



BOARD OF DIRECTORS ALAMEDA-CONTRA COSTA TRANSIT DISTRICT MINUTES

Regular Meeting of the Board of Directors

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

Wednesday, November 14, 2018 at 5:00 p.m.
Closed Session 4:30 p.m. (Items 6A-6D)

MEMBERS OF THE BOARD OF DIRECTORS

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

BOARD OFFICERS

MICHAEL A. HURSH, GENERAL MANAGER
DENISE C. STANDRIDGE, GENERAL COUNSEL
LINDA A. NEMEROFF, DISTRICT SECRETARY

TELECONFERENCE

DIRECTOR JEFF DAVIS, WARD 5
3800 WALNUT AVENUE, #211
FREMONT, CALIFORNIA

TELECONFERENCE

DIRECTOR H.E. CHRISTIAN PEEPLES, AT-LARGE
1440 168th AVENUE, ROOM 29A
SAN LEANDRO, CALIFORNIA

The Alameda-Contra Costa Transit District Board of Directors held a regular meeting on Wednesday, November 14, 2018.

Prior to the start of the meeting, General Counsel Denise Standridge confirmed that all requirements of the Ralph M. Brown Act (Govt. Code Sections 54950, et seq.) and the provisions of Board Policy 101, Section 4.9 regarding teleconferenced meetings were met in order for Directors Davis and Peeples to participate in the meeting and advised that all votes must be taken by roll call vote. *[Affidavits verifying that the teleconference locations were accessible to persons with disabilities and that the agenda was posted at the teleconference locations are attached as Exhibit A.]*

The meeting was called to order at 4:31 p.m. for the purpose of Closed Session. All Board members were present. The Board convened in Closed Session to discuss Items 6A-6D as listed on the agenda. Closed Session concluded at 5:00 p.m.

President Ortiz called the Board of Directors meeting to order at 5:04 p.m.

1. ROLL CALL

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

2. PUBLIC COMMENT

There was no public comment offered.

3. MODIFICATIONS TO THE AGENDA

President Ortiz announced that she would move Item 5B, Report 18-248, up on the agenda. The items are reported in sequential order in the minutes for ease in reading.

**MODIFICATIONS
ANNOUNCED**

4. CONSENT CALENDAR

MOTION: YOUNG/WILLIAMS to receive or approve the items on the Consent Calendar as indicated. The motion carried by the following vote:

**RECEIVED OR
APPROVED AS
INDICATED**

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

4A. Consider approving Board of Directors minutes of October 24, 2018.

4B. Consider receiving the FY 2018-19 First Quarter Travel and Meeting Expense Report for Directors and Board Officers (Report 18-275).

- 4C. Consider receiving the FY 2018-19 First Quarter Employee and Non-Employee Out-of-State Travel Report (Report 18-276).
- 4D. Consider receiving the Report on Investments for the Month of September 2018 (Report 18-279).
- 4E. Consider receiving the FY 2018-19 First Quarter Surplus and Obsolete Materials Report (Report 18-278).
- 4F. Consider receiving the Quarterly Report on the Status of Contracts and Purchase Orders over \$50,000 (Report 18-280).
- 4G. Consider approving the FY 2018-19 Budget Development Process and Calendar (Report 18-281).
- 4H. Consider receiving the Quarterly Report on the District's Involvement in External Planning Processes (Report 18-282).

Director Peebles commented on the need to provide cities with the multi-modal guidelines recently adopted by the Board as many of them were considering bike lane proposals. He also wanted to discuss what the District's position would be in enforcing the guidelines from a policy standpoint at an upcoming meeting.

- 4I. Consider receiving the Monthly Construction Progress Report on the Bus Rapid Transit Project for October 2018 (Report 18-287).
- 4J. Consider receiving the Disadvantaged Business Enterprise (DBE) Semi-Annual Payment Report for the period of April 1, 2018 through September 30, 2018, and an update of the District's progress toward the annual goal (Report 18-283).
- 4K. Consider authorizing members of the Board of Directors to attend the following conferences and meetings during 2019:
 - American Public Transportation Association Legislative Conference;
 - American Public Transportation Association Annual Meeting;
 - Conference of Minority Transportation Officials National Meeting and Training Conference; and
 - 2019 UITP Global Public Transport Summit in Stockholm, Sweden (Report 18-301).

5. REGULAR CALENDAR

External Affairs Items:

- 5A. Consider receiving the monthly Legislative Report and approve legislative positions (Report 18-284).

RECEIVED

External Affairs Representative Estee Sepulveda presented the staff report.

MOTION: ORTIZ/WILLIAMS to receive the monthly Legislative Report. The motion carried by the following vote:

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

- 5B. **Consider receiving report on the proposed expansion of the Alameda County Transportation Commission's (ACTC) Student Pass Program as ACTC staff is scheduled to present their recommendations to the Planning, Policy, and Legislation Committee on November 19, 2018 (Report 18-248).**

RECEIVED

[A Memorandum to the ACTC regarding the Affordable Student Transit Pass Program was provided at the meeting for the Board's information.]

Customer Services Manager Margaret Tseng presented the staff report. ACTC Deputy Executive Director of Planning and Policy Tess Lengyel thanked AC Transit for its participation in the program, noting staff's desire to implement a program that would create long-term transit riders while not having a negative impact on service.

Director Peeples expressed a concern that the proposal might create overcrowding on buses. General Manager Michael Hursh advised that much like the initial pilot phase, staff worked extensively with the ACTC to focus on schools that were served by existing bus service. He added that a \$500,000 reserve was created to address any service issues.

Director Young asked about the pay per ride model versus the current pass model. Ms. Lengyel advised that underutilization of the pass in some areas of the county made the program more expensive than the direct cost for the number of trips being provided. Staff believed a direct cost model would allow expansion of the program instead of locking the money into a monthly pass.

President Ortiz asked for clarification as to which students would be covered by the program. Ms. Lengyel confirmed the program was for junior high and high school students.

Director Williams asked how it's determined which schools receive a universal pass and which ones receive means-based fares. Ms. Lengyel advised that the decision was linked to whether two-thirds of the students qualified for the free and reduced meal program.

MOTION: ORTIZ/WILLIAMS to receive the report on the proposed expansion of the Alameda County Transportation Commission's (ACTC) Student Pass Program. The motion carried by the following vote:

AYES:6: Ortiz, Williams, Harper, Davis, Peeples, Wallace

ABSENT:1 Young (out of seat)

Finance and Audit Items:

5C. Consider receiving the Year-End Financial Statements and Independent Auditor's Report for the Fiscal Year Ended June 30, 2018 (Report 18-285).

RECEIVED

Controller Ralph Martini presented the staff report and introduced Scott Nickerson of Crowe LLP, who reported that Crowe had issued clean opinions on the financial statements and that management met federal, state and local control and compliance requirements. In addition, no significant deficiencies or weaknesses in internal controls had been identified.

Director Harper raised concern with the District's Other Post-Employment Benefits (OPEB) obligation and felt a plan needed to be developed to address it. General Manager Michael Hursh advised that while there was no plan to fully fund OPEB, staff placed \$1 million in a CalPers trust to begin addressing the issue. Mr. Martini further explained that the non-trust plan was pay-as-you-go, while the trust plan required the District to contribute a dollar amount per hour worked for ATU, IBEW and AFSCME employees. Director Harper requested that staff provide a road map to address the District's OPEB obligation in the next couple of months. He also wanted to discuss whether the Retirement Board had the expertise to take control of this issue. Mr. Nickerson advised that most agencies are still on a pay-as-you-go basis and have not addressed long-term OPEB obligations.

Public Comment:

Yvonne Williams, ATU Local 192, commented that the funding picture was not as bleak as Director Harper had presented it and that the Retirement Board and its staff had been extremely diligent in reducing the discount rate that had been in place for years. She added that the Trustees on the Retirement Board did an excellent job maintaining their fiduciary responsibility.

MOTION: WILLIAMS/YOUNG to receive the Year-End Financial Statements and Independent Auditor's Report for the Fiscal Year Ended June 30, 2018. The motion carried by the following vote:

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

5D. Consider setting public hearings at 2:00 p.m. and 5:00 p.m. on January 23, 2019, concerning proposed adjustments to local fares (Report 18-199a).

**APPROVED
SETTING PUBLIC
HEARING FOR
JAN. 23, 2019
(with additional
parameters)**

There was no presentation of the staff report.

Director Harper asked if Transbay fares would be part of the hearing and was advised that the hearing pertained only to local fares. Director Peeples advised that he would agendize a delay in the planned implementation of the January 1, 2019, Transbay fare increase (See Item 7, Agenda Planning).

Director Young asked about the parameters of the hearing and whether there was enough flexibility for the Board to make changes to the proposals. District Secretary Linda Nemeroff advised that the Board's flexibility was limited to issues within the parameters and scope of the hearing. Director Young requested that the proposal on the Clipper incentive be adjusted to 50 cents and that the Board also consider adjustments to fares based on annual increases in expenses.

MOTION: YOUNG/ORTIZ to set public hearings at 2:00 p.m. and 5:00 p.m. on January 23, 2019, concerning proposed adjustments to local fares, including the expansion of the public hearing parameters to increase the Clipper incentive to 50 cents and to base increases in fares on increases in the District's expenses. The motion carried by the following vote:

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

Planning Items:

5E. Consider receiving report regarding the deployment of AC Go Phase 4 and associated service changes to Chabot College (Report 18-295).

RECEIVED

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

Director Peeples commented that most of the complaints that were received were from people along Tennyson were about missed runs and schedule adherence. He asked staff to comment on the number of turns on Tennyson. Mr. del Rosario advised that staff tried to build a network that eliminated the loop routes, which was a key guiding principle for replacing Line 22 with the straight lines along Mission, Tennyson, Winton and Hesperian. As a result, there is a transfer from Tennyson to Hesperian, with both now having 15-minute service and a 15-minute transfer.

Director Williams asked about the run times on Line 22, saying that some operators complain they are too long. Mr. del Rosario advised that the latest changes went into effect last summer and more time was needed to determine whether further adjustments would be necessary. In addition, transit improvements are in the initial planning stages for Mission Boulevard and East 14th for rapid service.

Public Comment:

- Sonny Alvarado, Chabot College, commented that students deserve better than decent service, adding that students and staff at Chabot College were open to working with AC Transit on ridership data collection to accurately represent the riders affected by the changes on Line 22.
- Stefany Contreras, Chabot College, stated that the Line 22 service change has affected students negatively and added stress. In addition, the removal of Line 22 replicates the removal of the rights to education as many students of color are low income.
- Toufa Setefano, Chabot College, noted the negative impact the elimination of Line 22 has had on students. In addition, the removal of the line has cut off the south Hayward community.
- Arasi Hamilton, Chabot College, supported the previous speakers.
- Paul Mussack, Chabot College, handed out a petition and spoke about his participation in the coordinated effort between the local municipalities and the College on the topic of Line 22.
- Robert Nakamoto, Director of Student Equity at Chabot College, spoke in response to a Title VI complaint the College received. Mr. Nakamoto added that Line 22 changes had negatively impacted the riders along the Tennyson corridor, specifically the Zip Code 94544 residents and those not within walking distance of Line 60. Mr. Nakamoto invited District staff to collaborate on identifying and analyzing the appropriate rider group.

A written petition was submitted and is incorporated into the file by reference.

MOTION: HARPER/ORTIZ to receive report regarding the deployment of AC Go Phase 4 and associated service changes to Chabot College. The motion carried by the following vote:

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

5F. Consider receiving a report on the service changes associated with the Winter Sign-up (Report 18-289).

RECEIVED

Service Planning Manager Michael Eshleman presented the staff report.

Director Williams asked if the Driver's Committee provided feedback on the BART Early Bird service and whether there was an adequate number of operators to carry out the service. Mr. Eshleman reported that senior operators on the Driver's Committee were excited about the service because of the overtime pay. He added that staff was taking steps to address workforce availability issues.

With respect to communication, Director Peeples wanted to make sure that Planning and Operations Departments were in agreement on the District's ability to deliver the service. General Manager Michael Hursh advised that ATU worked diligently with management to fill all runs and there was an all-hands effort afoot to recruit and train new bus operators. He added that the required headcount for the December sign-up was down and the issue of operator availability received daily attention. Service reliability was a top priority.

Vice President Wallace asked if the input recently received from the Division 3 operators regarding Line 72 would be considered for the December service changes. Director of Service Development and Planning Robert del Rosario clarified that the input received from the operators would not be considered for the December 2018 sign up, as the schedules input closed in September. However, improvements to the Line 72 schedule, as requested at the Division 3 meeting, have already taken place. Those changes will be assessed again in January.

President Ortiz urged staff to include bus operators in future detour planning, as they are familiar with routes. Mr. del Rosario concurred with the request, adding that many unknown factors, such as road closures for construction, occur without notice which impacts the District's planning process.

MOTION: WILLIAMS/WALLACE to receive report on the service changes associated with the Winter Sign-up. The motion carried by the following vote:

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

Operations Items:

- 5G. **Consider receiving the Quarterly Operations Performance Report for AC Transit Fixed Route Services during the First Quarter of FY 2019, including on-time performance issues and the methodology used to calculate on-time performance. (Report 18-291).**

RECEIVED

Director of Maintenance Cecil Blandon presented the staff report.

Director Peeples asked about the District's progress toward growing its own mechanics through the Apprenticeship Program. Chief Operating

Officer Sal Llamas explained the District's efforts to boost participation in the program, including efforts with ATU to develop a Mechanic Helper Program that would ensure qualified candidates for the Apprenticeship Program. However, because it took four years for an apprentice to acquire the necessary skills to become a Journey Level Mechanic, and because of the attrition rate, the District had no choice but to hire Journey Level Mechanics from outside the District. Director Peeples advised that he eventually wanted to see a program that would increase the number of apprentices going through the program such that there would not be a need to hire Journey Level Mechanics from outside the District.

Director Williams suggested that the District work with Cypress Mandela or Men of Valor on a pre-apprentice training that could bring more people into the Apprenticeship Program. Mr. Llamas advised that District staff has worked with ATU on workforce development strategies and what can be done beyond what is taking place at the staff level. Mr. Hursh advised that the District was in the process of soliciting for services that help connect and prepare members of the community for job opportunities with the District.

Director Harper believed that missed trips should be factored into on-time performance and wanted to see how it impacted the numbers. In addition, he wanted a report on outlates. Mr. Bandon advised that a peer review of 21 transit agencies found that all 21 agencies excluded missed service from on-time performance with eight calculating it identical to AC Transit's early/late criteria. In addition, all were consistent with TRCP-88 guidelines. General Manager Michael Hursh advised that the percentage of service operated should also be considered. Director Harper held to his request to factor missed trips into on-time performance, adding that he also wanted to see a breakdown between Transbay, local routes, and school service.

Public Comment:

Jane Kramer remained concerned that connections were not being met when transferring from one bus to another. She added that when this happens, she is more inclined to use BART.

MOTION: ORTIZ/WALLACE to receive the Quarterly Operations Performance Report for AC Transit Fixed Route Services during the First Quarter of FY 2019, including on-time performance issues and the methodology used to calculate on-time performance. The motion carried by the following vote:

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

Board Administrative Matters:

- 5H. Consider authorizing the Retirement Board to extend its contract with Robert Half up to an additional six months, expiring on June 30, 2019 or earlier (Report 18-323).**

APPROVED

Retirement System Manager Hugo Wildmann presented the staff report and the rationale for requesting a contract extension for up to six months, including the impacts of not extending the contract and the impact on the Retirement Department. He added that a report could be provided to the District Board in February or March on the progress made toward hiring a qualified, full-time employee.

President Ortiz expressed her ongoing concern about the long-term use of temporary employees, noting that permanent employees should be hired for these positions. She added that the issues related to extending the Robert Half contract were concerning because the firm did not respond to the Request For Proposals for temporary services and was not on the current panel of firms used by the District to provide temporary workers. She made a motion to allow for a three-month extension in the hope that a permanent employee could be hired during that timeframe.

General Counsel Denise Standridge addressed the issue raised in the staff report concerning the salary grade of the permanent position, saying that it was benchmarked at a Grade 8 and the position was being paid at market rate. She further provided background information to the Board regarding the exhaustive efforts of Human Resources Department staff to fill the position as well as information on the upcoming interview schedule. She felt the District could be exposed as a result of irregularities in the process.

Public Comment:

- Yvonne Williams, Vice Chair of the Retirement Board, spoke in support of the six-month extension of the Robert Half contract, noting an uptick in retirements, PEPPRA implementation, etc. She agreed with the Board President's statement regarding temporary employees, noting that it was not an optimal solution from ATU's perspective. She asked the Board to support the request from the Retirement Department.
- Jeffrey Lewis, Chair of the Retirement Board, appreciated the comments of the Board President, noting the Retirement Department was in a precarious situation and needed the contract extension to ensure that a knowledgeable staff person was available to process retirement applications. He further added that a three-month extension was not enough time to hire and fully train a permanent employee. He disagreed with the comments made by the

General Counsel concerning the hiring process, stating his understanding that Human Resources staff expressed similar reservations to those expressed by Mr. Wildmann.

Following public comment, Director Young proposed an amendment to President Ortiz's motion to allow for a six-month extension of the contract which would allow three months to hire a permanent employee and three months to train them. The amended motion was seconded by Vice President Wallace.

Director Harper believed that the Retirement Board needed to be independent, and to the extent possible, needed to manage as it deemed necessary. He felt the issue of how involved the District wanted to be with the Retirement Board needed to be explored. President Ortiz advised that she planned to propose the creation of a limited-purpose committee with the Retirement Board (two members of the District Board and two members of the Retirement Board) to analyze the function of the administration between the two bodies (See Item 7, Agenda Planning).

MOTION: YOUNG/WALLACE to authorize the Retirement Board to extend its contract with Robert Half up to an additional six months, which will allow three months to hire a permanent employee and three months for training. The motion carried by the following vote:

AYES:6: Young, Wallace, Williams, Davis, Peeples, Ortiz

ABSTAIN:1: Harper

- 5I. Consider adopting the 2019 Regular Board Meeting Schedule taking into consideration the District's holiday schedule and any days requested by Directors to be included in the holiday schedule; and reschedule any regular meetings if necessary (Report 18-292).**

ADOPTED

There was no presentation of the staff report.

Director Peeples reminded staff that the Transportation Research Board's Annual Meeting needed to be a consideration when preparing the meeting schedule in the future.

MOTION: WILLIAMS/WALLACE to adopt the 2019 Regular Board Meeting Schedule as presented. The motion carried by the following vote:

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

- 6. CLOSED SESSION/REPORT OUT**

NO REPORT

There was nothing to report out of Closed Session.

6A. Conference with Legal Counsel – Existing Litigation

(Government Code Section 54956.9 (a))

Quarterly Litigation Report

- Edwards v. AC Transit, et al., U.S. Dist. Ct. (No.Cal.Dist.) No. C15-05578 VC;
- Edwards v. AC Transit, et al., ACSC No. RG17-885627;
- Blacksher v. Amalgamated Transit Union, et al., ACSC No. HG16-840726;
- Henderson v. AC Transit, et al., ACSC No. RG18-914096;
- Henderson v. AC Transit, ACSC No. RG18-915135; and
- Claim of McCullers (18-AL00106).

6B. Conference with Legal Counsel – Potential Litigation

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

6C. Conference with Labor Negotiators

(Government Code Section 54957.6):

Agency Designated Representative: General Manager

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

6D. Public Employee Performance Evaluation

(Government Code Section 54957)

Title: General Manager, General Counsel, District Secretary

7. AGENDA PLANNING

President Ortiz requested the creation of a limited-purpose committee between the Retirement Board and the AC Transit Board to discuss the function of the administration. (Director Williams concurred).

Director Peebles requested to place an item on the agenda to defer the Transbay fare increase until 60 days after the terminal re-opens. No concurrence was received to place the request on a future agenda. [General Manager Michael Hursh advised that it was too late to stop the planned fare increase, adding that the double-deck buses would be rolling into service next month and the District had already made many service improvements. He was cautiously optimistic about the re-opening of the transit center in the near future.]

8. GENERAL MANAGER'S REPORT

The General Manager's Report is incorporated into the file by reference as Staff Report 18-312.

**INFORMATION
ONLY**

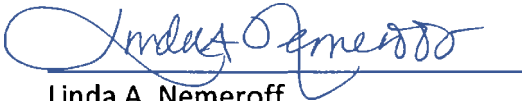
9. BOARD/STAFF COMMENTS

Members of the Board commented on meetings and events attended since the last Board meeting. Director Davis thanked the Board for its hard work and the General Manager and staff for their efforts during his tenure on the Board.

10. **ADJOURNMENT**

There being no further business to come before the Board of Directors, the meeting adjourned at 7:13 p.m. The next regular meeting of the Board of Directors is scheduled for Wednesday, December 12, 2018.

Respectfully submitted,



Linda A. Nemeroff
District Secretary

