



## **ALAMEDA-CONTRA COSTA TRANSIT DISTRICT**

### **MINUTES**

#### **Board of Directors - Regular Meeting**

##### **VIRTUAL MEETING**

The members of the Board will participate from remote locations.  
See page 2 of the agenda for public participation instructions.

**Wednesday, April 8, 2020 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**

**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, April 8, 2020.

Members of the Board participated via video conference from off-site locations in accordance with the statewide shelter in place order issued on March 16, 2020, that was extended through May 4, 2020.

At 4:09 p.m., the Board of Directors convened in Closed Session to discuss Items 7.A. through 7.D. as listed on the agenda. All Board members were present with the exception of Director Harper who was absent. Closed Session concluded at 4:57 p.m.

President Wallace called the Board of Directors meeting to order at 5:10 p.m.

***Due to technical difficulties, a portion of the meeting was not recorded.***

**2. ROLL CALL**

Director Williams arrived late and joined the meeting at approximately 5:25 p.m.

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

**3. PUBLIC COMMENT**

**Nathaniel Arnold**, ATU, Local 192, addressed the Board concerning hazard pay for bus operators.

**Yvonne Williams**, President and Business Agent for ATU Local 192, addressed the Board concerning working conditions for bus operators and the need to protect workers during the COVID-19 crisis.

**Lisa Harlow** commented on the COVID-19 crisis.

**4. MODIFICATIONS TO THE AGENDA**

There were no modifications to the agenda.

**5. CONSENT CALENDAR**

Director Harper pulled item 5.H. for clarification.

**Approval of the Consent Agenda**

MOTION: PEEPLES/WALLACE to receive or approve the items on the Consent Calendar as indicated below, with the exception of Item No 5.H. which was pulled off the consent calendar by Director Harper.

**5.A.** Consider approving Board of Directors minutes of March 11, 2020. [20-032](#)

MOTION: PEEPLES/WALLACE to approve Board of Directors minutes of March 11, 2020.  
The motion carried by the following vote:

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

- Absent:** Williams
- 5.B.** Consider approving Board of Directors Emergency Meeting minutes of March 17, 2020. [20-168](#)
- MOTION: PEEPLES/WALLACE to approve Board of Directors Emergency Meeting minutes of March 17, 2020. The motion carried by the following vote:
- Ayes:** Wallace, Ortiz, Harper, Shaw, Peeples, Young
- Absent:** Williams
- 5.C.** Consider receiving the Monthly Report on Investments for January, 2020. [20-143](#)
- MOTION: PEEPLES/WALLACE to receive the Monthly Report on Investments for January, 2020. The motion carried by the following vote:
- Ayes:** Wallace, Ortiz, Harper, Shaw, Peeples, Young
- Absent:** Williams
- 5.D.** 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 Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) to support the purchase of up to 45 zero emission buses and associated charging infrastructure. [20-144](#)
- MOTION: PEEPLES/WALLACE 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 Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) to support the purchase of up to 45 zero emission buses and associated charging infrastructure. The motion carried by the following vote:
- Ayes:** Wallace, Ortiz, Harper, Shaw, Peeples, Young
- Absent:** Williams
- 5.E.** Consider approving assignment of contract for independent risk bearing analysis from Bickmore to Albert Risk Management Consultants. [20-146](#)
- MOTION: PEEPLES/WALLACE to approve assignment of contract for independent risk bearing analysis from Bickmore to Albert Risk Management Consultants. The motion carried by the following vote:
- Ayes:** Wallace, Ortiz, Harper, Shaw, Peeples, Young
- Absent:** Williams
- 5.F.** Consider authorizing the General Manager or his designee to file and [20-148](#)
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execute applications and funding agreements with the Department of Homeland Security (DHS) for the FY 2019-20 Transit Security Grant Program (TSGP) for two projects to improve the security of the Bus Rapid Transit (BRT) project.

MOTION: PEEPLES/WALLACE to authorize the General Manager or his designee to file and execute applications and funding agreements with the Department of Homeland Security (DHS) for the FY 2019-20 Transit Security Grant Program (TSGP) for two projects to improve the security of the Bus Rapid Transit (BRT) project. The motion carried by the following vote:

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

**Absent:** Williams

- 5.G.** Consider approving the award of a firm fixed price construction contract to Ghilotti Construction Inc. of Santa Rosa, CA in the amount of \$1,188,000 for the rehabilitation of the Richmond Parkway Transit Center. [20-167](#)

MOTION: PEEPLES/WALLACE to approve the award of a firm fixed price construction contract to Ghilotti Construction Inc. of Santa Rosa, CA in the amount of \$1,188,000 for the rehabilitation of the Richmond Parkway Transit Center. The motion carried by the following vote:

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

**Absent:** Williams

- 5.H.** Consider authorizing the General Manager to execute documents with New Flyer Industries to purchase one (1) replacement articulated bus damaged by vandalism and beyond repair. [20-150](#)

Item No. 5.H. was pulled off the consent calendar by Director Harper who questioned the need to purchase another articulated bus. After a brief discussion, it was suggested that the District accept the insurance settlement while staff determines if the District has to purchase a replacement bus.

MOTION: WALLACE/WILLIAMS to accept the insurance settlement with staff to come back to the Board if it is determined that the District has to purchase a replacement bus. The motion carried by the following vote:

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

**Absent:** Peeples

## **6. REGULAR CALENDAR**

### **External Affairs Items - Chair Ortiz**

- 6.A.** Consider receiving an update on the District's actions to date in response to the Coronavirus Pandemic (COVID-19) and associated [20-174](#)

efforts to secure federal and state financial support for the District.

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

Members of the Board inquired about the number of COVID-19 infections, disinfection processes, and service planning scenarios. Staff was also thanked for their efforts in protecting employees during the pandemic.

Vice President Ortiz suggested that the Marketing Department start thinking of ways to encourage people to start riding the bus. President Wallace believed that ridership would rebound as there were many people who were transit dependent.

Director Young commented on the need to assess service levels given the dramatic drop in ridership. General Manager Michael Hursh advised that while it was still too early to assess the District's finances, staff was looking at different service scenarios. Director Harper advised that the District's financial future was a major concern for him.

Director Williams suggested that a poll be conducted to obtain feedback from the riding public.

**Public Comment:**

**Yvonne Williams**, President and Business Agenda for ATU Local 192, suggested that employees who are working from home be the first to be laid off, not the bus operators.

**Ms. Johnson**, Division 3 Bus Operator, believed she had been exposed to the operator from Division 3 who had contracted the virus, and felt the other operators had not been properly notified. She further questioned the District's disinfecting practices, social distancing on buses, and believed Division 3 was never shut down and disinfected.

**Ms. Owens**, Division 3 employee, asked how much money would be set aside for drivers for their continued service during the pandemic. She further advised that drivers were subject to a pay cut if they do not go to work.

**Judith Brush**, Division 2 Bus Operator, advised that any line leaving downtown Oakland is at capacity (10 passengers) within 4 stops and has to pass up riders. She further advised that furloughing drivers was not an attractive option for operators.

**Nathaniel Arnold**, ATU Local 192, asked why all the personnel at Division 2 were not placed into a 14-day quarantine when management learned that an operator at the division had contracted the virus.

MOTION: WALLACE/WILLIAMS to receive an update on the District's actions to date in response to the Coronavirus Pandemic (COVID-19) and associated efforts to secure federal and state financial support for the District. The motion carried by the following vote:

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

- 6.B.** Consider adoption of Resolution No. 20-022 extending the emergency authority granted to the General Manager under Resolution No. 20-020 through May 15, 2020, for the operation and administration of the District during the COVID-19 crisis. [20-162a](#)

There was no presentation of the staff report.

MOTION: PEEPLES/WALLACE to adopt Resolution No. 20-022 extending the emergency authority granted to the General Manager under Resolution No. 20-020 through May 15, 2020, for the operation and administration of the District during the COVID-19 crisis. The motion carried by the following vote:

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

- 6.C.** Consider approving the creation of a Limited Purpose COVID-19 Response Committee. [20-172](#)

There was no presentation of the staff report.

**Public Comment:**

Yvonne Williams, President of ATU Local 192, requested that Director Williams be appointed to the Committee due to his close contact with the Union and physical location to District facilities.

MOTION: YOUNG/WALLACE to approve the creation of a Limited Purpose COVID-19 Response Committee. The motion carried by the following vote:

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

**Finance and Audit Items - Chair Peeples**

- 6.D.** Consider receiving a report from Albert Risk analyzing the District's current insurance program and risk bearing capacity. [Requested by Directors Peeples and Harper - 6/27/18] [20-166](#)

Claims and Liability Manager Jean Paul Popoff presented the staff report, advising that based on the analysis, Albert Risk recommends that the District continue to retain risks that are within its financial capacity through deductibles and self-insurance retentions while transferring its catastrophic risk exposure by purchasing insurance. Mr. Popoff then turned the presentation over to Catherine Wells, Principal and West Coast Practice Leader for Albert Risk. Richard Cho with Albert Risk further discussed the analysis that was performed, noting that the District was exposed to a \$117 million catastrophic property loss (fire, water damage). Mark Priven discussed an analysis of workers' compensation coverage.

Director Peeples asked about a catastrophic loss due to an earthquake and what the District's policies covered. Mr. Cho advised that the District does not purchase earthquake coverage but is insured for fires after an earthquake. Mr. Cho advised that while Earthquake coverage was not analyzed as part of the study, it should be considered.

Director Shaw asked if the crime insurance included ransom for cybercrimes. Mr. Cho advised that the crime insurance did include ransom ware.

Director Shaw further inquired about the District's potential exposure to a large workers' compensation claim. Mr. Priven advised that while this was not a likely event, the rating bureau has a class specific to bus operators which estimates that 10% of the total of workers' compensation costs for an entity is over \$1 million and can make up a substantial portion of the losses for injured workers.

Director Harper asked if property losses would be valued at actual cash value or replacement value. Mr. Cho advised that the District's insurance policy provides for replacement value.

With regard to excess general liability and vehicle liability policies, Director Harper asked if the firm had a breakdown of the \$6.2 million in developed losses. Mr. Priven advised that a risk bearing analysis of the District's general liability and vehicle liability was not part of their scope of work. Director Harper pointed out that his issue with the study was that it did not acknowledge the District's claims and loss history in this area, which was the primary reason he requested that an analysis be performed. Mr. Popoff advised that he could provide the analysis and charts he had prepared prior to the study as well as an update with current events which showed that excess carriers had paid out a substantial amount of money over the premiums in addition to what the District would have paid absent the insurance premiums. Mr. Priven advised that an organization should assume as much risk as it could bear, while buying as little insurance possible for catastrophic loss. Director Harper commented that he would like the District to have a historical basis for what it is doing, noting his preference to continue the matter to another meeting.

Director Peeples suggested that staff distribute the charts and analysis to see if another study is warranted, and that the Board accept the report.

MOTION: YOUNG/ORTIZ to receive report from Albert Risk analyzing the District's current insurance program and risk bearing capacity. The motion carried by the following vote:

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

#### **Board Administrative Matters - President Wallace**

- 6.E.** Announcement of appointments to the Limited Purpose COVID-19 Response Committee.

[20-171](#)

President Wallace announced the appointment of Planning Chair Diane Shaw, External Affairs Chair Elsa Ortiz and Finance & Audit Chair H. E. Christian Peeples who will serve as Chair of the Committee.

- 6.F.** Announcement of the cancellation of the April 29, 2020 Board Retreat. [20-127a](#)

District Secretary Linda Nemeroff announced that the Board Retreat was cancelled due to the ongoing COVID-19 crisis and the extension of Governor's Shelter in Place Order through early May.

**7. CLOSED SESSION/REPORT OUT**

General Counsel Jill Sprague reported out on the following:

MOTION: PEEPLES/ORTIZ to approve settlement in the amount of \$109,655.00 in the matter of Albro v. AC Transit, WCAB Case No. ADJ9010002. The motion carried by the following vote:

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

ABSENT:1: Harper

**7.A. Conference with Legal Counsel – Existing Litigation**

(Government Code Section 54956.9 (a))

Wilson v. AC Transit, ACSC Case No. RG17849057

Albro v. AC Transit, WCAB Case No. ADJ9010002

**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

This matter was

**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. [20-010f](#)

Director Harper requested a report at the next meeting on where things are headed financially in the next year for the District.

Director Peeples requested a report on what we do to entice people to come back to transit once the Shelter in Place Order has been lifted.



**9. GENERAL MANAGER'S REPORT**

**9.A.** General Manager's Report for April 8, 2020.

[20-008f](#)

The report was provided for information only.

**10. BOARD/STAFF COMMENTS**

(Government Code Section 54954.2)

Members of the Board reported 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 7:39 p.m. in memory of District employee Sherri Stokes who managed the District's Equal Employment Opportunity Compliance Program. The next meeting of the Board is scheduled for April 22, 2020 at 5:00 p.m.

Respectfully submitted,

/s/

Linda A. Nemeroff  
District Secretary