



# **ALAMEDA-CONTRA COSTA TRANSIT DISTRICT PARCEL TAX FISCAL OVERSIGHT COMMITTEE MINUTES**

## **Special Meeting of the Parcel Tax Fiscal Oversight Committee**

AC Transit General Offices  
10<sup>th</sup> Floor Conference Room  
1600 Franklin Street  
Oakland, CA 94612

**Wednesday, December 5, 2012, at 2:00 p.m.**

### **MEMBERS OF THE OVERSIGHT COMMITTEE**

JANET ABELSON  
ROBERT APODACA  
ELOISE BODINE  
MARK CHEKAL-BAIN  
BEVERLY JOHNSON  
MARIA VIRAMONTES  
MATT WILLIAMS

### **DISTRICT OFFICERS**

DAVID ARMIJO, GENERAL MANAGER  
KENNETH C. SCHEIDIG, INTERIM GENERAL COUNSEL  
LINDA A. NEMEROFF, DISTRICT SECRETARY  
LEWIS CLINTON, CHIEF FINANCIAL OFFICER

The Alameda-Contra Costa Transit District Parcel Tax Fiscal Oversight Committee held a special meeting on Wednesday, December 5, 2012. The meeting was called to order at 2:03 p.m. by Committee Member Eloise Bodine.

**1. ROLL CALL**

Members Present: Janet Abelson, Robert Apodaca, Eloise Bodine, Mark Chekal-Bain (arrived at 2:05 p.m.), Maria Viramontes, Matt Williams – 6

Members Absent: Beverly Johnson

**2. OATH OF OFFICE**

Administration of the Oath of Office to newly appointed members.

District Secretary Linda Nemeroff administered the Oath of Office to newly appointed members Matt Williams, Mark Chekal-Bain and Robert Apodaca.

**3. SELECTION OF CHAIRPERSON**

The Chair shall serve at the pleasure of the Committee and shall be selected from the majority of the Committee members present.

**MOTION: VIRAMONTES/BODINE** to select Janet Abelson to serve as Chair of the Committee. The motion carried by the following vote:

AYES:5: Viramontes, Bodine, Apodaca, Williams, Abelson,  
ABSENT:2: Chekal-Bain, Johnson

**4. PUBLIC COMMENT**

There was no public comment offered.

**5. DISCUSSION/ACTION ITEMS:**

**5A. Consider approving the minutes of the District Parcel Tax Oversight Committee meeting of December 6, 2011.**

Member Williams pointed out that the minutes indicated that staff was to provide at all subsequent meetings copies of the annual district audit, the ballot measure language and the resolution establishing the committee and appointing its membership, noting that the latter two documents were not provided. The District Secretary advised that she would gather the information and have copies made for the committee.

**MOTION: VIRAMONTES/BODINE** to receive the minutes as presented. The motion carried by the following vote:

AYES:3: Viramontes, Bodine, Abelson  
ABSTAIN:3: Apodaca, Chekal-Bain, Williams

**OATHS  
ADMINISTERED**

**RECEIVED**

- 5B. Consider review and approval of the Measure VV Financial Statement and the adoption of Resolution No. 12-1 determining that the Measure VV funds collected during the 2011-12 fiscal year have been appropriated and expended in Special Transit Service District One for operation and maintenance activities (CFO Memo No. 12-01).

*[Copies of Resolution Nos. 08-044 and 08-064 and the Special District Two Audit (including allocation methodology) were provided at the meeting for the Committee's information.]*

Chief Financial Officer Lewis Clinton presented the staff report, noting that the District received \$29.3 million in Measure VV revenue during FY 2011-12. He introduced external auditors Tim Krisch and David Alvey of Maze and Associates who were present to address questions. Mr. Krisch advised the document provided by his firm was not an audit, but the agreed upon procedures for the review of Measure VV funds, which tested service hours, service miles and maintenance expenses as they relate to Measure VV. He confirmed there were no irregularities between the authorization of the tax and the division between the two service districts.

Discussion ensued regarding the issue of supplanting and whether it could be proven that Special District Two had not benefited from the payment of a parcel tax in Special District One. While the committee didn't dispute that Measure VV funds had been spent as required in Special District One, it sought assurance that other funding sources weren't allocated in excess to District Two.

Member Williams read from Richard Winnie's impartial analysis of Measure VV: "community oversight committee will report to and advise the District about the expenditure of the proceeds of the special tax." [A copy of the impartial analysis document is incorporated into the file by reference] In his opinion, he felt this gave the Committee the authority to advise the Board of Directors that there was a concern about supplanting. Member Abelson commented that the Committee had an obligation to review the issue and render an opinion on it, especially if the District wanted to extend the parcel tax in the future.

Members Viramontes and Chekal-Bain offered suggestions that could help address the issue; however, Mr. Clinton advised that there were several factors involved in determining how much funding was allocated to Special Districts One Two, including:

- Allocation of Preventive Maintenance funds based on service miles and service hours;
- Negotiated allocation methodology with Special District Two which determines how the two districts share revenues and expenses;
- Revenues that were 100% return to source;
- Proration of operations and maintenance expenses by county and by special transit service district; and the
- Distribution of Transit Development Act (TDA) funds.

Interim General Counsel Ken Scheidig advised that the Committee's role was to determine that Measure VV monies were spent as required for operations and maintenance in Special District One. He added that the issue of what happened with the other funds, if any, freed up by Measure VV was a subsidiary question and not the issue before the Committee. Member Viramontes agreed, but noted that supplanting was a political issue when a tax was approved, and while she was confident that administrative fees and various agreed-upon sources of funding and expenditures were not treated differently between the two districts, there was still a question of whether other revenue sources like TDA were supplanted.

Member Williams pointed out inconsistencies involving various items listed in the report. Mr. Clinton reviewed the information and advised that differences existed because some of the numbers were reported as part of a consolidated financial statement, while others were grouped under a general heading and then broken down into subcategories.

Member Chekal-Bain inquired if any Measure VV funds were used for the former General Manager's home loan or severance package. Mr. Scheidig reported that the loan pre-dated the receipt of Measure VV funds and Mr. Clinton advised that the severance package was not included in the indirect cost rate and was part of the administrative budget.

Member Williams noted that Section 3 of the resolution needed to reflect the name of the Parcel Tax Oversight Committee. He also commented that while it was obvious that Measure VV funds were spent for operations and maintenance, supplanting was still a concern and he wanted more time to consider the information staff provided.

Member Viramontes commented that she supported the resolution and felt confident that the funds were spent as intended, noting that a proportional, pre-existing relationship existed between District One and Two; audits of the different types of funding were adequate; the audit found that the application of the funding was appropriate and there were no findings in any audit that said it wasn't done the way that it was; that one District did not get favored over another; and that a Federal body actually determined the cost allocation and audited it every three years.

**MOTION: VIRAMONTES/CHEKAL-BAIN** to approve of the Measure VV Financial Statement and the adoption of amended Resolution No. 12-1 determining that the Measure VV funds collected during the 2011-12 fiscal year have been appropriated and expended in Special Transit Service District One for operation and maintenance activities. The motion carried by the following vote:

**AYES:5:** Viramontes, Chekal-Bain, Bodine, Apodaca, Abelson

**NOES:1:** Williams

**ABSENT:1:** Johnson

**Members of the Committee requested a compilation of the following reference documents:**

- Resolution Nos. 08-044 (Ballot Measure Language)
- Resolution No. 08-064 (Establishing and Appointing the Membership of the Committee)
- Map of Special District One and Two
- Special District Two Audit/Allocation Methodology
- Revenue Pie for Special District One and Two (Charts for each with Measure VV and without Measure VV)
- Draft MOU with Fremont and Newark Regarding Expenses and Revenues
- Recap of Frequently Asked Questions/Answers
- Maintain copies of the document "Revenues and Expenses by Service Area Business-Type Activity - Enterprise Fund - Transit Only" from the audit document for each fiscal year.

**6. COMMITTEE/STAFF COMMENTS**

**7. ADJOURNMENT**

There being no further business to come before the Committee, the meeting adjourned at 3:24 p.m. The next meeting of the District Parcel Tax Fiscal Oversight Committee is scheduled for December 2013.

Respectfully submitted,



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Linda A. Nemeroff  
District Secretary