

MINUTES OF DIRECTORS MEETING

LANE TRANSIT DISTRICT

WORK SESSION/RETREAT

Wednesday, February 21, 2018

Pursuant to notice given to *The Register-Guard* for publication on February 14, 2018, and distributed to persons on the mailing list of the District, the Board of Directors of the Lane Transit District held a work session/retreat on Wednesday, February 21, beginning at 9:30 a.m., at the Oregon Trail Council – Boy Scouts of America Conference Room, 2525 Martin Luther King, Jr. Boulevard, Eugene, Oregon.

Present: Gary Wildish, President
Carl Yeh, Vice President
Kate Reid, Secretary
Don Nordin, Treasurer
April Wick
Steven Yett
Aurora Jackson, General Manager
Kristin Denmark, General Counsel
Camille Gandolfi, Clerk of the Board
Lynn Taylor, Minutes Recorder

Absent: Ed Necker

CALL TO ORDER/ROLL CALL — Mr. Wildish called the meeting of the Lane Transit District (LTD) Board of Directors to order on Wednesday, February 21, 2018, at 9:30 a.m. and called the roll.

PRELIMINARY REMARKS BY BOARD PRESIDENT — Mr. Wildish said he was pleased with the February 20 work session and looked forward to continuing the Board's discussions.

COMMENTS FROM THE GENERAL MANAGER — Ms. Jackson announced that Senator Jeff Merkley was in town and interested in seeing LTD's new electric bus. A tour of the bus with Senator Merkley, Board members, and staff had been arranged in the afternoon.

ANNOUNCEMENTS AND ADDITIONS TO THE AGENDA — Ms. Jackson said the order of training on state and federal ethics would be reversed, with federal ethics preceding the state training.

FEDERAL TRANSIT ASSOCIATION (FTA) ETHICS TRAINING — Ms. Denmark discussed federal conflict of interest rules and pointed out where they conflicted with Oregon law. She said conflict of interest issue typically arose on contracting matters, but could also occur in other areas. She said Board members had been provided copies of the annual conflict of interest disclosure form and asked that they be completed and returned to staff by the end of the day.

Ms. Denmark said conflict of interest rules applied to both Board members and staff, but her presentation would focus on Board members. Rules prohibited participation in the selection, award, or administration of a contract supported with FTA assistance if a real or apparent conflict was involved. She said federal rules defined a conflict of interest more broadly than Oregon law

did and applied to Board members, their immediate family, partners, and employer or potential employer when there was a financial interest in the award of an LTD contract. She noted that immediate family was not defined by federal rules, but relative was very broadly defined under Oregon law and cautioned that if someone fell into the relative family under Oregon law they should be treated as immediate family. She encouraged Board members to consult with LTD's legal counsel when questions or concerns about conflicts of interest arose.

Ms. Denmark provided a series of examples of potential conflict of interest situations and described the appropriate course of action in each situation, using guidance from both Oregon and federal laws. She responded to questions from Board members and stressed that determination of a conflict of interest was dependent on the funding source and whether state or federal rules were applicable.

Mr. Nordin arrived at 9:45 a.m.

Ms. Denmark discussed how gifts were addressed under Oregon and federal laws. She said Oregon law defined a gift as something of value given to a Board member that was not offered to others on the same terms and conditions. She said it could be challenging to make that determination under Oregon law and would require knowing the source of a gift. She gave the example of attending a conference where costs were paid by someone other than the Board member. She said it was necessary to determine whether the source of the gift had a legislative or administrative interest, defined as an economic interest distinct from that of the general public, which could be subject to a Board member's vote. She said there were many exceptions to gift rules and those were updated annually, which is why legal counsel should be consulted prior to accepting a gift. The value of a gift from one individual or entity could not exceed \$50, cumulative over the course of a calendar year and urged Board members to keep track of gifts and their value.

Ms. Jackson noted that staff made determinations regarding gifts, in consultation with legal counsel, when Board members were attending events and conferences on behalf of LTD.

Ms. Denmark provided a series of examples of gifts that might be offered and how those situations should be handled under Oregon and federal law and responded to questions from the Board.

Ms. Denmark said actual and potential conflicts of interest needed to be disclosed to the general manager through the annual disclosure form and LTD policies required that Board members disclose to each other when a conflict of interest arose. She said Board members were also required to file a statement of economic interest with the Oregon Ethics Commission by April 15 of each year. Ms. Gandolfi said the form would be transmitted to Board members via email and she could provide assistance in completing it.

STATE ETHICS TRAINING — Hayley Weedn, trainer with the Oregon Ethics Commission, distributed handouts entitled *Oregon Government Ethics Law* and *Exceptions to the Gift Limit*. She said that Oregon's ethics law applied to elected and appointed officials and public employees. She said that webinars had been scheduled to assist in filling out the statement of economic interest form discussed by Ms. Denmark; the schedule could be found on the Ethics Commission website. Commission staff could also be contacted by phone to answer questions. She stressed the importance of submitting the form by the filing deadline of April 15 to avoid the daily penalties that accrued if a form was late.

Ms. Weedn said her presentation would provide an overview of the major and most widely applicable provisions of the state ethics law. She said what government ethics laws had in common was the intent to regulate, limit, or, in some cases, outright prohibit financial benefits from a person's public position. She said that intent also extended to relatives, household members, and business associates of a public official.

Ms. Weedn briefly reviewed the specific definitions of public officials, relatives, household members, and business associates under the ethics law. She advised Board members to be cautious and consult legal counsel if in doubt about whether someone fell into one of the specified categories. She said connections to a 501(c) non-profit that did not provide any benefits, such as volunteering or serving in an unpaid position like board member, would not produce a conflict of interest if that non-profit conducted business with LTD.

Several Board members noted that it was not uncommon for an LTD Board member to serve on the board of a local non-profit and that could place them in an uncomfortable position if business related to that non-profit came before the Board. Ms. Weedn said while technically there would not be an actual conflict of interest, Board members could hold themselves to a higher standard and avoid even the appearance of conflict. Many public agencies adopted policies that an apparent conflict was the same as an actual conflict because public perception did not necessarily make a distinction between the two. She emphasized that a conflict of interest would only arise when a Board member was acting in his or her official capacity on a matter that would or could financially affect them or their relatives, household members or business associates.

Ms. Weedn discussed examples of Board action and how conflicts of interest could occur. She said in the case of service changes that could be perceived as financially affecting a business or organization (e.g., increased property value, improved accessibility, etc.) with which a Board member had an association, there would be an exception if the Board's action affected to the same degree an entire class of persons. In the example, all businesses and homeowners in the area would benefit. Likewise, special fares for certain populations would financially affect all members of a population.

Ms. Weedn said that conflicts of interest should be announced at public meetings, reflected in the minutes, and become part of public record. She briefly reviewed other exceptions and how they might apply to the Board in certain situations. She said that staff members were required to provide conflict of interest notifications in writing.

In response to a question from Mr. Nordin, Ms. Denmark explained serial conversations among Board members and when they were considered a public meeting. She said if board member A communicated with board member B about a matter, and that conversation continued with board member B communicating with board member C, who then communicated with board member D, having four board members discussing a matter would be considered a public meeting that did not follow the rules of the public meetings law. The law required deliberations to occur in a public setting.

Ms. Weedn stated the prohibited use of office provision was the cornerstone of the ethics law and most widely applicable to the Board's activities. She said the provision prohibited public officials from using their positions to obtain anything of financial benefit that would not otherwise be available if not for holding that position. The prohibition applied to the public official, relatives, household members, and business associated. It also prohibited use of a position to deter detriment. She described several scenarios related to conflict of interest and prohibited use of office and explained how those should be handled in accordance with ethics law and responded

to questions from Board members. She noted that conflict of interest and prohibited use of office issues typically arise in different situations, but could occasionally cross over.

Ms. Weedn reviewed the handout related to exceptions to the gift limit and explained how Board members could use the flow chart to determine whether an exception applied to the offer of something of economic value. She said the handout covered the most commonly occurring situations and encouraged Board members and staff to contact the Ethics Commission if questions arise.

The Board took a break from 11:00 a.m. to 11:15 a.m.

BOARD AND COMMITTEE BYLAWS — Ms. Jackson said that at the Board's request, staff had developed Board bylaws to standardize and assure the transparency of Board operations, copies of which were distributed at the meeting. She drew attention to Article V., Section 5.1 Officers, Duties. She said that currently Board officers were elected for terms that began in July and ended in June, consistent with the fiscal year, but this had created problems with the terms of Board appointments, which were based on the calendar. When the term of a member, who was also a Board officer, expired, another Board member had to serve in that officer position for an interim period until officers were elected in July. She said the terms of officers could be changed to coincide with appointment terms, if the Board wished.

Mr. Wildish determined there was consensus to establish January-December as the term for Board officers in order to align with the term of Board member appointments. Ms. Denmark recommended that the terms of current officers could be extended to December on an interim basis at the Board's July meeting and new elections could be held at the January 2019 Board meeting.

Ms. Jackson said that Section 5.5 required the Board treasurer to serve on and chair the Finance Committee as a voting member. She said all other Board committees were appointed by the Board president and committee members then selected a chair; staff was recommending that approach for the Finance Committee, as well as allowing the treasurer to delegate specific duties to the Director of Finance.

Ms. Reid and Mr. Nordin agreed with the recommendation.

Mr. Wildish said that he felt the proposed change would allow the Board president flexibility to make the best use of Board member's skills. He determined there was consensus to accept the proposed change.

Mr. Wildish asked staff to assure the bylaws would continue to allow the Board president to reassign members among committees to best leverage their knowledge and interests.

Ms. Jackson said staff was also working on bylaws for the Accessible Transportation Committee (ATC), Budget Committee, and SPC, all of which functioned as advisory committees, including members of the public.

Ms. Jackson described the role of the ATC as providing the Board with advice and recommendations related to issues of accessibility, paratransit, and allocation of Special Transportation Fund (STF) dollars.

Ms. Denmark added that Oregon Administrative Rules (OAR) required LTD to have a committee that made STF allocation recommendations to the Board and also mandated the composition of

that committee. The proposed revisions to ATC bylaws would assure OAR compliance, but would result in reconfiguration of the committee and elimination of some current members. However, the ATC also functioned in a broader role of advising the Board on matters of accessibility. The Board would need to decide if it wished the ATC to continue to serve in that capacity, which was not envisioned in the OAR, and would complicate composition of the committee if it was serving two purposes.

Ms. Wick, who had served on the ATC, said some of the committee's work, not related to STF allocations, included reviewing service and facility/equipment design changes for accessibility impacts, discussing regulatory changes, and advising on issues such as treatment of service animals and fare programs. The ATC provided seniors and those with disabilities a forum for making their concerns known and providing valuable input on issues that affected them. She did not want to see that function lost if the ATC's focus was narrowed to STF matters.

Ms. Gandolfi said the intent was not to take away any functions, but enable the ATC to have a more effective voice within the community and with the Board of Directors, and assure its deliberations reached the Board level.

Ms. Denmark said her concern with having one committee serve those dual purposes was that the current bylaws were inconsistent with OAR and some of the positions were not permitted under the rules. She said even if the committee's scope was broader, OAR requirements would still apply.

Mr. Wildish commented that the ATC was a robust group, very dedicated, and provided a valuable service. He was concerned with removing some members and wanted to know which positions would be affected. Ms. Denmark said positions that would be eliminated in the revisions were bus operator and service providers outside of Lane County that provided service within the county.

Ms. Wick suggested there might be a creative way to retain engagement with those who did not fit into the OAR membership categories. She said having a bus operator and community members participate in the ATC meetings had provided valuable perspectives.

Ms. Jackson said another issue was the ATC currently had voting and non-voting members, which Ms. Denmark advised against for an STF allocation committee. She recognized that more work on the committee structure was necessary, depending on the Board's direction regarding the ATC's role and functions.

Ms. Gandolfi said a goal of the revisions was to formalize the process of communication. She said the Board would derive more value from the committee if it included more representatives of groups of people and took testimony from individuals in the community. Currently some members represented their own individual experiences.

Ms. Reid and Ms. Wick recommended engagement with the committee to discuss the proposed changes. Ms. Denmark added that the Board would need to determine what type of committee configuration and function would be of most benefit to the Board's work.

Ms. Jackson said a similar situation would exist with the SPC if it assumed the role of the advisory committee mandated by HB 2017.

Ms. Jackson said revisions related to the Budget Committee were fairly straightforward and non-controversial and formalized current practices. The Finance and Human Resources

committees were subcommittees of the Board. Each was composed of three Board members, meetings were open to the public, but public testimony was not taken. She said LTD Ordinance No. 45 would be updated to reflect changes to the bylaws. The updated Board bylaws would be presented at the March 2018 Board meeting, with Ordinance No. 45 to be presented at the April meeting.

Ms. Jackson said additional work would be done on bylaws for the ATC and SPC once decisions about the roles and functions of those committees were made.

Ms. Jackson said the Board Service Advisory Committee had consisted of two Board members who were avid bus riders and participated in staff discussions of proposed service changes before they were presented to the Board. If the Board wished to reinstate that committee, staff would make that change.

Mr. Wildish said former Board member Gary Gillespie and outgoing Board member Ed Necker were on the Service Committee and strong advocates for involvement in the service planning process. He said the SPC, which represented transit users and broader community interests, now provided advice to LTD on its service.

Ms. Reid pointed out that the Board's meeting packets contained brief summaries of the activities of various committees in which Board members participated. She suggested that there could be an expectation that members provide a verbal update at each Board meeting about the activities of the committees on which they served. Ms. Jackson said language could be added to the bylaws to reflect that expectation. She said staff could also provide a one-page summary, reporting key items on those committee meetings they served on, that LTD managed,.

The Board took a lunch break from noon to 12:30 p.m.

PROJECT DEVELOPMENT AND REPORTING FOR THE FISCAL YEAR 2019-2028 CAPITAL IMPROVEMENT PROGRAM (CIP) — Ms. Jackson said the past process for presenting the CIP and budget to the Board, concurrently, allowed little time for an in depth discussion of projects. The new process separated the documents, with a draft CIP initially presented to the Board in September, followed by a period of public comment and a public hearing, then adoption of the CIP by the Board in November. The operating budget process would commence the following April, with Board approval scheduled for May. The operating budget would include appropriation of funds for the approved CIP. She said the new schedule worked well from the perspective of project development and budget alignment.

Ms. Jackson said the CIP reflected the allocation of LTD's limited resources to projects that supported regional priorities. Projects were divided into the following categories:

- State of Good Repair – maintenance and replacement of existing assets
- Community Investments – expansion of bus rapid transit and other amenities
- Grant-funded Non-Capital Projects – programs such as Point2point and accessible services

Ms. Jackson explained the project development process, as outlined in the CIP:

1. Determining the implications if the project was deferred
2. Determining the feasibility of implementation – likelihood project could be completed within the fiscal year
3. Determining the impact on the operating budget – e.g., cost of maintenance

4. Determining the direct impact on customers – quality of service delivery
5. Determining the economic impact – e.g., increase jobs, improve local economy,
6. Determining the environmental impact

Ms. Jackson said staff was committed to improving the transparency of that decision-making process. She used a flow chart to illustrate the staff work that occurred at each step in the process and the amount of communication among staff as the project moved forward. She distributed a document entitled *IBISWorld Procurement Report: Transit Buses*. She said the report highlighted the amount of analysis that was conducted during all phases of project development and provided guidelines for issues to be addressed at each step in order for a project to move forward.

In response to a question from Mr. Wildish, Ms. Jackson said individual project managers would conduct the initial analyses before bringing the proposed project before the LTD staff management group for further assessment and prioritization. She said the process was designed to assure that projects recommended to the Board for approval could be completed within the fiscal year and that the impacts on all aspects of the District's operations were known.

Mr. Wildish described his experiences with project development in the private sector and asked at what points in LTD's process, decisions were made and by whom. He used the example of purchasing several buses which would require the expenditure of a very large amount of funds. Ms. Jackson said in the past, decisions had been decentralized and there was an urgency to move projects forward. In the case of buses, the Board had adopted a policy that LTD would only purchase alternative vehicles, but she was not certain that decision was fully informed by a complete analysis of all of the factors, both financial and operational. Under the new process, all of the analysis would be completed prior to the Board being asked to make a decision and inclusion as a project in the CIP. The new centralized process would involve all parts of the organization and result in a vetting of projects for consistency with Board values and direction.

Mr. Wildish said Board members came away from events like the American Public Transportation Association (APTA) conference with information about new technology and other industry innovations. He asked when Board members would have an opportunity to raise those ideas that could potentially become projects. Ms. Jackson said a Board work session could be scheduled prior to development of a draft CIP to discuss project analyses and priorities. She illustrated how the process would appear on the Board's annual calendar and provide opportunities for the Board to have input and discussions about projects of interest early in the development process.

Assistant General Manager of Administrative Services, Roland Hoskins, said the new process was intended to address confusion in the past about how projects got into the CIP, at what point did the Board decide a project should move forward, and lack of clarity about what was being approved. He said the new process, which separated the CIP and budget development processes, was designed to be transparent and provide ample opportunity for the Board to provide input and understand how the CIP fed into the budget process. It would also align LTD's CIP development process with those of partner agencies and with state and federal funding cycles and provide for an extensive internal vetting process before projects were presented to the Board for consideration.

Ms. Jackson stressed that the Board would have the results of an extensive analysis prior to making a decision to authorize a project, as well as a clear understanding of a project's consistency with the Board's values, policies, and direction for the agency.

Ms. Reid said it was not the job of the Board, as a policy-making body, to provide project information to staff. She cautioned against becoming too involved in project planning, rather than letting people with expertise research ideas.

Mr. Wildish said his concern was that the Board be given sufficient information to fully inform their decisions. Ms. Jackson said staff would discuss how to better explain why projects were selected for the CIP and how they aligned with Board policies and previous decisions. Separating the CIP and budget processes would give staff the time to assemble that information for the Board.

Ms. Jackson distributed a handout entitled *General Services Administration: General Design Philosophy* that outlined the questions that were asked during the analysis of a project. She also provided samples of how project information was provided in the CIP. She said often that was the last time the Board heard about a project. One of the changes staff is making is to format inclusion of timelines, phases, and funding sources in each project description. That would clarify whether the Board was approving a new project or continuation of an existing project, as well as what portion of an existing project was being approved. The monthly grant report would also be reformatted to be consistent with how project information was displayed in the CIP, providing more detailed information about the status of projects approved by the Board and greater transparency about their implementation.

Mr. Nordin asked about the status of a project on Franklin Boulevard between Walnut Street and Dads' Gate. Ms. Jackson said the project was in the planning and development process and would be in the next CIP. She said LTD had received \$5 million of state dollars, although ODOT had not yet released the funds. Conversations were under way with the City of Eugene about whether the project would be managed by LTD or by the City of Eugene as part of a larger project.

Ms. Wick asked how the Board would be able to track all of the projects. Ms. Jackson said staff was revising how project information was displayed in the month status report. Each project would be given a reference code so that even if the project's working titled changed, it would retain the same code number throughout its life cycle.

In response to a question from Mr. Nordin, Ms. Jackson said a project name would be assigned when it was approved by the Metropolitan Policy Committee (MPC) and the name would follow the project through to completion, providing a common project identification among partner agencies.

Ms. Wick said her concern was the ability to do her due diligence as a Board member and track projects and their status.

Mr. Yett said it would be helpful if significant changes in a project were brought to the Board's attention. Ms. Jackson said the monthly status report on projects would also include any noteworthy changes so those could be discussed if the Board had questions. She said that information would also be available to the public in the agenda packet posted on LTD's website.

Mr. Nordin expressed his continued interest in solar energy and said that he hoped there could be an opportunity to more fully discuss LTD's involvement, such as a coalition of community organization to address the problem of global warming and resiliency.

Mr. Wildish commended staff and said the revised processes and reports were a good move in the right direction.


FISCAL YEAR 2017-2018 AND FISCAL YEAR 2018-2019 CAPITAL IMPROVEMENT PROGRAM — Ms. Jackson said this item would provide detailed progress reports on five projects approved by the Board in the current CIP. Those reports could be provided at regular Board meetings so that the work session could adjourn for the electric bus tour with Senator Merkley.

ADJOURNMENT


Mr. Wildish adjourned the meeting at 1:30 p.m.

LANE TRANSIT DISTRICT:

ATTEST:



Kate Reid
Board Secretary



Camille Gandolfi
Clerk of the Board

Date Approved: 2/21/18