

**DRAFT MINUTES**  
**Special Meetings: Board Workshop and**  
**Board of Directors Meeting**

**Alameda-Contra Costa Transit District**  
2<sup>nd</sup> Floor Board Room  
1600 Franklin Street  
Oakland, CA 94612

**Wednesday, September 1, 2010**

**3:00 p.m. Board Workshop**

**5:00 p.m. Closed Session**

**6:00 p.m. Special Meeting**

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**Board of Directors:**

Elsa Ortiz, Vice President (Ward III)

Joe Wallace, Director Ward I

Greg Harper, Director Ward II

Ryan "Rocky" Fernandez, President (Ward IV)

Jeff Davis, Director Ward V

H. E. Christian Peeples, Director At Large

Joel B. Young, Director At Large

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**3:00 P.M. SPECIAL MEETING-BOARD WORKSHOP**

The Alameda-Contra Costa Transit District Board of Directors held a special meeting on Wednesday, September 1, 2010.

**The meeting was called to order at 3:10 p.m. with President Fernandez presiding.**

**Board Members Present:** Directors Wallace, Harper, Davis, Peeples, Young, Vice President Ortiz, President Fernandez – 7

**Board Members Absent:** None

**Public Comment**

Tom Ross commented on the ongoing labor dispute and encouraged the Board to participate in the arbitration process with Amalgamated Transit Union Local 192.

1. Report on the options available for further cost reductions strategies (GM Memo No. 10-210).

*[The following items were presented at the meeting for the Board's consideration:*

- *Map outlining weekend remaining routes and discontinued routes;*
- *Short and Long-term Cost Reductions Strategies Reference Sheet;*
- *Revised Attachment – Total Platform Hours Historical Trend; and*
- *TCRP Report – "Using Public Transportation to Reduce the Economic, Social, and Human Costs of Personal Mobility".]*

Chief Financial Officer Lewis Clinton presented an update on the District's current financial condition and introduced Director of Service Development and Planning Cory LaVigne who provided an overview of the short and long-term cost reduction scenarios:

--Short Term:

- Alternative 1: Operate only trunk and major corridor service on weekends;
- Alternative 2: Modify All Nighter or late-night services; and
- Alternative 3: Close of AC Transit's Paratransit Unit (Division 8).

--Long term strategies:

- Further fixed route service cuts;
- Fixed route service contracting opportunities;
- Fare increases;
- General overhead reduction strategies (Close Division 3)
- Contracting-out strategies (janitorial, building maintenance, heavy vehicle maintenance, and body shop work);
- Operations Department efficiencies;
- Complementary paratransit cost reductions; and
- Speed protection and enhancement.

Mr. LaVigne advised that staff would be asking the Board to consider further service reductions on September 22, 2010, which would be implemented on December 19, 2010.

**Public Comment:**

- Karen Smulvitz commented favorably on the implementation of the last round of service cuts, noting that it did not matter to her how much service was cut as long as the buses maintained the schedule. She also said that if the Board had to cut more service, the buses needed to be kept on-time and that it would be helpful to have Nextbus.
- Alfred Bloch, Oakland resident, commented on the court decision and a balanced hardship between riders and operators. He added that the option to completely cut some lines imposed an extreme hardship on people, especially with regard to Line 61 in the Oakland Hills. He asked that the Board not kill transit in order to save it.
- Peter Saltzman, legal counsel for ATU Local 192, commented that the union was ready, willing and able to negotiate, mediate and arbitrate with the District and already had offered concessions. He appealed to the Board to accelerate the pace of the arbitration now underway and commented that the District needed to rely on more than one person to negotiate with the union. He added that the union was prepared to meet any day at any time to resolve the matter and asked that the District put its resources into the arbitration.
- Margot Rosenberg, legal counsel for ATU Local 192, commented that bargaining in good times and in bad was a partnership and reported that on June 22, 2010 when it became clear the District was rushing to impasse, the union invoked the contractual agreement to go to interest arbitration because both parties could be heard and differences could be ironed out. She added that the union offered every day to begin interest arbitration and had been turned down by the District and that the slow-pace was not the fault of the union. She urged the Board to become involved in the

arbitration process and to help accelerate the pace. She added that there would be some certainty for the District once an agreement could be reached.

- Claudia Hudson, President of ATU Local 192, refuted information provided in the staff report by saying that Division 8 (paratransit) was a contracted service that the District made money on. She further commented on pension spiking, noting that the General Counsel purportedly received \$86,000 a year in deferred compensation. In addition, she commented on raises that were given to the Director of Service Development and Planning and Chief Financial Officer. She added that the IRS has had to step in and deny retirement benefits to unrepresented employees and that no ATU member had ever been denied a pension benefit through the IRS.
- Chaka Kahn Jordan, Berkeley resident, commented that she was disgusted at how quickly the discussion turned to bankruptcy and suggested that the District go to MTC for more funding. She added that too much energy was being put towards cutting service and that the Board and staff needed to be more enthusiastic about saving bus service.
- Stephen Kessler responded to a comment made by Director Peoples regarding the terrible inequity of wealth and income and the notion that nothing could be done about it. Mr. Kessler responded that maybe something could be done about it. He said that we were at a historical juncture and that money needed to be put into the economy versus the finance sector which was telling everybody to live on flat wages and at a reduced standard of living in terms of consumption of social services, pensions, and benefits. He added that this system, which started under President Regan, was Neoliberalism and that during the post war era, we had high incomes because of a large industrial sector which didn't exist anymore because it had been downsized and shipped overseas. He added that the public sector had now been targeted and that the District was being used and the only alternative was for the entire public sector to call a general strike because it was not acceptable to keep making cuts.
- Lea Sherman, Socialist Worker's Party candidate for Governor of California, commented that her campaign was present to show solidarity with the transit workers and their union, noting that the capitalist system worldwide was in crisis and that government workers and unions, healthcare and education were paying for it. She added that workers produce the wealth that was being given to the wealthy bond holders and the only solution was for workers to use political power to get rid of the "dog eat dog" system and break with the Democrats and Republicans of the capitalist system to form a Labor Party.
- Hale Zukas commented that he was appalled that the District was being so dilatory about the arbitration and pointing fingers at ATU.

Following the staff presentation and public comment, the Board was advised that staff would be exploring all of the alternatives outlined in the report. Director Harper requested that staff also investigate the de-annexation of Special District Two and President Fernandez requested that staff explore ways curb overtime costs.

#### **INFORMATION ONLY.**

**The workshop adjourned at 4:39 p.m.**

## **6:00 P.M. SPECIAL BOARD OF DIRECTORS MEETING**

The Alameda-Contra Costa Transit District Board of Directors held a special meeting on Wednesday, September 1, 2010.

**The meeting was called to order at 4:40 p.m. with President Fernandez presiding. All Board members were present.**

*At 4:40 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 concluded at 5:45 p.m.*

At 6:00 p.m., the Board convened in open session. All Board members were present.

*Items were taken out of sequential order. However, they are reported in sequential order in the minutes for ease in reading.*

### **Presentations:**

- **Dianne Audrick Smith, Sr. Partnership Specialist - U.S. Bureau of the Census**  
Re: Certificate of Appreciation

Ms. Audrick presented President Fernandez and the District with a Certificate of Appreciation for allowing the Census Bureau to place brochures on buses in support of the Census' efforts to obtain an accurate population count in Alameda County.

### **INFORMATION ONLY.**

- **Joshua Shaw, Executive Director - California Transit Association**  
Re: Proposition 22 - The Local Taxpayer, Public Safety, and Transportation Protection Act of 2010.

*[A copy of the presentation and supporting documents are incorporated into the record of the meeting and, by reference hereto, are made part of these minutes.]*

Mr. Shaw thanked the Board and District staff for their partnership with the California Transit Association over the years and presented information on Proposition 22, which would prohibit the raid of local funds by the state.

### **INFORMATION ONLY.**

### **General Manager's Report**

Interim General Manager Mary King reported on the following:

- Email to employees communicating the options under consideration to address the District's budgetary challenges;
- Meeting with Congresswoman Barbara Lee's Legislative Director and discussions regarding the District's budget shortfall, the Bus Rapid Transit Project; and Transportation Reauthorization legislation;

- Launch of Phase I of the voter registration campaign on buses in Alameda and Contra Costa Counties;
- Meeting with the Alameda County Registrar of Voters Dave Macdonald regarding the county's education and outreach plan regarding instant run-off voting;
- Availability of the Voter Registration Bus; and
- Marketing outreach for the EasyPass Program to college students.

**INFORMATION ONLY.**

**Public Comment**

- Jane Kramer commented on the Board's ongoing pursuit of a quick-fix BRT project despite its fiscal challenges. She added that the project would only serve long distance commuters who already used BART and that the District sought to pay for the project by cutting local service, taking funds earmarked for existing programs and agencies, and by forcing riders to use the 1R at the additional cost of transfers, fares, and time and by asking the Federal Transportation Administration to compromise the Small Starts funding criteria. She added that the Board was mandated to provide high quality, non-duplicative service and suggested that the District use Regional Measure 2 funds to improve local service rather than hold them in reserve for a BRT program. [Director Harper responded that Regional Measure 2 funds could not be used for operations. He added that one of the main reasons he was a supporter of BRT was because it used non-operational money, but the end result would enable many more people to be transported for the same operating costs as we do now.]
- David Vartanoff responded to Director Harper's comments by saying that if the governor and legislature could embezzle a billion dollars of citizen-mandated taxing that was supposed to go transport, why couldn't the District move \$45 million from one column to the other and let the state come get us. With regard to BRT, he commented on the District's finances and the notion of cutting night and weekend service despite the fact that this was not sustainable, did not address green house gases or the needs of the population within the District, and was not equitable under Title VI. He concluded by saying that it was time to give up on the BRT Project because the funds needed to operate it weren't available and the Board should rethink the project.

**Consent Calendar**

**MOTION: WALLACE/PEEPLS** to approve the consent calendar as presented (7-0-0-0).

Ayes: Directors Wallace, Peeples, Harper, Davis, Young, Vice President Ortiz,  
President Fernandez – 7

Noes: None – 0

Abstain: None – 0

Absent: None – 0

**1. Planning Committee (August 18, 2010 meeting) recommendations:**

**Receive**

- a. Planning Committee minutes of July 28, 2010.

- b. The District's response to the Advanced Notice of Proposed Rulemaking on the Federal New Starts/Small Starts Program (GM Memo No. 10-189).
- c. Report on activities related to bus stop improvements for the AC Transit District service area (Requested by Director Peeples – 6/24/09) (GM Memo No. 10-181).

**2. Operations Committee (August 18, 2010 meeting) recommendations:**

**Receive**

- a. Operations Committee minutes of July 14, 2010.
- b. Update on proposed amendments to the District's Conflict-of-Interest Code (DS Memo No. 10-199).

**3. Accessibility Advisory Committee (AAC)**

Consider approving AAC minutes of May 11, 2010 (GM Memo No. 10-209).

**4. Board Matters**

- a. Consider approving Board of Directors minutes of July 14, 2010.
- b. Consider approving Board of Directors minutes of August 18, 2010.

**Regular Calendar**

- 5. Consider receiving the monthly report on the Budget, Investments and 10-Year Projections (GM Memo No. 10-175) [Finance and Audit Committee recommendation of July 28, 2010 to receive the report.]

*[Updated figures for Property Tax and Retail Sales Tax Subsidies for the months of July, August, and September 2010 were provided at the meeting for the Board's information.]*

Chief Financial Officer Lewis Clinton presented the staff report.

**MOTION: PEEPLES/DAVIS** to receive the monthly report on the Budget, Investments and 10-Year Projections (7-0-0-0).

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

- 6. Consider approving the Disadvantaged Business Enterprise (DBE) overall annual goal for FYs 2010-13 (GM Memo No. 10-176) [Finance and Audit Committee recommendation of July 28, 2010 to approve].

*[Supplemental information concerning DBE Goals and a disparity study were provided at the meeting for the Board's consideration.]*

**Public Comment:**

C. Cheryl Archer commented that she was very concerned that the District would hurt minority and women owned businesses and limit their participation if it did not do a disparity study or have race and gender specific goals.

**MOTION: ORTIZ/WALLACE** to approve the Disadvantaged Business Enterprise (DBE) overall annual goal for FYs 2010-13 (7-0-0-0).

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

7. Consider adoption of **Resolution No. 10-043** authorizing the Interim General Manager or her designee to submit an allocation request to the California Department of Transportation (Caltrans) for State Transportation Improvement Program (STIP) funds and execute any necessary documents (GM Memo No. 10-204). *[Request to forward to the Board of Directors for action the same day pursuant to Board Policy 100, Section 5.5.4.]*

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

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

Senior Capital Planning and Legislative Analyst Kiran Bawa presented the staff report.

**MOTION: YOUNG/PEEPLES** to adopt **Resolution No. 10-043** authorizing the Interim General Manager or her designee to submit an allocation request to the California Department of Transportation (Caltrans) for State Transportation Improvement Program (STIP) funds and execute any necessary documents (7-0-0-0).

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

8. Consider authorizing staff to proceed with the Buchanan Park and Ride Lot Project as modified from the original proposal (Requested by Director Harper – 6/23/10) (GM Memo No. 10-180a). *[Planning Committee recommendation of August 18, 2010, to receive the report with additional information to be provided on the cost of the project's environmental and design work.]*

Transportation Planning Manager Jon Twichell presented the staff report.

**MOTION: HARPER/DAVIS** to authorize staff to proceed with the Buchanan Park and Ride Lot Project as modified from the original proposal (7-0-0-0).

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

9. Consider setting the end date for the sale of the 31 Day Local Adult, 10 Ride Local Adult, and 10 Ride Youth/Senior/Disabled Magnetic Strip Passes to be October 31, 2010, and set the last use date of the passes to be December 31, 2010 (GM Memo No. 10-125b) [Continued from the July 14, 2010 Board of Directors meeting for review of the findings of the Title VI Analysis to be provided by the Metropolitan Transportation Commission].

Chief Transportation Officer Kathleen Kelly presented the staff report and Director of Service Development and Planning Tina Spencer addressed Title VI questions. Melanie Crotty of the Metropolitan Transportation was also present to respond to questions.

**Public Comment:**

Ann Boyd, member of ATU Local 192, commented on her experiences using the MARTA system in Atlanta, noting that machines were available at the stations which enabled riders to pay to ride the bus or train in addition to being able to tag their card when getting on the bus to add value to the card. She further added that there were several locations with machines available to add money onto the card, including the mall. Lastly, she commented that it appeared the District did not do a good job getting out to the schools.

**MOTION: HARPER/PEEPLS** to set the end date for the sale of the 31 Day Local Adult, 10 Ride Local Adult, and 10 Ride Youth/Senior/Disabled Magnetic Strip Passes to be October 31, 2010, and set the last use date of the passes to be December 31, 2010 (6-0-1-0).

Ayes: Directors Harper, Peeples, Davis, Young, Vice President Ortiz, President  
Fernandez – 6  
Noes: None – 0  
Abstain: Director Wallace – 1  
Absent: None – 0

10. Discussion regarding agenda items for the Board Retreat scheduled for September 29, 2010. (DS Memo No. 10-216)



*[DS Memo No. 10-216 (draft agenda) was provided at the meeting for the Board's consideration.]*

Director Harper requested that an item be added to the agenda to discuss the District's 3-5 year revenue outlook. After some discussion, it was determined that the item be referred to the Finance and Audit Committee.

**Consensus** to start the retreat at 8:00 a.m. on September 29, 2010 (7-0-0-0).

11. Consider verbal reports from the Chair of the External Affairs Committee on legislative matters (Note: Pursuant to Policy No. 100, the Board may take action on legislative matters requiring immediate action.)

**MOTION: WALLACE/PEEPLES** to approve a **WATCH** position on AB 1955 (De La Torre); Public officers; incompatible offices (7-0-0-0).

Ayes: Directors Wallace, Peeples, Harper, Davis, Young, Vice President Ortiz,  
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.]

**MOTION: PEEPLES/WALLACE** to reject a Civil Code of Procedure (CCP) 998 demand in the matter of *Dees v AC Transit*, ACSC Case No. RG10498792, Claim No. 08-3305 (7-0-0-0).

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

## **Board/Staff Comments (Government Code Section 54954.2)**

### **Agenda Planning**

#### **Referred to External Affairs**

Director Young requested that the Board consider adopting a resolution supporting Congressman Garamendi's Buy America Bills.

### **Referred to Operations**

Director Peebles requested a report on whether we can keep the existing NABI high floor buses and get rid of the 4000 and 7000 NABI low floor buses.

### **Schedule Change**

Director Young requested that the meeting times for the Planning Committee and Finance and Audit Committee be changed on September 22, 2010 so that the Planning Committee can start at a later time.

### **CLOSED SESSION:**

#### **Conference with Legal Counsel – Potential Litigation:**

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

#### **Conference with Legal Counsel – Existing Litigation**

(Government Code Section 54956.9 Subdivision (a))

- *Dees v AC Transit*, ACSC Case No. RG10498792, Claim No. 08-3305
- *Amalgamated Transit Union, Local 192, AFL-CIO vs. AC Transit*, ACSC Case No. RG10522627

#### **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)

Negotiator: President Ryan "Rocky" Fernandez

#### **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 8:01 p.m. The next meeting of the Board of Directors is scheduled for Wednesday, September 22, 2010.

Respectfully submitted,

Linda A. Nemeroff  
District Secretary