

**DRAFT MINUTES**  
**Special Board of Directors Meeting**

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

**Friday, September 25, 2009**  
**5:00 p.m. (Closed Session)**  
**6:00 p.m. (Special Board Meeting)**

**Teleconference:**

Director Joe L. Wallace, Ward 1  
Best Western Capitol Skyline, Room 318  
10 "I" Street SW  
Washington, DC 20024

**Teleconference:**

Director Joel B. Young, At-Large  
Hilton Garden Inn, **Room 808\***  
815 14<sup>th</sup> Street, NW  
Washington, DC 20005

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**Board of Directors:**

H. E. Christian Peeples, Vice President (Director at Large)  
Joe Wallace, Director Ward I  
Greg Harper, Director Ward II

Ryan "Rocky" Fernandez, President (Director Ward IV)  
Elsa Ortiz, Director Ward III  
Jeff Davis, Director Ward V  
Joel B. Young, Director at Large

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*Prior to the start of the meeting, the General Counsel confirmed that all requirements of the Ralph M. Brown Act (Govt. Code Sections 54950, et seq.) and the provisions of Policy 100, Section 4.8 regarding teleconferenced meetings were met in order for Director Wallace to participate in the meeting and advised that all votes must be taken by roll call vote. Director Young did not participate in the meeting.*

The Alameda-Contra Costa Transit District Board of Directors held a special meeting on Friday, September 25, 2009.

**The meeting was called to order at 5:03 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, Vice President Peeples, President Fernandez.

Directors Absent: Director Young [*Pursuant to Board Policy 114, Resolution No. 07-052, Director Young's absence was excused as he was attending to authorized, official District business*].

**Public Comment**

There was no public comment offered.

*At 5:04 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 6:00 p.m.*

## 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

1. 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.**

At 6:11 p.m., the Board of Directors convened the special meeting. All Board members were present with the exception of Director Young.

2. Consider authorizing the General Manager to pursue shifting funds from the E. 14<sup>th</sup> Street/International Boulevard/Telegraph Avenue Bus Rapid Transit (BRT) Project to the operating budget (GM Memo No. 09-228).

*[Written comments received prior to and during the meeting are incorporated into the file and, by reference hereto, are made part of these minutes.]*

General Manager Rick Fernandez presented an overview of the proposal and called on Chief Financial Officer Lewis Clinton to review the District's financial condition followed by Deputy General Manager Nancy Skowbo's review of the memo with specific emphasis on Attachment B (Decision Process for Diversion of Capital Funding from the BRT Project).

The discussion focused on whether to pursue both CMAQ (Congestion Mitigation Air Quality) and RM2 (Regional Measure 2) funds in the proposal to MTC or to pursue the CMAQ funds initially and pursue the RM2 funds at a later time. In addition, there was discussion regarding the impacts to the Small Starts Program, the timeline for restoration of any service that is cut, and the amount of service that can be restored with the funds that may become available. Members of the Board expressed concern and caution over the possibility that funding could be reallocated by MTC to another

project. Directors also expressed that the process be forthright with MTC and the Federal Transit Administration (FTA) and also transparent to the public

The General Manager reported that MTC appeared to be willing to help the District and had requested a long-term sustainable plan.

Director Davis commented in favor of pursuing as much operating money as possible rather than waiting until for 3 or 4 years.

Vice President Peoples noted that several members of the CMA had signed off on urging the District to pursue the proposal. He further suggested that the CMAQ funding be immediately pursued and suggested that a group be formed to look at financial stability.

**Public Comment:**

- Kriss Worthington, Berkeley City Council, commented that the vote the Board was about to take was a way to avoid drastic service cuts that would hurt a lot of people. He noted that elected officials needed to advocate to MTC to allow the money to be moved to operations. (Submitted letter)
- Jane Kramer commented that the issue was sustainable service and that the baseline was a very crippled local service delivery system. She further noted that in order to have a high quality bus system, the level of local service should be upgraded.
- Chris Ripps commented in support of the proposal. He further noted that the proposed transfer of funds was vitally important to the people who use the service.
- Julie Kulgein suggested that the Board go for all the money during this crisis. She further noted the public's comments at the hearing on September 23, 2009 and commented that the BRT Project was not as important as basic fundamental levels of transit. She urged the Board to ask for all of the funds now.
- Paul Rosso encouraged the Board to support the proposal.
- Claudia Hudson, President-ATU Local 192, urged the Board to do whatever is possible to keep the service going and to advocate for new monies.
- Joel Ramos, TransForm, commented that BRT should not be built at the cost of cutting service and suggested that the Board form a funding task force to help get the District on the right track. (Submitted letter)
- Rebecca Saltzman, Oakland resident, commented that she was impressed with the public process by which the service reductions had been approached. She further commented that a similar public process was necessary for this proposal. She further indicated her support to pursue the CMAQ funding and hold off the decision on the RM2 funding.
- John Knox-White thanked staff for looking for ways to save service. He further indicated his support in pursuing CMAQ funds and preserving as much service as possible. He further commented that an RM2 swap was questionable.
- Vincent Casslaina, Berkeley resident, commented on the need for the best public transit possible, noting that there were things that could be done with the existing service that wouldn't require a lot of money (i.e. splitting the 1/1R into two lines, phasing traffic signals and the use of jump lanes).

- Alan Tobey, Friends of BRT, agreed with the position of TransForm that in the current emergency, the use of CMAQ funds is appropriate and that the decision on the use of RM2 funds should be deferred.
- Bob Allen, Urban Habitat, commented in support of the CMAQ swap and noted his interest in seeing the different funding scenarios. He further commented that the Board should not have met on a Friday night with little notice to the public and indicated his mistrust of MTC.
- Joyce Roy stated that she was speaking on behalf of Betty Mulholland and herself in supporting a shift of BRT Project funds to operations, which is a benefit to riders. She further indicated that AC Transit could still afford a curbside BRT Project and that it was a good idea to re-scope the project.
- Martha Jones spoke in support of the proposal.
- Rebecca Schneider spoke in support of the CMAQ funding shift and the preservation of lifeline service. She noted that more time was needed to explore the RM2 shift.
- Michael Katz, Berkleyans for Better Transportation Options, urged the Board to give management maximum flexibility to shift funds during times of emergency. (Submitted letter)
- Scott Tolmie, Berkeley resident, commented that BRT is not something the District can afford and urged the Board to consider its customers, noting that the Board's primary responsibility was to keep the District solvent.
- Jonathan Bair, Chair of the City of Oakland's Bicycle and Pedestrian Advisory Committee, urged the adoption of TransForm's compromise proposal, to form a task force and to discuss the reprogramming of RM2 funding.
- David Vartanoff, Oakland resident, commented on the State's embezzlement of State Transit Assistance and spillover funds. He further noted that the Board should attempt to get all the money they can.
- Michael Diehl, member of BOSS, commented on reduced service on Lines 9 and 72 and the impacts of State budget cuts. He further noted that he supported the shift of funds from the BRT Project to operations.

President Fernandez inquired whether there were other funds that could be swapped such as money for buses, noting his frustration with past references that money for the BRT Project could only be used for BRT. The General Manager reported that all regional bus money had already been swapped. He further noted that staff pursues all monies the District is eligible for.

Director Ortiz commented that she appreciated the General Manager's efforts to think outside the box and on the need to put basic service ahead of the BRT Project.

Director Davis commented that the decision before the Board was not about the death of BRT, but about preserving basic transit service.

**MOTION: DAVIS/WALLACE** to approve Alternative 1 as provided in staff report to divert CMAQ and RM2 funds from the BRT Project to the operating budget and direct staff to develop a funding plan to continue with the completion of the Environmental Impact Statement/Report.

Vice President Peeples proposed an amendment to the motion to request diversion of CMAQ money immediately and convene a group to talk about other funding possibilities, BRT, and RM2 and report back in not more than 4 months.

Director Davis inquired if RM2 would be off the table for negotiations with MTC until the task force met and made a recommendation.

Vice President Peeples clarified that the General Manager could discuss it with MTC staff, but there would not be a formal request for reprogramming of the RM2 money until the task force had an opportunity to advise the Board.

Director Davis stated that he could not support the amendment. President Fernandez seconded the amendment.

Discussion ensued. The General Manager proposed that he proceed with discussions with MTC concerning the CMAQ funds. He inquired whether the Board would be willing to include the RM2 if MTC indicated the financial plan was not sustainable. There appeared to be consensus by the Board that the General Manager would need to come back to the Board in order to approve the pursuit of RM2 funds.

The General Manager commented that if the Executive Director of MTC agreed with the proposal, the Board will be notified and, if necessary, a meeting of the Board would be convened.

Based on the aforementioned clarifications and discussion, Directors Davis and Wallace accepted the amendment to the original motion.

**MOTION: DAVIS/WALLACE** to approve the following:

- Direct the General Manager to discuss a proposal for a CMAQ first alternative with Steve Heminger (MTC Executive Director). If the initial proposal is unacceptable, the Board will convene to discuss the inclusion of RM2 funds in the proposal;
- Should the CMAQ first alternative be acceptable to MTC, a task force shall be formed, with a maximum four-month duration, to discuss other funding sources and RM2. Three members of the Board of Directors will serve on the task force; and
- Direct staff to develop a funding plan to continue with the completion of the Environmental Impact Statement/Report for the BRT Project (6-0-0-1)

Ayes: Directors Davis, Wallace, Harper, Ortiz, Vice President Peeples, President Fernandez – 6

Noes: None – 0

Abstain: None – 0

Absent: Director Young – 1

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

**Agenda Planning**

There were no new items added to agenda planning.

**Adjournment**

There being no further business to come before the Board of Directors, the meeting adjourned at 8:28 p.m. The next meeting of the Board of Directors is scheduled for 6:00 p.m. on Wednesday, September 30, 2009, in Fremont, California.

Respectfully submitted,

Linda A. Nemeroff  
District Secretary