

**Special Meeting: East Bay Bus Rapid Transit
Policy Steering Committee**



MINUTES

**Monday, September 30, 2013
1:00 p.m.**

2nd Floor Board Room
1600 Franklin Street
Oakland, CA 94612

PSC Members:

AC Transit Board:

Director Elsa Ortiz, Chair
President Greg Harper
Director Mark Williams

Alameda County (Ex Officio):

Supervisor Nate Miley

Metropolitan Transportation Commission/Caltrans:

District Director Bijan Sartipi

City of Oakland:

Councilmember Noel Gallo
Councilmember Rebecca Kaplan

City of San Leandro:

Vice Mayor Michael Gregory
Councilmember Pauline Cutter

The East Bay Bus Rapid Transit Policy Steering Committee held a special meeting on Monday, September 30, 2013. The meeting was called to order at 1:11 p.m. with Chair Ortiz Presiding.

1. Roll Call

Committee Members Present:

Director Elsa Ortiz, Chair
President Greg Harper
Vice Mayor Michael Gregory
Councilmember Noel Gallo
Councilmember Rebecca Kaplan

Committee Members Absent:

Supervisor Nate Miley
Caltrans District Director Bijan Sartipi
Director Mark Williams
Councilmember Pauline Cutter

AC Transit Staff Present:

General Manager David J. Armijo
General Counsel David Wolf
District Secretary Linda Nemeroff
Chief Planning and Development Officer Dennis Butler
Director of BRT David Wilkins

2. Public Comment

There was no public comment offered.

3. Chair's Report and pertinent actions of the AC Transit Board.

Chair Ortiz reported on the following actions/activities which occurred since the last committee meeting:

- Completion of the Preliminary Engineering Report;
- Submission of the Small Starts Program Update to the Federal Transportation Administration (FTA);
- Execution of Master Cooperative Agreements with Oakland, Caltrans and San Leandro;
- Execution of an Operations and Maintenance Agreement with San Leandro – agreements with Caltrans and Oakland near completion;
- Tentative Project Labor Agreement with the Building and Trades Council that includes the District's Construction Careers Policy;
- Conclusion of environmental assessments on two parking mitigations, which will allow for completion of property appraisals and subsequent acquisition;
- The addition of an Outreach Manager to plan and execute the Community Outreach Program;
- Near finalization of the 40% Geometric Approval Drawings, which serve as the basis for detailed design; and
- Completion of other pre-design field work to support development of the 65% plans for the three construction packages.

4. Consider approving the East Bay Bus Rapid Transit Policy Steering Committee minutes of May 17, 2013.

MOTION: GALLO/KAPLAN to approve the minutes as presented. The motion carried by the following vote:

AYES:5: Gallo, Kaplan, Gregory, Harper, Ortiz

ABSENT:4: Cutter, Miley, Sartipi, Williams

5. Report regarding the draft Construction Careers Policy and draft Project Labor Agreement (PLA). (Review and Comment)

General Counsel David Wolf presented the staff report. Julian Gross, Outside Counsel for the District, was available to address questions from the Committee.

Members of the Committee spoke in favor of the Construction Careers Policy and Project Labor Agreement. Councilmember Kaplan commented that, in general, an agreement with the trades was important in terms of avoiding a work stoppage mid-project, which would undermine the effectiveness of the project and public trust. Councilmember Gallo commented on his experience in developing Project Labor Agreements for the Port of Oakland and the Oakland Unified School District, acknowledging that the agreement would broaden participation and employment opportunities for young people within the region of the agreement.

Mr. Gross advised that both documents were developed with careful attention to FTA guidance and that the Construction Careers Policy was based on a model used by Los Angeles MTA, which received explicit clearance from FTA lawyers. He added that while key changes were made based on input from stakeholders for the BRT project, both documents contained provisions indicating that any terms objected to by the FTA as a condition of funding would not be applied in order to protect the funding for the project. This item was scheduled to be presented to the AC Transit Board on October 23, 2013.

Public Comment:

- Andreas Cluver, Building Trades Council, thanked everyone for their efforts, noting the agreement and jobs policy created a pathway for a lot of residents to have a career in the trades through the project. He also pointed out a couple of issues that were important in implementing the agreement, including 1) community oversight and some level of involvement in resolving some of the issues contractors may have with the workforce development requirements, and 2) a funding mechanism to help people get into pre-apprenticeship, and 3) an alternate referral source to find qualified workers.
- Jahmese Myres, EBASE/Revive Oakland, echoed the comments of Andreas Cluver, noting that there needed to be a community oversight component which had the ability to review information and work with AC Transit staff and contractors to trouble-shoot issues. She also asked that some funds be set aside to recruit and train workers for the project through the development of a workforce development fund. She also requested that there be some space at the AC Transit storefront on International Boulevard for job opportunities.
- Claire Haas, ACCE, commented on the process to develop the PLA for the Oakland Army Base as well as conversations with staff to pour over the details regarding disadvantaged workers and community oversight. She went on to outline some of the key provisions such as a community advisory committee to resolve disputes with contractors, assurances of funding to implement the policies and provide trained workers with jobs as well as an alternative referral source.

President Harper inquired if the carve-out provided in Article 16.2 of the PLA was \$2 million or \$5 million to which staff advised that it was \$5 million. He further inquired about the \$500,000 limit on Disadvantaged Business Enterprise (DBE) contracts, which didn't seem adequate for such a large project. Mr. Gross clarified that the DBE provisions were for small contractors trying to get their feet wet with respect to prevailing wage jobs, noting that if a DBE worked under the program, they wouldn't have to comply with the rest of the PLA.

MOTION: KAPLAN/GALLO to recommend, advise and urge in concept the adoption of the Project Labor Agreement. The motion carried by the following vote:

AYES:5: Kaplan, Gallo, Gregory, Harper, Ortiz

ABSENT:4: Cutter, Miley, Sartipi, Williams

6. Report regarding possible locations for the Bus Rapid Transit Community Outreach Center. (Review and Comment)

Real Property Manager Hallie Llamas presented the staff report.

Members of the Committee expressed the following concerns/preferences regarding the site selection criteria:

Criteria 1:

Councilmember Noel Gallo recommended that the center be centrally located to potential users of the service near the Fruitvale/International Boulevard area, adding that the greatest business impact would be in the Fruitvale area. He also said that the proximity to Interstate 580 and 880, access to businesses and other governmental agencies and public transit made a location in the Fruitvale District very attractive.

Criteria 3:

Chair Ortiz felt that off-street parking should not be a consideration and suggested that consultants use public transportation.

President Harper asked where the project would be managed from, noting that it might be advantageous to consolidate the Community Outreach Center and the construction office. Mr. Wilkins advised that the idea was to have BRT staff and consultants situated at the Community Outreach Center and to use the facility as a place for community meetings, a worksite for BRT staff, and where the ombudsman associated with the Business Impact Mitigation Plan would be located. He added that the construction office would be mobile and located near the area(s) of construction.

Councilmember Kaplan noted that in the description of the center, there was no mention of ticket sales, rider recruitment, or rider information—all topics of numerous discussions over the last decade. She said that the purpose of the Community Outreach Center wasn't only for construction or to take complaints, but to build a public constituency for riding the BRT and it was intended to be a visible presence that would create a feeling of safety, sell tickets and passes, maps, and be open at night, and, not one of these things was mentioned in the report. Staff advised that \$165,000 had been set aside for capital costs associated with the lease of the center through the end of construction, noting that if funding were available the center could stay open longer.

Councilmember Kaplan said that if the sole purpose of the outreach center was to have a place for consultants to work from, there would be no reason to allocate any money to it. Chief Planning and Development Officer Dennis Butler said that while he recalled past conversations about the purpose of the outreach center, the primary focus at this point in time was the BRT project, noting that it is yet to be determined what will happen after revenue service begins.

Councilmember Kaplan recommended that the \$165,000 set aside for the center be saved and used for unresolved issues associated with the project. She further noted her understanding that costs could be capitalized three years after the start of revenue service

as a start-up cost for public outreach and asked staff to check the federal funding rules. General Manager David Armijo advised that while this was correct to some extent, the issue was whether there would be funding available given the tight budget for the project.

The discussion ended with Councilmember Kaplan stressing the importance and value of a public information office in a densely populated area like Fruitvale and the successful launch of the project.

Chair Ortiz advised that the Committee's comments will be conveyed to the Board of Directors.

7. Discussion regarding the creation of an ad hoc committee to advise and make suggestions regarding community outreach [Requested by Councilmember Gregory]. (verbal)

The item was withdrawn by Vice Mayor Gregory and pulled off the agenda.

8. Update regarding the project budget and schedule. (verbal)

[A handout with the Preliminary Schedule, Preliminary Cost, and Comparison to Other BRT Projects was provided at the meeting for discussion purposes.]

Director of BRT David Wilkins advised that 35% engineering had been completed and staff was currently re-evaluating the budget and schedule for the rest of the project given the FTA's requirement of a 20% contingency, which would have an impact on the budget. He added that staff was preparing an analysis of the budget and schedule and this information would eventually be presented to the AC Transit Board of Directors for consideration.

Chair Ortiz asked when the 65% design would be completed. Mr. Wilkins responded that completion was scheduled for the summer of 2014, and the budget to deliver the project was set at \$178 million. General Manager David Armijo added that this figure assumed receipt of the last piece of Small Starts grant funding. He also said that the District was required to have an unallocated contingency of 20% and further called upon grants staff to discuss the finance charges outlined in the budget and cost of the buses. Senior Capital Planning and Grants Analyst Chris Andrichak advised that the finance charges were related to part of the construction and the \$2.4 million outlined in the budget was only part of the cost for the buses, noting that the rest was being financed separately from the project. He also said that as part of the funding for the project, the District had a commitment of funds from the Alameda County Transportation Commission, which weren't cash in the bank and staff was working with to solidify this commitment sooner rather than later which would lower the finance charges.

Councilmember Kaplan offered her support in shoring up the funding from the ACTC, noting that funds set aside for finance charges could be used for other things.

The item was presented for information only.

9. Discussion regarding the regular meeting schedule and the date and time of the next meeting.

District Secretary Linda Nemeroff advised that through Chair Ortiz a request had been submitted by Councilmember Cutter to hold quarterly meetings on the second Monday of the month at 1:00 p.m. (following the Alameda County Transportation Commission Planning, Policy and Legislation Committee meetings).

CONSENSUS to adjust the regular meeting schedule to allow for quarterly meetings held on the second Monday of the month at 1 p.m. during the months of March, June, September and December.

The next meeting is scheduled for Monday, December 9, 2013, at 1:00 p.m.

10. Future Agenda Items

Councilmember Kaplan inquired when the Operations and Maintenance Agreement would be brought back to the Oakland City Council. Chief Planning and Development Officer Dennis Butler reported that the agreement would be brought to the AC Transit Board on October 23rd and would be presented to the City's Public Works Committee on November 12th and subsequently to the City Council.

Councilmember Kaplan requested that the Committee discuss the options for naming rights, noting that this could generate money for ongoing maintenance.

Councilmember Gregory asked that AC Transit staff provide a follow-up report to the San Leandro City Council. Mr. Butler proposed providing an update at 65% engineering.

11. Adjournment

There being no further business to come before the committee, the meeting adjourned at 2:33 p.m.

Respectfully submitted,



Linda A. Nemeroff
District Secretary