

DRAFT MINUTES
Special Board of Directors Meeting
Alameda-Contra Costa Transit District
California School for the Blind Theater
500 Walnut Avenue
Fremont, CA 94536

***Closed Session will be held at:**
4201 Canfield Drive, Fremont, CA

Wednesday, September 30, 2009
6:00 p.m.

Board of Directors:	Ryan "Rocky" Fernandez, President (Director Ward IV)
H. E. Christian Peeples, Vice President (Director at Large)	Elsa Ortiz, Director Ward III
Joe Wallace, Director Ward I	Jeff Davis, Director Ward V
Greg Harper, Director Ward II	Joel B. Young, Director at Large

The Alameda-Contra Costa Transit District Board of Directors held a special meeting on Wednesday, September 30, 2009.

The meeting was called to order at 4:49 p.m. with President Fernandez presiding.

Roll Call

Upon call of the roll, the following Board members responded with their names: Directors Wallace, Harper, Ortiz, Davis, Young, Vice President Peeples, President Fernandez.

Directors Absent: None.

At 4:50 p.m., the General Counsel announced that the Board would convene in Closed Session to discuss the items listed on the Closed Session agenda. Closed Session adjourned at 5:50 p.m.

At 6:08 p.m., the Board convened the special meeting. All Board members were present.

Public Comment

There was no public comment offered.

PUBLIC HEARING

1. Receive public comment regarding the proposed 2009 Service Adjustments Plan in Special District 2 (Fremont and Newark) (GM Memo No. 09-217a).

President Fernandez welcomed everyone to the meeting and introduced the members of the Board of Directors and the Board Officers. He then called on General Counsel Ken Scheidig to outline the rules of order and procedures for public speakers.

President Fernandez opened the Public Hearing at 6:08 p.m. The meeting was turned over to General Manager Rick Fernandez for the staff presentation. Following some

introductory remarks by Chief Financial Officer Lewis Clinton on the financial status of the District, Deputy General Manager for Service Development Nancy Skowbo presented a brief staff report regarding the 2009 Service Adjustments Plan.

Twenty-three (23) persons presented testimony concerning the 2009 Service Adjustments Plan

*[A copy of the oral comments are attached hereto as **Exhibit A** and are made a part of these minutes. Email, fax, voicemail, and written comments received up to the close of the hearing are incorporated into the file, and by reference hereto, are made a part of these minutes.]*

President Fernandez closed the public hearing at 8:09 p.m. The General Counsel announced that the Board could make a decision on the proposals as early as October 14, at 6:00 p.m. or on October 28, 2009. Board members thanked the public for their comments and for their participation in the hearing.

Consent Calendar

Items listed under the Consent Calendar are considered to be routine and may be enacted by one motion/one vote. If discussion is desired, an item may be removed from the Consent Calendar and will be considered individually.

MOTION: ORTIZ/PEEPLS to approve the consent calendar as presented, with the exception of Item No. 6c, which was pulled off the agenda by the District Secretary (6-0-0-1).

Ayes: Director Ortiz, Vice President Peoples, Directors Harper, Davis, Young, President Fernandez – 6
Noes: None – 0
Abstain: None – 0
Absent: Director Wallace – 1 (Out of seat)

2. Finance and Audit Committee (September 9, 2009 Meeting) Recommendations:

Receive

- a. Finance and Audit Committee minutes of July 29, 2009.
- b. Retirement Board minutes of July 24, 2009 (GM Memo No. 09-206).
- c. Semi Annual Retirement Board Report (GM Memo No. 09-207).
- d. Fourth Quarter Board/Officer Travel/Meeting Expense Report (DS Memo No. 09-199).
- e. Fourth Quarter Employee and Non-Employee Out-of-State Travel Report (GM Memo No. 09-208).
- f. Surplus/Obsolete Materials Report (GC Memo No. 09-209).
- g. Fourth quarter report on the implementation of the Finance/Human Resources System (GM Memo No. 09-210).

3. **Operations Committee (September 9, 2009 Meeting) Recommendations:**
Receive
 - a. Operations Committee minutes of July 8, 2009.

4. **External Affairs Committee (September 9, 2009 Meeting) Recommendations:**
Receive
 - a. External Affairs Committee minutes of July 29, 2009.
 - b. Legislative Report (GM Memo No. 09-202).

5. **Accessibility Advisory Committee (AAC)**
 Consider receiving AAC minutes of July 14, 2009 (GM Memo No. 09-225).

6. **Board Matters**
 - a. Consider approving Board of Directors minutes of September 9, 2009
 - b. Consider approving Board of Directors minutes of September 23, 2009 (without attachment).
 - c. Consider approving Board of Directors minutes of September 25, 2009.

Item 6c was pulled off the agenda by the District Secretary because the minutes were not available.

Regular Calendar

7. Consider authorizing staff to proceed with the Prop 1A Securitization Program (GM Memo No. 09-227) *[Request to forward to the Board of Directors the same day for action pursuant to Board Policy 100, Section 5.5.4].*

MOTION: PEEPLES/ORTIZ that the item meets the criteria for same day action by the Board of Directors (7-0-0-0).

Ayes: Vice President Peeples, Directors Ortiz, Wallace, Harper, Davis, Young,
 President Fernandez – 7
 Noes: None – 0
 Abstain: None – 0
 Absent: None – 0

Chief Financial Officer Lewis Clinton presented the staff report including an overview of the program and the timeline for execution of the various documents associated with the transaction. He further clarified that the District would not take on any debt as a result of participating in this program.

Vice President Peeples inquired as to the impact on reserves if the clean-up bill was not passed in a timely manner. Mr. Clinton advised that if the bill is not enacted by the November 10, 2009 bond sale date, the property taxes would be shifted to the state, and reimbursed through the Securitization Program at a later date (when the bill does pass). With respect to the issue of reserves, the General Manager advised that while the FY 08-09 reserve amount wouldn't be known until the audit was completed, there

should be ample reserves to float the property tax.

Director Harper inquired if the District had the option once the papers were executed to change course and not participate in the program. Mr. Clinton indicated that if the clean-up bill was not passed by November 6, 2009, the process would stop until the bill was passed.

Director Harper introduced a scenario that that would involve the assignment or pledge of the District's receipts to the Retirement Board with 2% interest as credit toward our contribution.

General Manager Rick Fernandez reported on the scenarios that had been presented to the Retirement Board noting the problems that could result should the State of California default.

MOTION: WALLACE/DAVIS to authorize staff to proceed with the Prop 1A Securitization Program (7-0-0-0).

Ayes: Directors Wallace, Davis, Harper, Ortiz, Young, Vice President Peebles,
President Fernandez – 7
Noes: None – 0
Abstain: None – 0
Absent: None – 0

8. Consider receiving report regarding the equity of service reductions in Special District 1 and 2 and ensure Measure AA/BB/VV and future District 1 parcel tax money is properly allocated (Requested by Directors Harper and Ortiz – 9/9/09)(GM Memo No. 09-230).

Chief Financial Officer Lewis Clinton presented the staff report and reviewed the following financial documents:

- Audited Special Transit Service District No. 1 and No. 2 Schedule of Revenues and Expenses;
- Internally generated Operating Results for D2 for FYE June 30, 2009, and Projected Operating Results for FY 2009-10 and FY 2010-11;
- Documentation of Surplus Revenues for D2; and
- Property Tax Analysis for D2.

The discussion focused on the allocation of AB 1107 funds to Special Districts 1 and 2. Director Harper inquired about the last audit and the notion by the auditor that all AB 1107 funds go to District 1. He recalled that the reason District 2 did not receive any AB 1107 funds in the past was because it did not meet the farebox recovery ratio requirement of 30%. The General Manager reported that using the same farebox ratio formula for District 1, District 2 now has an approximate 40% farebox ratio.

Director Harper noted the appearance that some of the figures provided in the report had changed since his previous meeting with Mr. Clinton. *He requested that the*

reasoning behind any changes be included in the report.

Director Ortiz noted her discomfort with changes in the figures and also that she did not recollect discussions regarding AB 1107 funds.

The General Manager advised that he would provide a follow-up report detailing: 1) the AB 1107 legislation, 2) the calculation sent to MTC, 3) application of the same farebox methodology for District 1 and 2, and 4) the back-up data to support how the figure is derived for each district.

Further, the General Manager reported on recent discussions with the auditors concerning unrestricted net assets and depreciation, noting that District 2 has no assets and, therefore, should not be charged depreciation.

Mr. Clinton noted that in his meetings with Directors Harper and Ortiz, he had advised that there were 3 items that were up for discussion which included AB 1107 funds, unrestricted net assets and the reserve, as well as depreciation.

Director Davis commented that the information before the Board was consistent with that provided in the budget five weeks prior. He further requested information on the average parcel tax revenue per parcel for the two districts.

Vice President Peeples suggested that officials from Fremont and Newark be brought into discussions regarding this issue.

Consensus to continue the matter to a future meeting for further discussion (7-0-0-0).

9. Consider authorizing the General Manager to reimburse relocation expenses for the Labor Attorney position (GM Memo No. 09-234) *[Request to forward to the Board of Directors the same day for action pursuant to Board Policy 5.5.4.]*

MOTION: PEEPLES/YOUNG that the item meets the criteria for same day action by the Board of Directors (7-0-0-0).

Ayes: Vice President Peeples, Directors Young, Harper, Wallace, Ortiz, Davis,
President Fernandez – 7
Noes: None – 0
Abstain: None – 0
Absent: None – 0

Director Davis recapped the decision of the Finance and Audit Committee noting that the committee had recommended that the expenses be capped at \$10,000. He further noted that the matter of reimbursing relocation expenses was to be agendized for a future Finance and Audit Committee meeting.

Human Resources Manager Shelley Fogel present the staff report.

Vice President Peeples commented in favor of the staff recommendation to reimburse up to \$12,500. Director Davis asked whether the estimated expenses provided in the report would cover the actual expenses. Ms. Fogel replied that a previous limit of \$10,000 for another position had not been sufficient to cover all of the expenses incurred and that staff had increased this request based on that experience.

Directors Wallace and Harper advocated that the \$10,000 cap should be sufficient. Director Harper noted that anything over and above could come back to the Board for approval.

MOTION: PEEPLES/DAVIS to authorize the General Manager to reimburse relocation expenses up to \$12,500 for the Labor Attorney position (2-4-1-0).

Ayes: Vice President Peeples, Directors Davis – 2
Noes: Directors Harper, Ortiz, Young, President Fernandez – 4
Abstain: Director Wallace – 1
Absent: None – 0

MOTION FAILED.

MOTION: PEEPLES/DAVIS to authorize the General Manager to reimburse relocation expenses up to \$10,000 for the Labor Attorney position (5-1-1-0).

Ayes: Vice President Peeples, Directors Davis, Harper, Young, President Fernandez – 5
Noes: Directors Ortiz – 1
Abstain: Director Wallace – 1
Absent: None – 0

10. Consider receiving semi annual report on the Environmental Sustainability Plan and approval to proceed with the Climate Action Plan (Requested by Director Young – 8/26/09) (GM Memo No. 09-203a) [Operations Committee recommendation of September 9, 2009 to approve proceeding with a Climate Action Plan].

Environmental Engineer Suzanne Chaewsky presented the staff report.

President Fernandez inquired whether there was a way to speed up the publication of the report to which Ms. Chaewsky reported that the availability of pertinent staff and certification of carbon emissions were the primary factors responsible for delays in producing the report.

The General Counsel reported that the District would initiate an informal competition for the development of the Climate Action Plan.

MOTION: PEEPLES/HARPER to receive report and authorize staff to proceed with a

Climate Action Plan 7-0-0-0).

Ayes: Vice President Peeples, Directors Harper, Wallace, Ortiz, Davis, Young,
President Fernandez – 7
Noes: None – 0
Abstain: None – 0
Absent: None – 0

11. Consider approving audio streaming of the Board of Directors meetings via the District's website (Requested by Director Davis – 4/29/09; Director Harper and Vice President Peeples – 7/29/09) (GM Memo No. 09-218a) [External Affairs Committee recommendation of September 9, 2009 to approve audio streaming].

Chief Technology Officer Blake Pelletier presented the staff report.

Members of the Board commented on the need for the public to have access to meetings. Director Ortiz suggested that the streaming of audio to the web be re-evaluated in two years.

MOTION: YOUNG/PEEPLS to approve audio streaming of committee and Board meetings via the District's website and to re-evaluate it in two years (7-0-0-0).

Ayes: Directors Young, Vice President Peeples, Directors Wallace, Harper, Ortiz,
Davis, President Fernandez – 7
Noes: None – 0
Abstain: None – 0
Absent: None – 0

12. Report on actions(s) taken during Closed Session [Will be reported after the conclusion of Closed Session.]

There was nothing to report out of Closed Session.

Board/Staff Comments (Government Code Section 54954.2)

Agenda Planning

There were no new items added to Agenda Planning

CLOSED SESSION:

Conference with Labor: (Government Code Section 54957.6)
Agency Negotiator: General Manager
Employee Organization: Paratransit, Local 192, ATU Local 192,
AFSCME, Local 3916; IBEW, Local 1245
Unrepresented Employees

Labor Negotiations – Board Officers: (Government Code Section 54957.6)

Committee Negotiators: Director Davis, Chair
Director Wallace
Director Young

Public Employee Performance Evaluation: (Government Code Section 54957)

Title: General Manager
Title: General Counsel
Title: District Secretary

Adjournment

There being no further business to come before the Board of Directors, the meeting was adjourned at 8:44 p.m. The next meeting of the Board of Directors is scheduled for Wednesday, September 30, 2009.

Respectfully submitted,

Linda A. Nemeroff
District Secretary