contributions and consider approving the following:

[18-211h](#)

- Contracting transit shelter maintenance with a third-party contractor and retaining ownership of shelters, with potential funding from local jurisdictions.
- Issuance of a solicitation for shelter maintenance services.

Transportation Planner Carissa Lee presented the staff report. There were no public comments offered.

Board Discussion:

Vice President Young asked about the benefits of owning the shelters. General Counsel Jill Sprague and Ms. Lee explained that the riders' feedback about the shelters would be streamlined and AC Transit would have control over advertising, design, installation, or removal of shelters. General Counsel Sprague explained that the downside of owning the shelters would be liability which included property damage or personal injury associated with the shelters. To Vice President's question about whether the District

would administer a single or individual agreement with jurisdictions, General Manager Hursh advised that funding for shelters is going to be limited to what the underlying jurisdictions are willing to pay and may not be approved by some cities, adding that AC Transit may need to reserve the option to remove the shelters from the cities that don't provide funding. General Manager Hursh clarified that the scenarios do not include the shelters within the City of Oakland because those are entirely within Oakland's control. Vice President Young further commented on the removal of shelters and that Alameda county was not interested in providing shelters at all.

Director Ortiz posed questions about the reimbursement option and how the District would negotiate the reimbursement rates. General Manager Hursh explained that staff will keep the Board apprised of the reimbursement details at the appropriate time and clarified that today's ask is that the Board allow AC Transit to handle the shelters upon separation from Clear Channel, who no longer wishes to own the shelters. President Ortiz was interested in looking at the shelter design in more detail in the future to modernize the amenities.

Director Peeples raised questions about the costs of maintaining the shelters internally and made a point that although everyone is in favor of having shelters, the funding for maintaining them is limited. Director Peeples also asked about responsibilities in dealing with the unhoused population as the community will expect AC Transit to handle the issues. Director Peeples added that social services would be the appropriate approach to deal with the unhoused population in bus shelters but was concerned about the costs. To Director Peeples' question about a potential increase in the insurance policy, staff explained that the increase would be negligible.

To Director Shaw's question about who would make the decision about shelters on behalf of the unincorporated areas in Alameda County, to which staff explained that they are in contact with the Alameda County Administrator's Office. Director Shaw suspected that the Alameda County Board of Supervisors would not be pleased with the option to remove shelters from the unincorporated areas. Director Shaw indicated that her preferred option would be that the cities take ownership of the shelters, but saw that as the least possible scenario and favored Option C detailed in the staff report because it would allow staff to focus on maintenance, advertising, and installation independently. Director Shaw added that in the event the cities were not interested in shelters, AC Transit would need to be consistent with the maintenance practices.

Director Walsh commented in support of option C and was hopeful that the cities would be willing to participate in costs. Director Walsh also commented that in-house advertising could potentially offset the costs.

Director McCalley commented that he would support Option C and commented on the strategy to negotiate the cost-share with cities.

Staff clarified that they would report back to the Board on what aspects of liability

shelter ownership would bring upon the District.

Director Young made a motion to approve the issuance of a solicitation for shelter maintenance services. President Ortiz seconded, and the Board's discussion ensued. Director Peeples made an amendment motion as follows:

MOTION TO AMEND BY SUBSTITUTION: PEEPLES/YOUNG to authorize issuance of solicitations for shelter maintenance, advertising, and installations/relocations outlined in Option C (Attachment 2); and direct staff to report back on the liability obligations and on the discussions with the underlying jurisdictions about shelter ownership. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

Operations Items - Chair Young

- 6.D.** Presentation on protective services provided by the Alameda and Contra Costa County Sheriff's Offices. [22-428](#)

Protective Services Manager Kerry Jackson introduced Lt. Joseph Bufford of the Contra Costa Sheriff's Department and Lt. Lauren Tucker of the Alameda County Sheriff's Department who presented information on the services provided to the District and addressed questions from the Board.

Public Comment:

Michael Tal expressed personal views and recommendations regarding how AC Transit supports and funds law enforcement agencies serving the District.

Board Discussion:

Director Peeples asked the officers to describe how they interact with operators during an incident on the bus. Lt. Tucker reported on communications with operators since taking the position in April. Lt. Bufford commented on efforts to make operators and supervisors feel safe while on the bus.

Director Walsh commented on the fare compliance with respect to the BRT service and asked what officers are doing about this. Lt. Tucker reported hundreds of weekly contacts with riders to educate about paying fares and showing them how to use the ticket machines. There is no force used and AC Transit has requested that no citations be issued. General Manager Hursh advised that citation issuance has begun to roll out over the past month. Director Walsh suggested that this activity be handled by the platform agents and questioned the use of district funds to have law enforcement perform fare enforcement. Chief Operating Officer Salvador Llamas noted that the District does not want to put employees at risk by asking them to enforce fares and gave an overview of the duties performed by platform agents.

Director Walsh asked about speed enforcement on International Boulevard. Mr. Jackson advised that the deputies are not responsible for patrolling the City of Oakland,

but when they see a violation, they have to address it.

Director Shaw inquired about the coverage of transfer points in Oakland and San Leandro.

Director McCalley inquired about public assembly checks which was answered by Lt. Bufford. Director McCalley inquired about conflict resolution and the importance of deputies having a friendly interaction with riders as ambassadors of the District. Lt. Bufford responded that when officers are on the bus, the public is generally compliant.

Director Beckles asked how long it took officers to respond to calls. Lt. Bufford responded that it is usually within 5 minutes or local police are called to respond in priority situations where someone needs to be on site quickly. Mr. Jackson responded that the clock starts when the Operations Control Center contacts dispatch. Director Beckles was concerned about the measurement of time, saying that she has heard that it sometimes takes 30 minutes. Mr. Jackson advised that staff has data about when the call is dispatched and when the officer arrives.

MOTION: PEEPLES/ORTIZ to receive presentation on protective services provided by the Alameda and Contra Costa County Sheriff's Offices. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 6.E.** Consider receiving a briefing on Service Operated Public Key Performance Indicators (KPI). [Requested by Director Peebles - [22-433](#) 2/12/2020, Director Walsh - 3/9/2022, and Director Shaw - 5/11/2022]

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

Director of Systems and Software Development Manjit Sooch presented the staff report and gave an overview of the online service operated Key Performance Indicator (KPI) webpage. There was no public comment offered.

Director Shaw asked if bus line information was available. Ms. Sooch advised that the information is not real-time, however, line information was available internally.

Director McCalley asked that in introducing information to the public, staff try to use words and phrases that have meaning to the average person.

MOTION: ORTIZ/PEEPLES to receive a briefing on Service Operated Public Key Performance Indicators (KPI). The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 6.F** Consider receiving the Quarterly Operations Performance Report for [22-429](#)

AC Transit Fixed Route Services during the Fourth Quarter of Fiscal Year 2022.

Assistant Director of Transportation Dwain Crawley presented the staff report. There was no public comment offered.

Staff addressed the issues of bus cleanliness and absenteeism raised by Director McCalley.

MOTION: PEEPLES/BECKLES to receive the Quarterly Operations Performance Report for AC Transit Fixed Route Services during the Fourth Quarter of Fiscal Year 2022. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

Board Administrative Matters - President Ortiz

- 6.G.** Consider adoption of Resolution No. 22-031 appointing a new member to a three-year term on the Alameda-Contra Costa Transit District Parcel Tax Fiscal Oversight Committee commencing on September 1, 2022. [22-347a](#)

There was no presentation of the staff report, and no public comments were offered. Staff was available to address questions.

Board Discussion:

Director McCalley commented on Mr. Hicks' extensive background in finance, saying that he would be an exceptional addition to the AC Transit Parcel Tax Fiscal Oversight Committee.

MOTION: PEEPLES/SHAW to adopt Resolution No. 22-031 appointing a new member to a three-year term on the Alameda-Contra Costa Transit District Parcel Tax Fiscal Oversight Committee commencing on September 1, 2022. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, McCALLEY, SHAW, PEEPLES

- 6.H.** Consider the adoption of Resolution No. 22-033 approving the revised classifications of General Manager/Chief Executive Officer, General Counsel/Chief Legal Officer, and Board Administrative Officer/District Secretary [Requested by President Ortiz - 6/22/22]. [22-453](#)

There was no presentation of the staff report, and no public comments were offered. Staff was available to address questions.

Board Discussion:

Director Peebles made a motion to adopt Resolution No. 22-033 approving the revised classifications of General Manager/Chief Executive Officer, General Counsel/Chief Legal Officer, and Board Administrative Officer/District Secretary. Prior to a Second for Director Peebles' motion, Director McCalley asked to address a point with the General

Manager's classification specification.

Director McCalley gave reasons for additional edits to the General Manager's job description to address matters related to labor relations and negotiations. General Manager Michael Hursh agreed that the General Manager's classification specification should include the requirement that the General Manager, as directed by the Board, negotiates collective bargaining agreements.

MOTION TO AMEND BY SUBSTITUTION: PEEPLES/MCCALLEY to adopt Resolution No. 22-033 approving the revised classifications of General Manager/Chief Executive Officer, General Counsel/Chief Legal Officer, and Board Administrative Officer/District Secretary along with the changes Member McCalley suggested with respect to the General Manager's job specification to include the additional responsibility to negotiate collective bargaining agreements, as directed by the Board. The motion carried by the following vote:

Ayes: ORTIZ, YOUNG, BECKLES, WALSH, MCCALLEY, SHAW, PEEPLES

7. CLOSED SESSION/REPORT OUT

General Counsel Jill Sprague reported out on the following:

MOTION: PEEPLES/MCCALLEY to approve the settlement in the amount of \$369,915.13 in the matter of Darlene Nusom v. AC Transit; WCAB Case Nos. ADJ8137572 and ADJ7708020. The motion carried by the following vote:

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

7.A. Conference with Legal Counsel – Existing Litigation

(Government Code Section 54956.9 (a))

Darlene Nusom v. AC Transit, WCAB Case Nos. ADJ8137572, ADJ7708020

Quarterly Litigation Report:

Hartway v. AC Transit, et al., ACSC No. 22CV011482;
Galpern v. AC Transit, U.S. District Court (No.Cal.Dist.), No. 20-cv-02572-TSH;
White v. AC Transit, U.S. District Court (No.Cal.Dist.), No. 20-cv-03804-TSH;
Dollene Jones v. AC Transit Retirement Board, et al., ACSC No. RG20-050706;
Ayala v. AC Transit, ACSC No. RG21-112614; and
Claims of White (22-AL00041) and Bernandino (21-AL00197).

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

8. AGENDA PLANNING

8.A. Review of Agenda Planning Pending List and Agenda Planning Request Forms. [22-065n](#)

Director Peeples' agenda planning request was accepted (Proterra bus fire investigation findings).

9. GENERAL MANAGER'S REPORT

9.A. General Manager's Report for August 10, 2022. [22-041n](#)

General Manager Michael Hursh reported that the District had been awarded an APTA AdWheel Award for the third year in a row. Mr. Hursh further explained the steps related to hiring bus operators and commented on the current status of bus operator hiring.

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 7:16 p.m. The next meeting of the Board is scheduled for September 14, 2022, at 5:00 p.m.

Respectfully submitted,

/s/

Linda A. Nemeroff

District Secretary