



ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

MINUTES

Board of Directors - Regular Meeting

VIRTUAL MEETING

Wednesday, June 23, 2021 at 5:00 PM

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

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)

MARK WILLIAMS (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 regular virtual meeting on Wednesday, June 23, 2021.

Members of the Board participated via video conference from off-site locations in accordance with Executive Order N-08-21. Pursuant to the Executive Order, notice of teleconference locations is not required.

At 4:17 p.m., the Board of Directors convened in Closed Session to discuss Items 7.A. - 7.D. as listed on the agenda. All Board members were present except Director Peeples who arrived at 4:22 p.m. The Closed Session concluded at 4:43 p.m.

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

2. ROLL CALL

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

3. PUBLIC COMMENT

[Written comment received prior to the meeting is attached hereto as Exhibit A.]
There were no public comments offered.

4. MODIFICATIONS TO THE AGENDA

There were no modifications to the agenda.

5. CONSENT CALENDAR

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

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

5.A. Consider approving Board of Directors minutes of June 9, 2021. [21-317](#)

MOTION: WILLIAMS/BECKLES to approve the Board of Directors minutes of June 9, 2021. The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

5.B. Consider approving Board of Directors/Board Officers Retreat minutes of March 31, 2021. [21-222](#)

MOTION: WILLIAMS/BECKLES to approve the Board of Directors/Board Officers Retreat minutes of March 31, 2021. The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

- 5.C.** Consider authorizing members of the Board of Directors and General Manager to attend the Center for Transportation and the Environment 2021 International Zero Emission Bus Conference on September 15-17, 2021 in Denver, Colorado. [21-319](#)

MOTION: WILLIAMS/BECKLES to authorize members of the Board of Directors and General Manager to attend the Center for Transportation and the Environment 2021 International Zero Emission Bus Conference on September 15-17, 2021 in Denver, Colorado. The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

- 5.D.** Consider authorizing Director Peeples to tour the New Flyer Vehicle Innovation Center on November 12, 2021 in Anniston, Alabama. [21-323](#)

MOTION: WILLIAMS/BECKLES to authorize Director Peeples to tour the New Flyer Vehicle Innovation Center on November 12, 2021 in Anniston, Alabama. The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

- 5.E.** Consider receiving Retirement Board Minutes of May 20, 2021. [21-313](#)

MOTION: WILLIAMS/BECKLES to receive the Retirement Board Minutes of May 20, 2021. The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

- 5.F.** Consider receiving the bi-monthly budget update for the period of July through April FY 2020-21. [21-274](#)

MOTION: WILLIAMS/BECKLES to receive the bi-monthly budget update for the period of July through April FY 2020-21. The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

- 5.G.** Consider receiving the Monthly Report on Investments for April 2021. [21-309](#)

MOTION: WILLIAMS/BECKLES to receive the Monthly Report on Investments for April 2021. The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

- 5.H.** Consider authorizing the General Manager or his designee to file and execute grant applications and funding agreements with the Bay Area Air Quality Management District (BAAQMD) for the AB617: Community Emission Reduction Program for the Division 4 (D4) Hydrogen Station Upgrade Project. [21-215](#)

MOTION: WILLIAMS/BECKLES to authorize the General Manager or his designee to file and execute grant applications and funding agreements with the Bay Area Air Quality Management District (BAAQMD) for the AB617: Community Emission Reduction Program for the Division 4 (D4) Hydrogen Station Upgrade Project. The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

- 5.I.** Consider receiving an informational report on potential cybersecurity applications to replace Mimecast. [Requested by Director Peeples - 3/10/21] [21-308](#)

MOTION: WILLIAMS/BECKLES to receive an informational report on potential cybersecurity applications to replace Mimecast. [Requested by Director Peeples - 3/10/21] The motion carried by the following vote:

Ayes: Ortiz, Young, Walsh, Beckles, Williams, Shaw

Absent: Peeples

6. REGULAR CALENDAR

External Affairs Items - Chair Williams

- 6.A.** Consider receiving the Monthly Legislative Report and approval of legislative positions if necessary. [21-119](#)

External Affairs Representative Steven Jones presented the staff report.

Public Comment:

There were no public comments offered.

Board Discussion:

President Ortiz asked for a clarification on AB 455 (dedicated transit lanes on the Bay Bridge) and why the bill has become a two-year bill. Mr. Jones explained that time is needed to consider vast proposed amendments. He further added that the two-year timeframe might allow the District and other proponents to develop the bill further and focus on near-term issues such as the Bridge approach improvements and long-term matters such as dedicated lanes.

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

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

Finance and Audit Items - Chair Shaw

- 6.B.** Consider approving the award of a three-year contract to Crowe LLP [21-318](#)
with options for two one-year renewals for auditing services.

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

Finance Administrator Kenneth Myers presented the staff report.

Public Comment:

There was no public comment offered.

Board Discussion:

Director Beckles inquired about the District's familiarity with the recommended firm (Crowe). Mr. Meyers advised that Crowe was the current audit firm and had been for the last five years. He added that there would be a change in the managing partner under the new contract.

Director Peeples opposed the contract award based on his belief that the Board had adopted a firm policy several years ago to change audit firms, not just audit partners, every five years. Chief Financial Officer Chris Andrichak responded that he was not aware of a policy that required the District to change auditors. He added that the District did conduct a competitive solicitation process and Crowe scored the highest of the proposals evaluated, saying it was a national firm with a track record in transportation. General Manager Hursh advised that he was not aware of a mandate to change auditors and questioned whether the District could disqualify a competitive bid on those grounds.

Director Beckles concurred with Director Peeples noting a concern about auditing firms getting too comfortable and suggested that the District consider another firm. Mr. Andrichak advised that the Accounting Policy only required that an auditing contract be competitively bid every five years. He added that any delay in the process of awarding a contract would cause the District's audit to be delayed by several months.

Director Walsh felt that Director Peeples' comments warranted further discussion. Mr. Andrichak re-stated what was required under the Accounting Policy. General Counsel Jill Sprague shared the same concern with having a policy that would disallow a competitive bid from the current auditing firm.

MOTION: YOUNG/ORTIZ to approve the award of a three-year contract to Crowe LLP with options for two one-year renewals for auditing services. The motion carried by the following vote:

Ayes: Ortiz, Young, Williams, Shaw

Nayes: Beckles, Peeples

Abstained: Walsh

- 6.C.** Consider authorizing the General Manager to bind the 2021-2022 Commercial Property Insurance and Deadly Weapon Response insurance programs for the District.

[21-315](#)

There was no presentation of the staff report.

Public Comment:

There were no public comments offered.

Board Discussion:

There was no discussion of the item.

MOTION: WILLIAMS/BECKLES to authorize the General Manager to bind the 2021-2022 Commercial Property Insurance and Deadly Weapon Response insurance programs for the District. The motion carried by the following vote:

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

Vice President Young briefly left the meeting at 5:35 p.m. during the discussion of Item No. 6.D.

Planning Items - Chair Peeples

- 6.D.** Consider approving a full amendment of Board Policy 522 and retitle the policy as "Policy for Transit-Oriented Development and Transit-Supportive Land Use."

[21-158](#)

Senior Transportation Planner Nathan Landau presented the staff report.

Public Comment:

John Minot, East Bay Transit Riders Union (EBTRU), expressed support and approval of the work to update Board Policy 522 stating that dense, affordable housing is critically tied to the sustainability of transit as an enterprise.

Katy Scott-Smith, People's Transit Alliance of the East Bay Democratic Socialists of America (PTA-EBDSA), agreed with the values and goals embodied in the board policy, particularly around prioritizing affordable dense housing and walkable neighborhoods. Scott-Smith hoped for greater public participation with transit-oriented development and suggested the creation of a citizens' advisory council to provide an avenue for greater lobbying efforts.

Annie Lloyd, PTA - EBDSA, offered support to the values and priorities outlined in the policy. Lloyd urged the Board to build out transparent ways of relaying communications between parties affected within this policy and encouraged the Board to release criteria

and benchmarks to show District accountability. Finally, Lloyd suggested a mechanism to collect information on the views and needs of riders on related projects.

Board Discussion:

Director Shaw complimented staff on the policy and wanted to know if the frequency of service was essential to defining a transit hub and whether this should be included in the policy. Mr. Landau advised that he did not feel there was a benefit to tying hubs to frequency of service. Director Shaw also suggested that language be added to the policy to convey to cities and developers the importance of shelters and benches to AC Transit's riders. Director Shaw also raised the need to address supplemental service near areas of development. Mr. Landau commented on the need for some development projects to address student populations and supplemental transit service.

Director Williams commented on the number of development projects in Hayward and the need to work with interested parties to better plan and coordinate transit service.

Director Peeples commented that unlike BART, AC Transit does not develop the land and is only a commenter and that primary responsibility ultimately rests with the underlying jurisdiction.

Director Walsh thanked staff and was glad staff was updating older policies and was incorporating feedback from stakeholders. She also agreed with Director Shaw's idea to incorporate some additional elements into the policy.

Director Shaw commented that it would be good to document what AC Transit's opinion is and to add elements into the policy to address shelters, benches and supplemental service as referenced above.

The policy was continued to the next meeting with direction to staff to incorporate the additional amendments suggested by Director Shaw and submit to the Board for re-consideration.

- 6.E.** Consider adoption of Resolution No. 21-023 in support of staff's comments on the City of Oakland's recommendation for bicycle facilities on Telegraph Avenue between 20th and 29th Streets.

[21-324](#)

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

Public Comment:

Dave Campbell, Advocacy Director for Bike Eastbay, offered support of the staff recommendation for protected curb-adjacent bike lanes noted in the staff report. Campbell commented on the installation of concrete islands with bus shelters in the KONO District of Oakland and also about the proposed buffered bike lanes that will create more situations for cars double-parking up and down the corridor. Campbell

noted that double-parking in bike lanes will cause bike riders to travel in the bus lanes. Campbell apologized that AC Transit was not part of the bike lane conversation last fall. **John Minot**, EBTRU, spoke in support of the staff report and expressed concern with the omission of AC Transit in the discussion regarding bike lanes. Minot also commented that the status quo which prioritizes single occupancy vehicles on urban lands hurts any future ability to offer improved bus-related services, such as future TEMPO service or increased boarding island slip lanes. Minot further noted the Oakland City Council's desire to hear AC Transit's thoughts about these changes, saying it would be a good opportunity for dialogue.

Board Discussion:

Director Shaw supported the staff recommendation and was disappointed that the Oakland Department of Transportation did not involve AC Transit when considering their plans.

MOTION: SHAW/WALSH to adopt Resolution No. 21-023 in support of staff's comments on the City of Oakland's recommendation for bicycle facilities on Telegraph Avenue between 20th and 29th Streets. The motion carried by the following vote:

Ayes: Ortiz, Walsh, Beckles, Williams, Shaw, Peeples

Absent: Young

Operations Items - Chair Beckles

Vice President Young returned to the meeting at 5:54 p.m. during the discussion of Item No. 6.F.

- 6.F.** Consider receiving a report on AC Transit's Zero Emission Transit Bus Technology Analysis. [21-284](#)

Chief Operating Officer Salvador Llamas introduced the item and invited Director of Project Controls and System Analysis William Tonis to present the report. Mr. Tonis presented AC Transit's fuel efficiency comparisons and the Zero Emission Bus (ZEB) Technology study findings. He emphasized that the analysis was the first-ever side-by-side evaluation of ZEB technologies operated in the same service environment, with ZEBs from the same bus manufacturer in comparison with conventional fleets.

Public Comment:

There were no public comments offered.

Board Discussion:

Director Shaw complimented staff on the report and asked for clarification on fuel credits and how they affect the operational cost per mile. Mr. Tonis advised that AC Transit's ZEB and low carbon emission fleet receive credits through the Low Carbon Fuel Standard Credit Program, regulated by the California Air Resources Board (CARB). He added that the credits vary in the dollar amount for different technologies but well

offset the cost per mile. Director Shaw further inquired whether the credits will be relevant long-term or are meant to be a short-term incentive. Mr. Tonis couldn't recall the term of the credit program but advised that the application of credits presents the true cost of technologies. Mr. Tonis also clarified that, when applied, the credits do lower the cost of the technologies but do not affect efficiency and reliability. Mr. Llamas supported Mr. Tonis's explanation adding that credits factor into the cost of the zero-emission technologies.

Director Shaw further inquired about charging times and how costs compare between charging hydrogen versus battery-electric buses. Mr. Tonis explained that the costs are relatively equivalent; however, charging a battery bus takes several hours while a hydrogen bus only take minutes to charge. Mr. Llamas added that the District plans to upgrade the charging capacities for both technologies and will have more accurate data in the future.

Director Peebles recognized the leadership in carrying out the project from its early efforts until today's milestone. He added that peers in the transit industry worldwide would turn to this study.

Vice President Young asked for clarification on the revenue collected through the Low Carbon Fuel Standard (LCFS) Credit Program. Chief Financial Officer Chris Andrichak advised that the District participates in the State's program and accumulates credits through the utility audit consultants who assist with energy sourcing. He further added that the District plans to consult a broker about selling the credits to "dirty fuel" producers who are required to purchase credits to offset their carbon emission footprint. Mr. Andrichak further explained that currently, the District collects around \$100,000 annually and that with the expansion of the ZEB fleet, the revenue is expected to grow.

Vice President Young asked about issues with high-voltage batteries. Mr. Llamas explained that some batteries had issues when first deployed, but the problems were resolved, and the batteries are being used currently.

Vice President Young commented that the study confirmed what was long expected (such as the longer range of fuel-cell busses and the higher cost of hydrogen over the electricity) but asked if staff discovered anything new and unexpected. Mr. Tonis mentioned that it was a surprise to learn that the fuel-cell electric bus outperformed the diesel technology. General Manager Michael Hursh pointed out that the hydrogen fuel cost was higher than expected and that hydrogen suppliers may lose the business if they ignore the plea to lower the price of hydrogen. Mr. Hursh commented that staff would continue to test the technologies and thought it was too early to see any surprising findings.

Director Williams asked if vehicles other than busses, such as paratransit or flex service, will use any of the mentioned technologies. Mr. Llamas advised that technologies for

such vehicles are still emerging and that the District is on track to a zero-emission fleet by 2040.

President Ortiz commented that despite promises, the cost of hydrogen fuel has not dropped and asked if there was any indication as to when the price would drop. Mr. Hursh explained there was no definitive answer but there are efforts underway to form cooperatives which would leverage their buying power to purchase hydrogen at a lower price. Mr. Hursh added that many agencies are choosing zero-emission technologies now, and if the price of hydrogen doesn't drop, the suppliers will lose the business. Mr. Llamas addressed the issue of reliability, confirming that diesel technology is still most reliable, but added that further analysis over time might provide more accurate numbers in favor of other technologies. Mr. Llamas further added that the U.S. Secretary of Energy recently announced a 10-year plan to lower the cost of hydrogen from \$7.79 to \$1 per kilogram.

Director Peeples added that the price of hydrogen buses has dropped significantly over the past few years and agreed with previous comments that the cost of hydrogen fuel is high. Director Peeples agreed with General Manager's stance that the hydrogen price must drop because many agencies are making the technology choices now. Director Peeples added that he would continue to advocate for the price reduction.

Director Shaw was concerned that the short operating range and the need to charge the battery-electric buses might cause more deadhead (non-revenue runs) and cost more in the long run. Mr. Llamas advised that battery-electric buses are depot-charged and felt confident that currently deployed battery buses could efficiently operate and cover the routes. Mr. Llamas commented that in-route charging stations might be considered in the future but noted that it might be too early to plan at this time.

After President Ortiz and Director Shaw moved and seconded to receive the report, Director Beckles commented that operating a long-range fleet is important and asked what the average range of a battery-electric bus per shift is. Mr. Llamas and Mr. Tonis clarified that the average battery range is around 100 miles and that 35% of the routes are over 200 miles long. Director Beckles commented that the District would need busses with the 300-mile range.

MOTION: ORTIZ/SHAW to receive a report on AC Transit's Zero Emission Transit Bus Technology Analysis. The motion carried by the following vote:

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

- 6.G.** Consider receiving an update on the access to Government and Public restrooms for operators and other District employees working in the field.

[21-273](#)

Director of Transportation Derik Calhoun presented the staff report.

Public Comment:

There were no public comments offered.

Board Discussion:

Director Williams asked what has been the feedback from bus operators thus far, noting the closure of Hayward BART restrooms and an operator who was denied access to the Hayward City Hall restroom. Director Williams asked for ongoing communication between partnering agencies to ensure access to restrooms during temporary closures. Mr. Calhoun advised that no adverse comments were received and that any concerns raised by the operators are addressed and resolved. He added that feedback was mainly about maintenance issues.

Director Shaw commented that she received direct feedback from several operators who noticed an improvement in restroom availability and appreciated the District's efforts. General Manager Hursh applauded BART and AC Transit's capital projects team for the effort to install the BART restrooms during the pandemic. Mr. Hursh also mentioned that since the time of the report, a new break room had opened in San Leandro and a dedicated restroom at Rockridge BART for AC Transit operators.

Director Beckles thanked staff for finding the additional 33 restrooms and emphasized the importance of clean and safe restrooms for bus operators.

MOTION: WILLIAMS/PEEPLES to receive an update on the access to Government and Public restrooms for operators and other District employees working in the field. The motion carried by the following vote:

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

- 6.H.** Consider receiving a report on the District's Diversity, Equity, Access and Inclusion Efforts. [21-237b](#)

Executive Director of External Affairs, Marketing and Communications Beverly Greene presented the staff report.

Public Comments:

There were no public comments offered.

Board Discussion:

Director Williams thanked staff for their efforts on cultural programs.

President Ortiz congratulated Ms. Greene on receiving the Conference of Minority Transportation Officials President & CEO Award for Excellence in 2020.

MOTION: ORTIZ/WILLIAMS to receive a report on the District's Diversity, Equity, Access and Inclusion Efforts. The motion carried by the following vote:

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

Board Administrative Matters - President Ortiz

- 6.I.** Consider approving the draft agenda for annual Joint meeting between the Board of Directors and the Accessibility Advisory Committee scheduled for July 28, 2021. [21-322](#)

District Secretary Linda Nemeroff presented the staff report.

Public Comment:

There were no comments offered.

Board Discussion:

Director Peeples asked to add a discussion about better coordination between the AAC and the Training Department to the agenda. Director Shaw clarified that this issue was one of the AAC's Top Priorities, which was already on the agenda.

MOTION: PEEPLES/SHAW to approve the draft agenda for annual Joint meeting between the Board of Directors and the Accessibility Advisory Committee scheduled for July 28, 2021. The motion carried by the following vote:

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

7. CLOSED SESSION/REPORT OUT

There was nothing to report out of closed session.

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

(Government Code Section 54956.9(b))

7.B. Conference with Labor Negotiators

(Government Code Section 54957.6):

Agency Designated Representative:

- General Manager Michael Hursh;

- Labor and Employee Relations Manager Nathaniel Kramer;

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

Unrepresented Employees

7.C. Public Employee Performance Evaluation

(Government Code Section 54957)

Title: General Manager, General Counsel, District Secretary

7.D. Threat to Public Services and Facilities

(Government Code Section 54957(a))

Consultation with: Ahsan Baig, Chief Information Officer

8. AGENDA PLANNING

- 8.A.** Review of the Agenda Planning Pending List. [21-018k](#)

Director Peeples requested a discussion about Board Policy 340 Accounting Policy,

specifically about changing audit firms every five years. (Ortiz concurred)

Director Beckles requested consideration of a third-party audit of the Contra Costa County Sheriff's Contract as a way to prepare for contract negotiations. (Peeples concurred)

9. GENERAL MANAGER'S REPORT

9.A. General Manager's Report for June 23, 2021.

[21-020k](#)

The report was presented for information only.

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 6:48 p.m. The next meeting of the Board is scheduled for July 14, 2021 at 5:00 p.m.

Respectfully submitted,

/s/

Linda A. Nemeroff
District Secretary

3. PUBLIC COMMENT

Public Comments

- Hello, now that California has re-opened and employers are requiring return to work, I am hoping to request that you re-start Transbay bus service from the East Bay to San Francisco, please. Lots of folks rely on the bus to get to downtown SF, and I am hoping you might be able to re-open the bus service ASAP (July 1 would be ideal). I rely on the Transbay bus to get to work, specifically the C line. Thank you for your service to our communities and your consideration.