



ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

MINUTES

Board of Directors - Regular Meeting

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

Wednesday, September 25, 2019 at 5:00 PM
Closed Session - 4:00 PM (Items 7A-7D)

MEMBERS OF THE BOARD OF DIRECTORS

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

BOARD OFFICERS

MICHAEL A. HURSH, GENERAL MANAGER
DENISE C. STANDRIDGE, 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, September 25, 2019.

The meeting was called to order at 4:30 p.m. for the purpose of Closed Session. All Board members were present with the exception of Director Williams. The Board convened in Closed Session to discuss Items 7A-7D as listed on the agenda. Closed Session concluded at 4:55 p.m.

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

2. ROLL CALL

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

3. PUBLIC COMMENT

Michael Ramsey commented on no-shows on Line 51A saying that service on the line is broken and there are not enough operators to provide the service. The Board was asked to address the issue.

Jennifer Rodriguez complained about bus operators on Line 28, noting that operators were preaching to the homeless about paying the fare and were keeping the windows on the bus open due to body odor. She asked that operators be asked to show more compassion. (Submitted complaint letter.)

4. MODIFICATIONS TO THE AGENDA

There were no modifications to the agenda.

5. CONSENT CALENDAR**Approval of the Consent Agenda**

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

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

5.A. Consider approving Board of Directors meeting minutes of September 11, 2019. [19-313](#)

5.B. Consider receiving Retirement Board minutes of August 8, 2019. [19-314](#)

5.C. Consider receiving the Monthly Report on Investments for June and July 2019. [19-293](#)

6. REGULAR CALENDAR**External Affairs Items - Chair Ortiz**

6.A. Consider receiving the monthly legislative report. [19-297](#)

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

MOTION: PEEPLES/WILLIAMS to receive the monthly legislative report. The motion carried by the following vote:

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

Finance and Audit Items - Chair Harper

- 6.B.** Consider the adoption of Resolution 19-033 approving the AC Transit EasyPass pricing schedule for FY2021-FY2029, approving the Title VI Equity Analysis, and directing staff to amend Board Policy 333 (Fare Policy: Goals and Methodology). [19-262b](#)

Marketing Manager Nichele Laynes presented the staff report.

MOTION: ORTIZ/WALLACE to adopt Resolution 19-033 approving the AC Transit EasyPass pricing schedule for FY2021-FY2029 as presented, approving the Title VI Equity Analysis, and directing staff to amend Board Policy 333 (Fare Policy: Goals and Methodology). The motion carried by the following vote:

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

Planning Items - Chair Peeples

- 6.C.** Consider authorizing the General Manager to execute an agreement with Laird Plastics for polyurethane rub rails for the Bus Rapid Transit (BRT) station platforms. [19-315](#)

There was no presentation of the staff report.

MOTION: ORTIZ/HARPER to authorize the General Manager to execute an agreement with Laird Plastics for polyurethane rub rails for the Bus Rapid Transit (BRT) station platforms. The motion carried by the following vote:

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

- 6.D.** Consider authorizing the General Manager to approve change orders and amend the O.C. Jones and Sons, Inc. contract as-needed up to 18% of the Board approved contract value for the East Bay Bus Rapid Transit (BRT) Project Infrastructure and Station Platforms. [15-210c](#)

Director of Bus Rapid Transit David Wilkins presented the staff report.

Mr. Wilkins addressed questions from the Board concerning the term of the contract and the amount of contingency that would be used (approximately \$20 million).

Discussion ensued regarding the need to grant the General Manager extra authority, up to 18% of the contract value (3% more than the 15% already allowed under Board

Policy). General Manager Michael Hursh advised that the additional authority was being requested to avoid delaying the project, noting that the full 18% may not be needed. He further added that there was a significant amount of project work to be done after the opening of revenue service.

Director Harper felt that there was enough flexibility in the change order process to request additional authority as needed given that the General Manager already had authority up to 15%.

MOTION:ORTIZ/WALLACE to authorize the General Manager to approve change orders and amend the O.C. Jones and Sons, Inc. contract as-needed up to 18% of the Board approved contract value for the East Bay Bus Rapid Transit (BRT) Project Infrastructure and Station Platforms. The motion carried by the following vote:

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

Nayes: Harper

- 6.E.** Consider waiving the two-hearing requirement specified in Board Policy 110 and set a public hearing at 6:00 p.m. on October 23, 2019, regarding Division 4 modifications to accommodate battery electric buses as part of the 45 Zero Emission Bus Purchase - Initial Study/Preliminary Mitigated Negative Declaration [19-308](#)

Senior Transportation Planner Mika Miyasato presented the staff report, advising that staff was requesting that the Board receive the report and waive all requirements for a public hearing because one was not required under California Environmental Quality Act (CEQA) guidelines or regulations. She added that staff would still distribute a Notice of Intent to impacted members of the public and affected stakeholders via various communication channels as required by CEQA regulations.

MOTION:ORTIZ/WALLACE to receive the report and approve a waiver of all public hearing requirements in regard to Division 4 modifications to accommodate battery electric buses as part of the 45 Zero Emission Bus Purchase - Initial Study/Preliminary Mitigated Negative Declaration. The motion carried by the following vote:

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

Operations Items - Chair Shaw

- 6.F.** Consider authorizing the General Manager or his designee to file and execute an application with Caltrans for fiscal years 2020-21 and 2021-22 for the Federal Transit Administration (FTA) Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities Program on behalf of the East Bay Paratransit Consortium (EBPC), for a Regional Paratransit Program (RPP) pilot. [19-294](#)

Accessible Services Manager Mallory Nestor-Brush presented the staff report.

MOTION: WILLIAMS/WALLACE to authorize the General Manager or his designee to file and execute an application with Caltrans for fiscal years 2020-21 and 2021-22 for the Federal Transit Administration (FTA) Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities Program on behalf of the East Bay Paratransit Consortium (EBPC), for a Regional Paratransit Program (RPP) pilot. The motion carried by the following vote:

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

Absent: Young

- 6.G.** Consider receiving a report on the State of the District's Non-Revenue Fleet. [Requested by Director Shaw - 6/26/19] [19-300](#)

Director of Maintenance Cecil Bandon presented the staff report.

Director Shaw asked if staff had assessed the current fleet with respect to needs and usage, surplus vehicles, and replacement. Mr. Bandon advised that the District was decreasing its non-revenue vehicle numbers and would dispose of some vehicles this year. In addition, the app used to manage the use of pool cars was being expanded beyond the General Office to other divisions.

Director Peeples asked if staff was looking to purchase more zero emission vehicles. Mr. Bandon advised that the District has replaced some vehicles with hybrid vehicles, noting that zero emission technology was still cost prohibitive.

MOTION: ORTIZ/PEEPLS to receive a report on the State of the District's Non-Revenue Fleet. The motion carried by the following vote:

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

Absent: Young

- 6.H.** Consider the adoption of Resolution No. 19-032 approving the revised classification of Bus Operator. [19-304](#)

The item was pulled off the agenda by Vice President Ortiz and requested to be continued to the next Board meeting to ensure concurrence with ATU Local 192 on the classification specification.

Straff Reports 11-256g and 11-256c were considered concurrently.

- 6.I.** Consider authorizing the General Manager to enter into an extension of the Dumbarton Bridge Regional Operations Consortium (DBROC) Cooperative Agreement - January 1, 2020 to December 31, 2020 - in conjunction with the one-year option for the service contract. [11-256g](#)

Planning Data Administrator Howard Der presented the staff report.

MOTION: ORTIZ/WALLACE to authorize the General Manager to enter into an extension of the Dumbarton Bridge Regional Operations Consortium (DBROC) Cooperative Agreement - January 1, 2020 to December 31, 2020 - in conjunction with the one-year option for the service contract. The motion carried by the following vote:

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

Absent: Young

- 6.J.** Consider exercising the fourth of five one-year options with MV Transportation to continue Dumbarton Express service under the existing contract. [11-256c](#)

Planning Data Administrator Howard Der presented the staff report.

Director Shaw asked at what point staff would be working on the next contract as well as the status of the VTA transit pass and the performance of the Dumbarton service. Mr. Der advised that staff would starting planning for the next contract later this year. He added that VTA planned to eliminate the pass, but the date to phase it out had slipped to December 2020. In addition, the performance of the Dumbarton service would not be re-evaluated until after the Dumbarton Forward Project was complete.

MOTION: ORTIZ/WALLACE to exercise the fourth of five one-year options with MV Transportation to continue Dumbarton Express service under the existing contract. The motion carried by the following vote:

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

Absent: Young

- 6.K.** Consider authorizing the General Manager to execute a contract renewal with the City of Oakland (City) for operation of the Broadway Shuttle. [16-106c](#)

[A letter received from the Jack London Improvement District was provided to the Board for consideration.]

Senior Transportation Planner John Urgo presented the staff report.

Public Comment:

Bruce Williams, City of Oakland, commented in support of extending the Broadway Shuttle contract, advising that it would allow staff additional time to develop a long-term vision for the shuttle and bolster funding for the service from the Alameda County Transportation Commission (ACTC), private funding partners and developers who were required to provide shuttle service on their own. He added that the City of Oakland was considering transit only lanes on Broadway and would request that the Alameda County Transportation Commission (ACTC) prioritize funding for that purpose as well as the Broadway Shuttle.

Joe Dudley commented in support of extending the Broadway Shuttle contract to support growth and development from downtown Oakland to Jack London Square.

Concerns were raised about the age of the existing shuttle fleet and the cost to replace it, future funding for the service, and how the District would respond to requests from other cities that wanted a similar "free" shuttle service.

With regard to the fleet, Director of Service Development and Planning Robert del Rosario advised that the existing buses were eligible for retirement in 2020, and while efforts to obtain funding from the air district for zero emission buses had not gained any momentum, the prospect of deploying this type of bus on the route made sense. With regard to the timeline to organize additional funding for the service, Mr. Williams responded that the City of Oakland had sought to increase private contributions for the service, in part, to help defray the increase in the cost of the contract. He added that staff was not presently seeking additional monies to cover the District's portion. With regard to possible requests by other cities, General Manager Michael Hursh advised that staff would bring requests to the Board for direction.

Director Shaw expressed general support for public/private partnerships to provide free shuttles, but felt the City of Oakland had done little to secure additional monies to help pay for the service. Additional concern was raised about the capital cost to replace the buses in 2020. Vice President Ortiz suggested that the \$10 million in Measure BB money originally allocated for Oakland's Streetcar Project be used to fund future vehicle replacement. Director Harper suggested that the City of Oakland form a public benefit improvement district for the purpose of funding the shuttle. Mr. Williams advised that the City was considering this option and would continue to work closely with AC Transit and the other partners.

Vice President Ortiz also questioned the need for a Title VI analysis and was advised by General Counsel Denise Standridge that an analysis would be required if there were a major change to the service because the District is contributing resources to the service.

MOTION: WALLACE/ORTIZ to authorize the General Manager to execute a contract renewal with the City of Oakland (City) for operation of the Broadway Shuttle. The motion carried by the following vote:

Ayes: Wallace, Ortiz, Harper, Williams, Peebles

Nays: Shaw

Absent: Young

Board Administrative Matters:

6.L. Consider recommendation to approve contract assignment from Law

[17-018b](#)

Offices of Robert Peterson to Donnell, Melgoza & Scates, LLP.

There was no presentation of the staff report.

MOTION: HARPER/ORTIZ to approve contract assignment from Law Offices of Robert Peterson to Donnell, Melgoza & Scates, LLP. The motion carried by the following vote:

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

Absent: Young

- 6.M.** Consider approving the draft agenda for the Board of Directors and Board Officers retreat scheduled for October 30, 2019.

[19-312](#)

District Secretary Linda Nemeroff was available for questions.

President Wallace requested agenda item to discuss Board interactions with each other and with staff.

CONSENSUS to approve the draft agenda for the Board of Directors and Board Officers retreat scheduled for October 30, 2019 with the inclusion of one additional item requested by President Wallace. The motion carried by the following vote:

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

Absent: Young

7. CLOSED SESSION/REPORT OUT

There was nothing to report out of Closed Session.

7.A. Conference with Legal Counsel – Existing Litigation

(Government Code Section 54956.9 (a))

Quarterly Litigation Report:

- 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, et al., ACSC No. RG19-007545;
- McNaulty v. AC Transit, ACSC No. RG18-933966; and
- Pearl v. AC Transit, ACSC No. RG19-015118.

7.B. Conference with Legal Counsel – Potential Litigation

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

7.C. Conference with Labor Negotiators

(Government Code Section 54957.6):

Agency Designated Representative:

- General Manager Michael Hursh;

- Acting Executive Director of Human Resources Nathaniel Kramer;

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

Unrepresented Employees

7.D. Public Employee Performance Evaluation

(Government Code Section 54957)

Title: General Manager, General Counsel, District Secretary

8. AGENDA PLANNING

8.A. Review Agenda Planning Pending List.

[19-020p](#)

Vice President Ortiz requested that the General Counsel and District Secretary review and amend the public hearing requirements spelled out in Board Policy 110. (President Wallace concurred)

Director Peeples requested an agenda item about buying carbon "offsets" for AC Transit's air travel.

9. GENERAL MANAGER'S REPORT

9.A. General Manager's Report for September 25, 2019.

[19-084](#)

10. BOARD/STAFF COMMENTS

(Government Code Section 54954.2)

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

11. ADJOURNMENT

There being no further business to come before the Board of Directors, the meeting adjourned at 6:34 p.m. in memory of Leopold Van Hool, the former Chairman of the Board of Directors of the Van Hool bus company, and former District Litigator and Legal Counsel Richard Kassis. The next meeting of the Board of Directors is scheduled for October 9, 2019 at 5:00 p.m.

Respectfully submitted,

/S/

Linda A. Nemeroff

District Secretary