

MINUTES OF DIRECTORS MEETING

LANE COUNTY MASS TRANSIT DISTRICT

REGULAR MEETING

January 20, 1981

Pursuant to notice given to the Register Guard for publication on January 14, 1981, and distributed to persons on the mailing list of the District, the regular monthly meeting of the Board of Directors of Lane County Mass Transit District was held at the City Hall, Eugene, Oregon, on January 20, 1981, at 7:30 p.m.

Present: Richard A. Booth, Secretary
Daniel M. Herbert, Vice President
Kenneth H. Kohnen, President, presiding
Ted J. Langton, Treasurer
Robert C. Loomis
Carolyn Roemer
Phyllis Loobey, General Manager
Jo Sullivan, Recording Secretary

News Media Representative:
Marvin Tims, Register Guard

Absent: Glenn E. Randall

INTRODUCTORY REMARKS BY BOARD PRESIDENT: Mr. Kohnen stated that he wished to mention several matters that were spoken about at the December, 1980 regular meeting. He reminded the Board that the District is facing a number of uncertainties, or areas where it doesn't have much control, such as Federal funding, and that there is no way to know what the future will hold in the area of operating grants from the Federal government.

Phyllis Loobey explained that the staff expect to receive part of this year's operating assistance in February and the balance in April. She added that the intent of the program, but not necessarily the practice, is to receive the money on a quarterly basis.

Mr. Kohnen went on to say that the District is affected by the state of the local economy because it relies on the payroll tax, and taxes have been lower than in the past. He added the District is just about on track this year, budget-wise, with the projections previously given the Board by the budget officer. Mr. Kohnen informed the Board that it appears that the drop in ridership has turned around and that fare box revenue should increase, which is, to some degree, the result of aggressive marketing by the District's marketing department. He gave the example that the sale of fast-passes through the 7-11 Stores has been very successful.

AUDIENCE PARTICIPATION: Len Blackstone, 1170 Custom Way, Springfield, stated that he and several other members of the audience would like to address the Board on the matter of the ban on religious advertising, and wondered if it would be best to address the issue at that time or wait until the Board arrived at that point on the agenda. Mr. Kohnen advised him that he could address the Board at the present time and then make a statement later also, if he liked. Mr. Blackstone first mentioned that he appreciated Ed Bergeron's cooperation in sending material on the subject for him to read, and then asked the Board to qualify what they meant by religious advertising; for example, did they mean a religious organization such as the Christian Family Institute, which might want to advertise its crisis hot line or counseling services, or did they mean an organization bringing a famous religious person into town, or maybe a local church advertising a night of local entertainment for Christians, or even the Eugene Mission, which is definitely Christ-centered, which might be prohibited from advertising to raise funds for the poor and needy?

Mr. Blackstone went on to say that the Supreme Court had said that nude movies cannot be prohibited from being shown in view of the public because members of the public have the freedom to turn their heads. He added that he didn't think the District, by allowing religious advertising, would be seen as taking a stand for or against religion.

At this time it was decided that the other members of the audience would wait until the subject of religious advertising came up on the agenda before making their statements. There was no other audience participation on any other subject.

MOTION

APPROVAL OF MINUTES: Upon motion by Mr. Langton, seconded by Ms. Roemer, the minutes of the December 16, 1980 regular meeting and the December 31, 1980 adjourned meeting were unanimously approved as distributed.

VOTE

At this point in the agenda, Mr. Herbert moved and Ms. Roemer seconded that the agenda item on Advertising Guidelines be moved forward on the agenda, so the people interested in making statements on that subject would not have to sit through the whole meeting. Hearing no objection, Mr. Kohnen changed the agenda.

ADVERTISING GUIDELINES: Mr. Kohnen re-introduced this subject by saying that the Board, on December 31, 1981, had adopted some guidelines regarding advertising on board the buses and instructed staff to draw up a contract with Benedict Communications, Inc., and Oregon Transit Advertising. One of the guidelines that were approved, he said, was that religious advertising would not be allowed. The District had received some correspondence regarding the subject, and Mr. Kohnen drew the Board's attention to the fact that time had already been spent in hearing discussion opposed to the ban at the beginning of this meeting.

MOTION

Mr. Booth moved that the Board adopt the staff recommendation that the guidelines be amended to allow religious advertising. Mr. Langton seconded the motion.

Mr. Booth stated that he felt strongly that the Board should not have any restrictions, including the restrictions on alcohol and tobacco, and asked Mr. Blackstone how he felt about that idea. Mr. Blackstone answered that he agreed.

Mr. Kohnen introduced Randall Bryson, legal counsel for the Board. Mr. Bryson said that he had one comment on this subject. He said he had instructed the staff that it would probably be illegal to have a restriction on religious advertising. He went on to say that if the District allows all advertising, it will in effect be allowing a public forum on the sides of the buses, and it would be difficult to exclude something because the Board didn't like the content. He added that a disclaimer could be added to the signs; it could read, for example, "the position stated hereon is not the position of Lane Transit District, the Board of Directors, or the employees of the District." In response to a question by Mr. Kohnen, Mr. Bryson explained that the disclaimer would not have to appear on every ad, although it might be a good idea. It could be limited to non-commercial advertising. He added that the Board would be able to review advertising for style without reviewing content, and would probably be forced to run the ad.

At this point, Dr. Loomis said he thought it was important to think about the business, and said that the reason he wanted some restrictions in controversial areas is so the Board could not allow advertising of something that might hurt the District's revenue. He then asked a question of Mr. Bryson regarding his conclusion about the public forum. Mr. Bryson answered that the District could accept commercial advertising and not make the buses a public forum, but said that if we say we will accept all advertising but then exclude one ad we don't like, that would be illegal. The District can require that there be no profanity, however.

Mr. Bryson, in response to a question from Ms. Roemer regarding the first paragraph of page three of his letter dated January 19, 1981, said that we would be taking "middle ground" to reserve in the contract the right to refuse all political advertising if problems arose later, and in that way postpone having to make a restriction. He further said that he thought a restriction at a later date regarding religious and political advertising would be as valid then as it would be now. If groups boycotted buses because of the advertising, the Board could say it needed further restrictions at that time. Mr. Herbert asked if the District's legal position would be stronger if the restrictions were made now instead of later, to which Mr. Bryson replied that there is some evidence that the more severe the problem with the advertising is, the more sound the basis would be for limiting advertising later.

At this time, Mr. Kohnen asked for audience participation.

Tom Alderman, of 1045 Williams, Eugene, stated that he is a lawyer but would like to speak as a resident of Eugene. He said that the issue of a ban on religious advertising could be looked at as a legal protection problem; discrimination per se is not the problem, but when discrimination is

on the basis of race or religion or other protected classes, then the Supreme Court requires us to show a compelling reason.

David Ortega of 1638 West 28th Place, Eugene, said he wanted to support the testimony he had heard earlier from the audience. He introduced himself as the Director of the Christian Family Institute. His opinion was that Lane Transit District is not a legislative body or a judicial body, but a business organization, and therefore the District should not have to worry about the legal problems of covering all bases. He further thought that the money the District would save by not "stepping on somebody's toes" is not too great, and said that it is obvious that the Board is not supporting what is advertised just because it is advertised. He said that he, as a citizen, would support the District in its effort to run it like a business.

John Hubbard of 3355 Harris, Eugene, spoke next. He said he had an honest concern that if a ban on religious advertising is adopted, it would be a mild insult to the religious community and that it might set a precedent that would haunt us all in the future regarding subtle distinctions in the public/religious community. He mentioned that he appreciated what seemed to be the willingness of the Board to face controversy and sort out the right decision, and he supported the Board in that process. He added that the restricting of religious advertising would put Eugene's religious community at a disadvantage if its members did want to advertise.

Dick Younts of 2733 Kismet Way, Eugene, was the final participant from the audience. He said that he owns an advertising agency in town and would be concerned that even though a restriction on religious advertising might not seem to be monumental, it might set a precedent. He said he had checked that day with an outdoor advertising company that is in the business of billboards and informally asked for their position in this matter. Their restrictions are for ads that are in poor taste, but other than that they are open to any advertising. He added that when billboard companies have empty boards, they look to religious advertising as an opportunity to further community interest on a gratis basis. He encouraged the Board to lift the restriction and thanked them for the opportunity to speak.

At this point, Mr. Kohnen made two points in clarifying the background of addressing the matter of restrictions on religious advertising. First, he said, the context had nothing to do with the Board being either pro- or anti-religion, but that it may be a highly controversial item that could affect the safety of the riders. Secondly, the Board members were under the impression that if they were to allow religious or any other kind of advertising now, it would be very difficult, if not impossible, to restrict that type of advertising at a later date. However, the Board had now been advised by Mr. Bryson that it would be possible to change restrictions at a later date if a serious problem arose.

Mr. Kohnen then restated that the motion before the Board was to adopt the staff recommendation that the guidelines be amended to allow religious advertising. The question was called for, and the motion passed unanimously.

VOTE

Mr. Kohnen thanked the members of the audience for their participation.

MOTION

Ms. Roemer moved to remove restrictions #1 and #2, the restrictions on tobacco products and alcoholic beverages. Mr. Booth seconded the motion.

Mr. Herbert said he could make a distinction, based on objective evidence, not matters of opinion, that smoking and alcohol abuse are harmful to people, whereas that cannot be objectively said of religion. Ms. Roemer agreed that evidence can be shown that tobacco is harmful, but said she felt that the use of it is still a personal decision. Dr. Loomis remarked that tobacco products always have to have a disclaimer stating that they may be harmful to health, and that he would not like to advertise tobacco because of the health reason. He reminded the Board that the City of Eugene had recently put a ban on public smoking, and said that if the Board is going to do the public a service, the public should not be exposed to something that it is so concerned about. He also said he felt the same way about alcohol because of problems with drinking and driving and deaths.

VOTE

At this point, Mr. Langton stated that he was in favor of removing all restrictions. Ms. Roemer called for the question. The vote ended in a tie, with Mr. Herbert, Mr. Kohnen, and Dr. Loomis voting against the motion, and Mr. Booth, Mr. Langton, and Ms. Roemer voting for it. The motion died due to the tie vote.

Ms. Roemer and Dr. Loomis raised a question regarding Mr. Bryson's remark that the Board would be able to review advertising for style but not content. Mr. Bryson had by this time left the meeting, so Mr. Kohnen said that he would discuss this matter with Mr. Bryson at a later time.

GUIDELINES FOR SERVICE IMPROVEMENTS: Ms. Loobey introduced this topic by saying that the policy directions of the Board had set guidelines for the staff to deal with reductions, but at the same time, a balance is needed for when situations change. At the present, she said, we need guidelines on how to evaluate service requests; for instance, if the staff received a request to restore late-night service and run an industrial shuttle, they would need a way to evaluate those requests and present them to the Board, balanced against the previous guidelines the Board did adopt. She also mentioned farebox to operating costs as an example in relation to productivity standards and rides per vehicle hour. Mr. Kohnen asked if farebox to operating costs ratio would be added to Table 1 on page 22 of the Board packet. Ms. Loobey responded that it would be difficult and expensive to collect that kind of information. She gave the example that if the District were going to add a route where there were a lot of senior citizens, statistics would show rides per mile but not farebox dollars, and the Board would have to make that decision.

MOTION

Dan Herbert moved that the Board adopt the guidelines as listed on pages 22, 23, and 24 of the January 20, 1981 Board agenda. It was seconded, and discussion followed. Ms. Loobey explained that if the District's financial picture improves so that it can improve service, the staff will need guidelines

for responding to requests for service, with a mechanism to evaluate different kinds of service. She further explained that the staff proposal would not apply only to service additions. There may be a time when the District needs to restructure service to make it more productive or to reallocate service. An example would be routes for senior citizens or Weyerhaeuser industrial service. Policy decisions like those should be made at the Board level, but the staff should be able to take to the Board a proposal based on objective guidelines.

VOTE

Dr. Loomis called for the question, and the vote was five in favor of the motion, none opposed, and Mr. Booth abstaining. The motion carried.

MOTION

PROPERTY IMPROVEMENTS: Dan Herbert introduced this subject by saying that he and Dr. Loomis are on the architectural subcommittee that has been studying property improvements; he then called the Board's attention to the Site Plan shown on page 26 of the January 20 Board packet. The item under consideration was the proposed roof cover addition to the existing tire shop building on the West Broadway side of the property. The purpose of the proposal is to allow buses to pull up next to the tire shop and allow employees to change tires under cover. He added that the subcommittee found the price to be realistic, and recommended approval of the change order. On behalf of the subcommittee, Mr. Herbert moved that the General Manager be authorized to proceed with the change order for \$11,083 as submitted by Landmark Commercial, Inc., to complete the tire service facility. Dr. Loomis seconded the motion.

Dr. Loomis commented that he had been concerned about beginning to use change orders because the Board had wanted the original contract to be all-inclusive. However, this particular change order was for something that was not in the original plan of the architects, but was in the overall plan for final improvements. He added that the property improvements are well within the budget and that money is still available for the other improvements.

Tim Dallas, in response to a question regarding what improvements might be made in future years, said that the decision has not been made about what to do with the existing house and the information services building, but that not too much can be done. The issue of landscaping has not yet been addressed, but some will need to be done to meet the needs of the abutting residential neighborhood.

VOTE

After some discussion of the benefits of a roof for the tire service area and the cost per square foot, Mr. Langton called for the question. The motion carried five to one, with Mr. Booth voting against the motion.

COMPREHENSIVE SERVICE REDESIGN-PUBLIC HEARING PROCESS: Ellen Bevington began discussion on this topic by explaining the memo on page 29 of the Board packet and its attachments, the intent of which, she said, is to provide consistency among the 14 neighborhood meetings. She explained that Attachment B is a draft memo to the Springfield City Council and that one of

a similar format would be sent to other general purpose governments in the area. The action that the staff was requesting from the Board was for the Board members to confirm the times that they had previously set for attending individual neighborhood hearings, and for the Board to approve the concept of the Springfield memo (Attachment B). She called the Board's attention to the fact that there had been a change in the order of the meetings listed on page 29--presentations would instead be made to the Eugene City Council on January 28, to the Springfield City Council on February 2, and to the Lane County Commissioners on February 4.

Mr. Herbert said he had previously offered to go to the above meetings as the Board's representative, and would still like to attend the Eugene and Lane County meetings, but that he thought Mr. Randall or Ms. Roemer should make the presentation to the Springfield City Council. Ms. Roemer stated that she may have a previous commitment at that time and that maybe Mr. Randall should be contacted regarding his attendance at the Springfield meeting.

In response to a request for Board discussion on Attachment B, Mr. Herbert stated he thought the words "increased significantly" in the first paragraph should be tempered somewhat, and Mr. Booth suggested that the letter to each governing body should be tailored to the specific background and philosophies of that body.

MOTION

Mr. Kohnen moved to approve the general format of the memo to the Springfield City Council and to approve the staff going ahead with the memos to those governments. It was seconded by Mr. Langton, and the vote was

VOTE

unanimous in favor of the motion.

APPOINTMENT OF BUDGET COMMITTEE MEMBER: Mr. Kohnen gave a brief description of Mr. Joel S. Kaplan, as shown in the nomination form on page 45 of the Board packet. He was nominating Mr. Kaplan to fill the vacancy caused when William Edom's term expired on December 31, 1980. Mr. Kohnen also mentioned two legal questions that he had discussed with Mr. Bryson. The first was that Mr. Kaplan's firm deals with Mr. Kohnen's firm, but Mr. Kaplan does not perform services for Mr. Kohnen's firm, nor does he perform services for Mr. Kohnen. Mr. Bryson advised Mr. Kohnen that there would be no conflict of interest. The second question was whether or not the Board member had to nominate a committee member from the same subdistrict, and Mr. Bryson had responded that there was no requirement for that in Oregon law. The budget committee members are appointed by the entire Board and not by one member, and they are not subject to the boundary restrictions of the Board members.

MOTION

Mr. Kohnen then moved to appoint Joel S. Kaplan to the budget committee. It was seconded, the question was put, and the vote was unanimous in favor of the nomination.

VOTE

SPRINGFIELD TRANSIT STATIONS: Regarding this topic, Ms. Roemer said she had been informed that the Mohawk District is now more commercial than downtown Springfield, but that downtown will eventually be a civic center and people will need buses there also. Ms. Loobey responded that the staff have

downgraded original plans for a transit station at 5th and North B, and have shifted emphasis to the Mohawk area.

SERVICE CHANGES EFFECTIVE MARCH 29: Clark Cox asked a question regarding this information item. He wondered whether all or some of the vehicles on the designated routes will be accessible. Ms. Bevington responded that the frequency would be either every 30 minutes or every 60 minutes, and is outlined in the transition plan.

MARKETING ACTIVITIES REPORT: Ed Bergeron reported that fastpass sales were running about 133% of last year's level, and that the 7-11 Stores outlets had sold \$70 worth in the first month, and in the third month, had sold \$3,000 worth of fastpasses, so that program was working very well.

FINANCIAL REPORTING: Paul Shinn informed the Board that the District would probably not receive the Section 5 money until the first or second week in February, and said that that information was reflected in the cash flow forecast in the Board packet. Mike Merrell added that outstanding warrants have been running in the \$600,000's. He said that the payroll tax revenue was starting to come in, and that the District will not be in a critical cash flow position until March or April, and by then the Section 5 money should be received.

Mr. Kohnen asked a question regarding the ridership figures, and Mr. Shinn responded that ridership through the previous Sunday was down about 28% from last June, but revenue was up, although not as far as the District needs it to be.

OREGON TRANSPORTATION COMMISSION MEETING: The Board was informed that the staff would need to know by the following Thursday who would be attending that meeting, in order to arrange carpools and let the Commission staff know how many to expect. Board members were asked to inform Phyllis Loobey or Jo Sullivan of their plans to attend.

A question was asked regarding the implementation of accessible service, and Tim Dallas responded that the District had six buses with lifts and four in Portland being fitted with lifts.

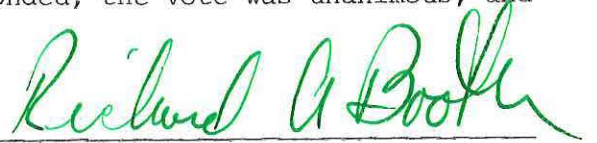
EXECUTIVE SESSION ON LABOR NEGOTIATIONS: It was announced that the Board will need to hold an executive session for approximately one and one-half hours to discuss labor negotiations. Bob Hewitt, chief negotiator, will be in attendance.

BUDGET COMMITTEE MEETING: The Board was informed that the first budget committee meeting would be held sometime in late February.

MOTION

ADJOURNMENT: Ms. Roemer moved to adjourn the meeting to Perry's Restaurant in Eugene, at 7:30 a.m. on February 10, 1981, for an executive session on labor negotiations. It was seconded, the vote was unanimous, and the meeting was duly adjourned.

VOTE


Secretary

It was moved, seconded, and unanimously voted to adjourn the meeting.



Secretary

She added that the staff hoped to generate interest through the hearings. The fair could be used as an introduction to lift vehicles, park and ride, ride sharing, to name a few areas of interest. The intent is to try to have lots of information regarding car alternatives. She feels that if it is publicized correctly, it can draw people on its own merit. She would also envision the Board members using their personal contacts with community members to encourage them to come. If the Board members are at the fair, it will give them access to a range of the community who don't know who they are.

Mr. Herbert said he was uneasy about having a transit fair. It needs to have appeal, and include the carless day idea, instead of just a transit fair. He thought it should be presented as broader than transit in order to attract people to it.

Dr. Loomis suggested working with the bicycle people, and mentioned Elaine Stewart. Ms. Bevington said that Ms. Stewart is already committed to participating. She also explained that the date was selected so that we can draw from the LCC and UO audience while they are in town.

Mr. Kohnen asked if anything else would be happening at that time, to which Ms. Bevington responded that there were no major conflicts that she knew about.

MOTION Mr. Herbert moved that the Board adopt the staff recommendations as stated on pages 4 and 5 of the December 31 Board agenda material. It was seconded.

Ms. Bevington explained that within the specific recommendations they had asked the Board to appoint a delegate or subcommittee to work with the staff on public contacts. Also attached in the packet is the list of neighborhood meetings already set up, and pages 7 and 8 are a sign-up sheet. She said that the staff is hoping to have the Board represented at each of the neighborhood meetings and asked each Board member to take two areas.

Mr. Herbert said that he would be willing to work as the Board representative and that he thought the designation of Board representatives to the hearings could be done by the staff later.

VOTE At this point, Mr. Kohnen stated that the motion before the Board was to adopt the recommendations on pages 4 and 5. The question was put and the motion carried unanimously.

MOTION Mr. Randall then moved that Mr. Herbert be the representative of the Board to work with the staff. It was seconded, the question was called for, and the motion carried unanimously.

VOTE Ms. Bevington said that she had a draft of a letter to community leaders that she would like to have the Board members review after the meeting.

Mr. Kohnen stated that the staff would contact Board members regarding the hearings. He reminded the Board of the January 27 meeting with the Oregon Transportation Committee and the January 14 meeting at the Credit Union.