

## MINUTES OF DIRECTORS MEETING

LANE TRANSIT DISTRICT

REGULAR BOARD MEETING

Wednesday, June 15, 2011

Pursuant to notice given to *The Register-Guard* for publication on June 9, 2011, and distributed to persons on the mailing list of the District, the Board of Directors of the Lane Transit District held a regular board meeting on Wednesday, June 15, 2011, beginning at 5:30 p.m., in the LTD Board Room at 3500 East 17<sup>th</sup> Avenue, Eugene.

Present: Mike Eyster, President  
Greg Evans, Vice President  
Dean Kortge, Secretary  
Ed Necker, Treasurer  
Michael Dubick  
Gary Gillespie  
Doris Towery  
Mark Pangborn, General Manager  
Jeanne Schapper, Clerk of the Board  
Katie Dettman, Minutes Recorder

**CALL TO ORDER/ROLL CALL:** Mr. Eyster convened the meeting at 5:33 p.m. and called roll.

**PRELIMINARY REMARKS BY BOARD PRESENT:** Mr. Eyster introduced Information Technology (IT) Manager Steve Parrott who informed the Board that the IT department had installed a new video surveillance system, and the District was testing this new system to decide whether or not to put it on the new buses that would be purchased soon. The video surveillance system is a live feed of what's happening inside the buses while on its route. The system has ten cameras situated on the bus providing both exterior and interior views; and the system could eventually provide a video stream from the ten cameras. The project also has a component that is new in the transit industry, which is the ability for the camera to be connected to LTD's network. This new system could become the foundation for increased security benefits, including the ability to respond quickly to emergencies.

Mr. Parrott said that the system would be available system-wide and could be hooked into any Operations workstation to view the feed. Supervisors also could view the feed from both the Eugene and Springfield Stations. Operations Dispatchers would be able to view a number of monitors at the same time and could call up feeds for specific vehicles. The system is intended as a look-in feature and is not meant for constant surveillance but on an as-needed basis. The connectivity to the network would allow more data from the on-board computer to be available to Operations more frequently. This would make the next system to be installed, the Real-Time Passenger Information System, more viable. If the new video surveillance system proves to be a good fit, then District staff would negotiate a reasonable contract to get the system in all LTD vehicles.

Apollo Technology out of Seattle, with offices in Salem and Corvallis, is the company that provides this system; and transportation systems in Tennessee and Chicago are already testing or using this technology.

Mr. Eyster recognized Mr. Evans for an honor that he had recently received. The award, the 2011 Eugene, Cascades, and Coast Convention Leadership award, was given at the previous evening's Travel Lane County 2011 Visitor Industry Celebration.

**ANNOUNCEMENTS AND ADDITIONS TO AGENDA:** There were no announcements or additions to the agenda.

**BOARD CALENDARS:** Mr. Pangborn noted that the newly hired general manger, Ronald Kilcoyne, would be in Eugene on June 28-30. During this visit, Mr. Kilcoyne would be introduced to as many community leaders as possible, and he would begin his position as the general manager (GM) on July 18.

Mr. Pangborn said that his retirement celebration would be held on June 30 at the Hilton, and he encouraged Board members to attend.

The dedication of the Veneta Park & Ride was scheduled to be held on July 15 and would involve guest speakers including Veneta Mayor Sharon Hobart-Hardin and Senator Floyd Prozanski.

The July Board meeting was tentative at this time.

## **WORK SESSION**

**EmX Business Outreach Program:** Public Relations Specialist Cosette Rees provided an update about the EmX business outreach program activities that would occur during the summer. The mission of these activities was to engage businesses, property owners, and residents along the West Eugene EmX Extension (WEEE) in the project.

Staff were finalizing outreach materials, and it was their hope to be more proactive and less reactive in their conversations with the community. Letters were being sent to property owners along the WEEE corridor, and staff also were looking at how they communicated with the public about property impacts. Many "avoid and minimize" exercises had been employed in order to considerably cut back the impact that the route would have on businesses. District staff had been meeting with staff from the City of Eugene who were interested in visiting properties with LTD staff, especially those properties that would experience impacts.

The point of having these conversations is to discuss concerns and help find solutions. For example, staff at Gray's Garden Center on West 6<sup>th</sup> Avenue had expressed concern that construction could potentially change access to the business, and the business may end up with a reduction in parking spaces. In this instance a local engineering firm will be taking a look at Gray's parking lot to try to find ways to optimize the new layout.

Other forms of outreach include conversations and meetings with speaker's bureaus; local chambers of commerce; and civic, professional, and neighborhood groups.

Mr. Evans said that he felt that LTD needed to look at forming a Citizen Advisory Council (CAC). He stated his belief that this would be a perfect opportunity to deliver an accurate message. Members of a CAC would have input into LTD's decisions as well as engage in authentic interactions with neighborhoods, businesses, and the community. Such a body would help guide the Board and staff decision-making process.

Mr. Eyster explained that staff had contacted the Central Lane Metropolitan Policy Organization Citizen Advisory Committee (MPO CAC) within the past month, and the CAC had agreed to serve as LTD's CAC on an as-needed basis. He suggested making sure that LTD was on the MPO CAC

agenda at least once per month to provide updates and receive feedback. The CAC already had a structure in place to receive input from community members and groups, and it did so on a regular basis.

Mr. Evans said that the MPO CAC was focused on all local transportation, but he was suggesting more of a formalized relationship with the group in terms of the CAC taking on LTD as part of a more prescribed role. He advocated for more consistency, regularity, communication, and collaboration with the community on a more formal basis.

Mr. Gillespie said that the CAC would meet the next evening (on June 16), and perhaps the CAC could form a subcommittee of its group to meet with a subcommittee of the LTD Board to work out a more formal arrangement. He thought that CAC members might be amenable to this process.

Mr. Necker asked if this needed to be on the CAC agenda or if it could be more informal.

Mr. Gillespie said that the CAC's agenda had a section where any member could bring up any discussion point, and he would be willing to bring it up.

Mr. Pangborn suggested that an LTD staff person attend the CAC meeting as well. He thought that it would be good to get a reaction from the CAC related to forming a subcommittee.

Mr. Evans thought that this would be more in line with what he was thinking. A lot of business people were on the CAC, and a lot of LTD's ridership and other constituencies also were represented on the CAC. LTD should be sure that a full menu of constituencies and stakeholders were adequately represented in this arena. This was what community members continued to tell him. A broader dialogue would help LTD be more informed and sensitive about issues that existed.

Mr. Pangborn said that this would start the next evening at the CAC meeting.

Mr. Necker supported the idea that LTD staff also be present at the CAC meeting.

Ms. Rees said that in a recent meeting, Portland's TriMet staff had indicated that having a CAC had helped the agency, but that it was important to have the right people represented on the committee. A TriMet representative also said that the committee was intensive for staff to manage; however, the CAC enabled TriMet to have two-way conversations with the community. Ms. Rees thought that collaboration with the MPO CAC would be a great opportunity for LTD.

Ms. Rees said that staff were currently working on a Business Assistance Program that would generate a package of resources in the community for businesses, including low-interest loans and marketing classes. LTD Intern Calvin Brawner was working on putting together a business case for EmX, which would showcase its successes and why it would work in West Eugene. The case also would show EmX from an operational point of view, such as what were the benefits of EmX, when does it work best as opposed to a regular fixed route, and what were EmX's advantages and benefits to the community and adjacent properties? It could be proven that there were many benefits to adjacent properties.

LTD staff also had met with TriMet's Director of Marketing Drew Blevins and Director of Community Affairs Ann Becklund and had learned that TriMet was having similar problems, issues, and struggles as LTD, but in a much bigger way. The economy plays a role in almost everything that a transit agency does. TriMet was experiencing opposition to its projects and was having a hard time getting buy-in from community members.

Ms. Rees said that LTD had opportunities to employ some of the strategies that TriMet had been employing to deal with these issues: TriMet hired a new GM a year ago, and this had been a great

opportunity to engage with community groups. TriMet also had done an "inside-out/outside-in" approach in which they communicated with the public but also allowed the public to communicate with them.

TriMet had a project called "Friends of TriMet," which was important to its future and to gaining momentum in its projects. TriMet also was getting to know the businesses in the community better. LTD also was doing this: staff were identifying when deliveries were made to businesses, when garbage was picked up, and what their biggest sales days were. With this information, construction would be easier to plan. LTD also was looking for opportunities to market the businesses during construction, including encouraging employees to patronize businesses affected by construction.

**Long-Range Transit Plan (LRTP) Status:** Director of Planning and Development Tom Schwetz pointed out small rocks at each Board member's station at the table. He explained that the rocks were meant to be a touchstone to allay potential anxiety that some people felt about intangible objects and issues.

Referring to the two handouts that Mr. Schwetz was discussing, Mr. Eyster asked what mechanism was being put in place to coordinate LRTP activities in Eugene and Springfield.

Mr. Schwetz said that this was occurring at a couple of levels but more intensely at staff level. As each municipality was adopting or developing its plans, policies, and thoughts about projects; staff were looking at ways to coordinate it all. For example, the City of Springfield staff had drafted some policy language, and LTD staff had reviewed it and provided suggestions on how to make it better reflect LTD's planning and better support transit. When an adopted plan was put in place, this would carry weight in talking to the Springfield City Council. He expected, based on current conversations, that Springfield's plans would reflect and support well what LTD was trying to do.

Mr. Eyster said that as he participated in advisory meetings, he was unaware of the interactions that LTD staff had had with Springfield and Eugene staffs. He asked if there was anything that LTD was trying to accomplish that was outside his awareness or involvement of the Board.

Mr. Schwetz said that when something more concrete was in place, the conversation would come to Springfield and Eugene processes as well as to policy advisory committees.

Mr. Schwetz said that on June 30, the City of Eugene's Transportation Community Resource Group (TCRG) would receive an update from LTD related to its goals, policies, and approaches.

Mr. Pangborn stated his belief that Mr. Eyster was requesting that communication be built into LTD Board meetings related to staff's LRTP activities, as well as the activities of Eugene and Springfield.

Mr. Eyster said that this was correct.

Mr. Schwetz explained that as the planning process worked in the area, the County also was required to develop a Transportation System Plan (TSP). The County also had a role in adopting all of the local TSPs. Generally speaking, the County's TSP planning system covered the County, with holes where the Urban Growth Boundaries (UGB) were. The County did not play a role in UGBs as these were the purview of Cities. At a technical and policy level, the County was involved in the various aspects of planning as it moved forward; therefore, it would not be a surprise to the County when Springfield brought forward its TSP. There would have been interaction at the technical level, and related to County roads within Springfield.

Mr. Necker said that he did not recall the specifics, but he stated his belief that the State, County, and Cities each had TSPs.

Mr. Evans said that there also was the Statewide Transportation Improvement Program and other similar programs.

Mr. Schwetz said that transit often had gotten left out of conversations about growth, but he saw an opportunity now to address this more directly.

Mr. Necker said that the last TCRG meeting had been about environmental impact, and the June 30 meeting would address transit.

**SPECIAL DESSERT IN HONOR OF GENERAL MANAGER MARK PANGBORN:** Mr. Eyster said that the Board wanted to take a moment to thank Mr. Pangborn for 29 years of dedicated service to LTD. He explained that Mr. Pangborn had not been LTD's general manager for all of those 29 years, but he had an impact on LTD throughout these years; and his imprint on the organization would last a very long time. Mr. Pangborn was instrumental in creating the culture of LTD; and in the past five years that he has served as the GM, some incredible, phenomenal changes for the better had occurred. On behalf of the Board, Mr. Eyster presented Mr. Pangborn with a Japanese Maple tree. He noted that another Japanese Maple would be planted in the courtyard in honor of Mr. Pangborn. A plaque would be placed with the tree with the inscription, "Planted in honor of Mark Pangborn, General Manager, 2006-2011, with appreciation for 29 years of service, leadership, and excellence."

Mr. Eyster presented Mr. Pangborn with a plaque that read: "With appreciation to Mark Pangborn for your years of service to the Lane Transit District Board of Directors 1982-2011."

Mr. Pangborn thanked the Board. He said that he had calculated that he had the honor and privilege of attending between 275 and 300 Board meetings during the past 29 years, and he said that it was bittersweet that this was the last Board meeting that he would attend. He said that he had the opportunity to work in a place where he loved the people he worked with and had been able to provide his skill set to improving the community. From his perspective, this had been a gift.

**RECESS:** Mr. Eyster called for a break at 6:28 p.m.

**RECONVENE:** Mr. Eyster reconvened the meeting at 6:39 p.m.

**EMPLOYEE OF THE MONTH:** Director of Maintenance George Trauger introduced LTD's Employee of the Month for July 2011 as Tire Specialist Bill Bradley. Mr. Trauger noted that Mr. Bradley was a valuable employee who took great care of the tires on all of LTD's vehicles. Mr. Bradley's commitment to safety was what inspired a co-worker to nominate him as Employee of the Month.

Mr. Eyster presented Mr. Bradley with an award and thanked him on behalf of the LTD Board for his service to LTD.

Mr. Bradley thanked the LTD team who helped him do his job; including mechanics, general service workers, and bus operators. He said that his work was interesting, and it was rewarding to do something he loved while also helping the community.

## **AUDIENCE PARTICIPATION**

**Bob Macherione**, 1994 Brewer, Eugene, said that he represented Our Money, Our Transit and himself as a taxpayer. He said that he had spoken before the Board numerous times and that he had been asking for common sense to guide LTD and its Board. He noticed that primarily LTD staff who were present in the Board Room had an administrative role at LTD. He saw a common thread through most of what was discussed in the room, which was that the Amalgamated Transit Union (ATU) should be used to control costs. LTD needed to admit that its benefits practices were out of control and pension costs were going to start reaching 20-25 percent of payroll. LTD needed to be

more candid about these numbers. Administrative staff made a lot more money than ATU members, and their actual pension costs were much higher. At the last Board meeting, it was stated that furlough days had been reinstated. He had a problem with this because the statement made after this one was we really have to start looking at restoring pay raises. He said that furlough days had been administered so that LTD did not have to lay off administrative staff despite a 19 percent reduction in services. LTD had managed to maintain its administrative staff, and this had been the cost. If LTD thought that ATU needed to be squashed and administrative staff needed to be given raises, he thought something was out of balance. He found this to be something that went on in the Board Room, and wondered why there was not an ATU representative present at the Board meetings. When LTD made a statement like, "We have to give staff a raise because we would lose good people," he thought about the fact that 40-60 percent of the transit agencies in the country were in trouble. He thought everyone had to look at their own benefit package and decide if living in Eugene was worth what people got paid.

**Duane Taylor**, 5347 Club Drive, Eugene, said that he had been paying attention to what was going on with the West Eugene EmX Extension. He said he was upset that the project was federally funded. This really disturbed him because he did not think that LTD should be going to the federal government for handouts because this caused the federal government to tell LTD what to do. If the project was really needed, he thought that the community would be able to come up with taxes to fund it. He did not believe that the millions of dollars that the federal government was giving to LTD was smaller than the amount the federal government took from the community. He said he did not think that the community should be giving tax money to the federal government and then asking for a handout back. People were disturbed with what was going on because the economy was not getting better. Jobs were not coming back anytime soon, and the Federal Reserve was in trouble. He thought that there were too many strings tied to funds from the federal government. He repeated that the city and the state should be asked for the funds.

**Jozef Siekiel-Zdzienicki**, 1025 Taylor Street, Eugene, wanted to address one-on-one meetings with property owners mentioned by Ms. Rees. She had said that LTD would contact property owners. He said that there was an issue with this because in a lot of cases, the message would stop at the property owners and would not get to business owners on these properties. This had been the experience in the past. He suggested expanding these contacts, and contacting business owners and residents directly in order to show that LTD was really interested in the community. He said goodbye to Mr. Pangborn, saying that it had been wonderful getting to know him.

#### **ITEMS FOR ACTION AT THIS MEETING**

**MOTION** **Consent Calendar:** Mr. Kortge moved adoption of LTD Resolution 2011-013: It is hereby resolved that the Consent Calendar for June 15, 2011, is approved as presented. Mr. Dubick provided the second.

Mr. Necker asked if the approval of the Registered Agent would be included in this vote. When he heard it was, he asked to have the item pulled from the consent calendar. Mr. Kortge and Mr. Dubick agreed.

**VOTE** LTD Resolution 2011-013 was approved, with the "Registered Agent" item (Resolution No. 2011-14) removed, as follows:

AYES: Dubick, Evans, Eyster, Gillespie, Kortge, Necker, Towery (7)

NAYS: None

ABSTENTIONS: None

EXCUSED: None.

Mr. Pangborn explained that LTD's registered agent was the general manager. Since Mr. Pangborn would be retiring on June 30, LTD needed to designate a registered agent, who could sign official District documents. This action would appoint the new General Manager Ron Kilcoyne to be the registered agent as of the date he would start work at LTD, which was on July 18, 2011. Another item on the agenda would cover the period of July 1 through July 17.

**MOTION Designating LTD Registered Agent:** Mr. Necker moved approval of LTD Resolution 2011-014: Be it resolved that LTD General Manager Ron Kilcoyne is designated as the Registered Agent for Lane Transit District, effective July 18, 2011, at the current Registered Office at 3500 East 17<sup>th</sup> Avenue, Eugene, Oregon, and is directed to give notice of said change to the Secretary of State of the State of Oregon and to the County Clerk of Lane County, Oregon. Mr. Evans provided the second.

**VOTE** LTD Resolution 2011-014, Designating LTD Registered Agent was approved, as follows:  
AYES: Dubick, Evans, Eyster, Gillespie, Kortge, Necker, Towery (7)  
NAYS: None  
ABSTENTIONS: None  
EXCUSED: None

**Public Hearing and Approval of Supplemental Budget for Fiscal Year 2010-11:** Finance Manager Todd Lipkin provided the presentation referring to the documents in the packet.

Mr. Eyster opened the public hearing and called for testimony.

Mr. Siekiel-Zdzienicki asked if "Contingency" referred to LTD's Reserve Fund, and Mr. Lipkin said that it did.

Mr. Macherione noted the \$300,000 dedicated for the cost of retirements. He said that he thought this sum should have been larger. Mr. Kortge responded that this amount was not for pensions.

Mr. Macherione asked if it was to cover the cost of retirements that were not planned, and Mr. Lipkin said that it was to fund people's retirements, including vacation payouts.

Mr. Macherione asked for clarification that this was not an annual increase in funding for pensions, and Mr. Lipkin confirmed that it was not.

Mr. Kortge noted that this would be discussed later.

Mr. Macherione asked if this increase in the cost of retirements was related to unexpected retirements. Mr. Lipkin explained that it had to do with the cost of retirements that were not expected or planned when the budget had been adopted the previous year. Mr. Macherione asked if it was exceeding the reserves that LTD had for retirements for the previous year. Mr. Lipkin said that LTD did not have reserves for retirements. The costs had exceeded what LTD had reserved for personnel services costs.

Mr. Pangborn explained that LTD budgeted for salaries in addition to benefits. If an employee took all of his or her vacation during a year and retired, then LTD owed that employee nothing. If the employee saved his vacation up to the maximum accrual limit, LTD was obligated to pay for the vacation he or she had not taken upon retirement. This was the cost of these accrued vacations, which had not been budgeted because LTD had assumed employees would take their vacation time prior to retirement.

Mr. Macherione asked if the health reimbursement plan also was part of this cost. Mr. Lipkin said that it was not – it was only accrued vacation.

There being no further testimony, Mr. Eyster closed the public hearing.

**MOTION** Mr. Evans moved approval of LTD Resolution 2011-015, which amends the LTD Fiscal Year 2010-2011 budget as represented in the resolution. Ms. Towery provided the second.

**VOTE** LTD Resolution 2011-015 was approved as follows:  
AYES: Dubick, Evans, Eyster, Gillespie, Kortge, Necker, Towery (7)  
NAYS: None  
ABSTENTIONS: None  
EXCUSED: None

**Public Hearing and Adoption of Fiscal Year 2011-12 Budget:** Director of Finance and Information Technology Diane Hellekson reviewed the documents included in the packet and noted that the LTD Budget Committee had met several times to discuss the budget. There were several key assumptions associated with the budget, including payroll tax receipts, which had been in decline in previous years. At this time, a slight uptick was occurring in tax receipts. She noted that the current budget was about \$21.6 million, and the estimate for fiscal year end was \$21.8 million. In the current fiscal year, payroll tax receipts collected exceeded \$22 million. This validated the assumptions made in the budget for the next year.

Regarding fuel assumptions, LTD saw fuel increase in every single month in the current fiscal year. The Budget Committee ultimately landed on a price of \$3.70 per gallon for fuel for the next fiscal year. Recently, fuel prices had stabilized.

Another uncertainty was that as of June 30, LTD would not have a collective bargaining agreement with the ATU. The next agreement would likely not be agreed upon until months into the next fiscal year. As a result, the Budget Committee and staff had to make assumptions about what would happen with personnel services, and that was a big uncertainty. The Budget Committee assumed it would be able to hold the line on a number of expenses and also manage the increases in items such as health insurance.

Responding to a question from Mr. Gillespie, Ms. Hellekson clarified that the budget assumed no cuts in service.

Mr. Kortge said that he thought that the fuel price of \$3.70 was the best target. He said that he thought that the 10 percent addition to both the pension and health insurance plans was prudent. He suggested a worksheet be provided to Board members so that they could see what the pension plan numbers looked like. If, hypothetically, LTD had a 100 percent funded pension plan, he wanted to know how many dollars would be in the fund and how many dollars were being put in every year. He was not suggesting that the pension plan be 100 percent funded but that 100 percent should be the target.

Ms. Hellekson suggested doing this exercise after the next actuarial evaluations for both plans, because both of the evaluations currently in play were done during down markets.

Mr. Eyster opened the public hearing and called for testimony.

Mr. Macherione thanked Mr. Kortge for asking for pension plan numbers and said that he also wished to see these numbers. He said that Ms. Hellekson did a wonderful job presenting information. He was interested to see what projections would be when the outlook was less optimistic. He thought LTD needed to plan for several different contingencies.



Mr. Eyster said that contingencies needed to be presented for a range of scenarios.

Mr. Macherione agreed. Examining a range of scenarios that would dramatically affect the organization and the choices it would have to make would be wise so that issues did not come up as a surprise. He noted that in that day's *Register-Guard* it was reported that there were \$500 billion worth of unfunded public pensions and health care liabilities. He said that he did not think this could have been a surprise. He stated his belief that it had just not been observed at the right time. He congratulated Mr. Pangborn on his retirement.

There being no further testimony, Mr. Eyster closed the public hearing.

**MOTION** Mr. Evans moved adoption of LTD Resolution 2011-016, adopting the LTD Fiscal Year 2011-2012 approved budget as presented and appropriating \$94,466,400 as represented in the resolution. Mr. Kortge provided the second.

**VOTE** LTD Resolution 2011-015 was approved as follows:  
AYES: Dubick, Evans, Eyster, Gillespie, Kortge, Necker, Towery (7)  
NAYS: None  
ABSTENTIONS: None  
EXCUSED: None

**General Manager Pro Tempore:** Mr. Pangborn said that LTD staff were making sure that everything was in place as he retired from the organization, which includes designation of a general manager pro tempore who would act in the capacity of general manager in the event of the absence or disability of the general manager. The resolution proposes to adopt a general manager pro tempore to serve between June 30 and July 18 and proposes that the Board designate Director of Service Planning, Accessibility, and Marketing Andy Vobora as the general manager pro tempore. In the case of both the general manager and Mr. Vobora's absence, it is suggested that the Board also appoint Director of Human Resources and Risk Management Mary Adams as general manager pro tempore.

**MOTION** Mr. Kortge moved approval of LTD Resolution 2011-017, designating General Manager Pro Tempore. Mr. Dubick provided the second.

**VOTE** LTD Resolution 2011-017 was approved as follows:  
AYES: Dubick, Evans, Eyster, Gillespie, Kortge, Necker, Towery (7)  
NAYS: None  
ABSTENTIONS: None  
EXCUSED: None

**FTA Grant Filing Authorization:** Mr. Lipkin reviewed the Federal Transit Administration (FTA) Grant Filing Authorization summary.

Mr. Necker asked if this meant that the order of authority at LTD was Mr. Kilcoyne, Mr. Vobora, Ms. Adams, and Ms. Hellekson. Mr. Pangborn confirmed that this was the correct signing order.

Mr. Lipkin said that the only person who currently had the authority to file applications with the FTA was Ms. Hellekson.

**MOTION** Mr. Gillespie moved adoption of LTD Resolution 2011-018: It is hereby resolved that the LTD Board of Directors approves the Resolution Authorizing the Filing of Applications with the Federal Transit Administration. Ms. Towery provided the second.

VOTE LTD Resolution 2011-017 was approved as follows:  
AYES: Dubick, Evans, Eyster, Gillespie, Kortge, Necker, Towery (7)  
NAYS: None  
ABSTENTIONS: None  
EXCUSED: None

### ITEMS FOR INFORMATION AT THIS MEETING

**Introduction of New Legal Counsel:** Mr. Pangborn asked Dwight Purdy of Thorp, Purdy, Jewett, Urness & Wilkinson, P.C., to introduce his legal team.

Mr. Purdy said that he and his firm were excited to be working with LTD. He introduced K.C. Huffman, Brian Millington, Lance LeFever, and John Urness, each of whom was a lawyer at the firm. Mr. Huffman and Mr. Purdy would be the primary contacts for LTD.

Mr. Purdy then reviewed a memo in the Board packet titled *Dumdi, et al v. Handy, et al, Lane County Circuit Court (January 18, 2011)*, which discussed public meetings law.

Mr. Kortge gave an example of the LTD Board having a pending decision about a proposed change to its pension plan and asked if it was inappropriate for two or three Board members to have lunch and talk about the issue.

Mr. Purdy said that this scenario fell into a gray area because three Board members did not constitute a quorum. However, a potential downfall would be if one of those three Board members then discussed the issue with another member of the Board. At this point, a quorum may have discussed the issue, which could be in violation of the law.

Mr. Purdy said that to be in violation of public meetings law, a quorum of a public body does not have to be physically together and deliberating an issue. The *Dumdi, et al v. Handy, et al* case stated that collectively, the Lane County Board of Commissioners would make pre-public meeting decisions by communicating via e-mail or individual one-on-one meetings.

Mr. Necker said that the County did not challenge the law in the *Dumdi, et al v. Handy, et al* case, and Mr. Purdy confirmed that this was correct.

Mr. Kortge said that a big issue before the Board was the West Eugene EmX Extension. He asked if the same concepts applied to this issue.

Mr. Purdy said that this was correct. He encouraged care in ensuring subgroups of the Board did not deliberate toward a decision prior to a Board meeting. In the *Dumdi, et al v. Handy, et al* case, it was very clear to the court that some commissioners were trying to control the direction of a vote.

Mr. Gillespie was concerned that some Board members would be less informed on a matter than others. He asked if the only option to discuss solutions to issues was to do so in a public Board meeting. He asked if a quorum would be created if Mr. Eyster spoke to him about a potential solution, then to Mr. Necker, and then to Mr. Evans.

Mr. Purdy responded that this was a gray area. The statutes were not clear on this issue. The case discussed related to governing bodies moving towards deliberations. Discussing an idea that was a potential solution to a problem was moving towards this. He said that perhaps if Board members remained short of discussing how they would vote on an issue, this may be permissible; but it was

not clear. He emphasized that the legislature has stipulated that public government business should be conducted in public. However, if a conversation were informational only, he thought it would be permissible to have the conversation outside a public Board meeting. When Board members were deliberating towards a decision, they needed to be careful. He said that *Dumdi, et al v. Handy, et al* was a new case; and although the firm had read it carefully, a lot of gray areas and open questions in the case remained.

Mr. Dubick said that the LTD Board did a lot of committee work. Committee meetings were public and did not preclude any Board members from coming. Final decisions were never made at committee meetings, but issues were discussed. It had not been his experience with the LTD Board that Board members tried to sway other members' votes. He said that he thought that the LTD Board had a good system, and he did not think it would wander off-track.

Ms. Towery stated her belief that the intent behind the law was that making decisions outside of public view was illegal. It was clear in *Dumdi, et al v. Handy, et al* that there had been intent to make budgetary decisions in a non-public meeting forum. She had always been a firm believer in open government. She thought that decisions made by public boards should be made in public.

Mr. Evans said that he had talked to Board members in other states about this issue, particularly in Florida, as the issue had come up in Tampa. Florida's sunshine laws were extremely strict related to Board decisions. Board members in Florida could not talk to each other about any Board business outside public Board meetings. He asked if Oregon was moving towards this type of law.

Mr. Purdy said that it was up to the legislature. His feeling was that all of the Boards around the state, many of which he represented, had always had a pretty good feel for what the rule was: that a quorum could not discuss Board business outside of public meetings. He expected that in the next legislative session, a clarification of this issue would be made; but he did not expect the law to become as strict as it was in Florida. He had spoken to a lot of legislators about the issue, and one was of the opinion that the law needed to be clarified so that volunteer Board members knew what they could and could not do.

Mr. Pangborn said that when he contacted Board members outside of meetings, it was almost always related to advisory committee business. He thought if the LTD Board maintained its habit of narrative discussion and decision making in public meetings, all would be well.

Mr. Purdy thanked the Board, and he encouraged Board members to call the firm anytime.

Mr. Eyster mentioned a policy on contacting counsel. He said that he usually contacted counsel through Ms. Schapper or checked in with staff first. He asked if a policy existed.

Mr. Pangborn said that the need for a policy had not arisen. The Board had always functioned very well collectively, and had managed its contact with counsel through LTD staff, which was usually Ms. Schapper or the general manager. The general manager and staff may have an answer to the question, based on earlier conversations with counsel. Ms. Schapper maintained the full file of all LTD legal opinions. This way, staff also would be aware of all issues. He thought transparency was important, as well as all answers to legal questions being shared with the entire Board.

Mr. Kortge thought that rules were not necessary, but an agreement should be clarified that no Board member would ever contact counsel directly, except in an emergency situation.

Mr. Pangborn mentioned that if a Board member runs into a member of counsel and asks a legal question, staff should be informed so that the information is shared with the rest of the Board.

Mr. Huffman confirmed that the firm's response to questions would go to the entire Board.

**Board Member Reports:** Mr. Gillespie said that the Metropolitan Planning Organization's (MPO) Citizen Advisory Committee (CAC) would meet the next day. He said that he thought there was an appropriate place on the agenda to discuss a CAC for LTD.

Mr. Necker said that the Transportation Community Resource Group had met on June 1, and the subject had been environmental impact. Another meeting would be held on June 30 and would discuss transit.

Mr. Evans said that LaneACT had been discussed at the Metropolitan Planning Committee meeting. Also discussed were the State Transportation Improvement Plan and the Metropolitan Transportation Improvement Plan.

**Other Activities:** Mr. Evans said that the American Public Transportation Association (APTA) Board of Directors Executive Committee was in the process of selecting a new president. The process was moving quickly and was on schedule. Eleven out of 22 candidates had been interviewed. Four remaining candidates would be vetted in Dallas in July, and he expected that a new president of APTA would be selected at that time.

**Board Committee Assignments:** Mr. Eyster said that all Board members except Ms. Towery had decided at a meeting on Monday to leave the Board committee assignments as indicated in the packet. He asked if Ms. Towery had any objection to this, and she did not.

**Gateway EmX Ridership Update:** Mr. Pangborn reviewed the Gateway EmX Ridership Update, and reported that LTD would do an extensive on-board survey of the entire EmX route and the Gateway segment in October. This was a required survey necessitated by the Small Starts grant application, and it would allow LTD to track ridership. A report would be completed on this data collection by the end of the year.

Mr. Evans asked what adjustments Mr. Pangborn foresaw the District making as a result of the increase in ridership on EmX as it related to overall ridership in the Springfield area.

Mr. Pangborn said that adjustments were coming in a planning sense. LTD had learned during its last service reduction that the best way to cut the budget and maintain service that met the greatest need was to have an iterative process in which the public participated. This was being done again, and service hours might be reallocated based on what the community wanted and needed. The earlier that the community was involved, the more involved they would be in the process. This would come to the Board next winter.

In response to a question from Mr. Evans, Mr. Pangborn said that it would be for the Fall 2012 bid, but the planning process would begin this winter. In October LTD also would do a system-wide origin and destination survey, which it did about once every five years. The projection was that no service would be added or reduced.

**Legislative Update:** Mr. Evans said that he had learned at the APTA Executive Committee meeting that there was a proposal for a two-year authorization bill, which was severely reduced from the APTA or industry ask of \$123 billion for transit and \$50 billion for rail.

Ms. Adams reviewed the information that was in the Board packet.

Mr. Eyster asked why the legislature would not vote in favor of the West Eugene EmX Extension (WEEE) \$8.4 lottery bond.

Ms. Adams said that the funds might be used for other purposes, such as balancing the budget.

Mr. Pangborn explained that the Republican caucus was very concerned about the bonded indebtedness of the state. The caucus may think a certain amount of bonded indebtedness was too much and might vote to approve just a fraction of this amount. This reduced amount would then have to be allocated in a priority order, but WEEE might not be high enough on the priority list to fund.

Mr. Pangborn said that the Capital Construction Committee would come up with the priority list and insert it into the budget, which would go directly to the House and Senate for approval.

Mr. Eyster asked that the Board be kept informed.

Mr. Gillespie stated that originally, the purpose of the lottery funds was economic development. It was hard to argue that EmX was not providing economic development.

Ms. Adams said that there were a lot of economic development projects within the lottery requests, against which the WEEE was competing.

Mr. Lipkin said that the last legislature sunsetted Business Energy Tax Credit programs on July 1, 2012; but that date had been changed, requiring that the funds be applied for by April 15, 2011.

LTD had budgeted \$1 million for this program next year and was projecting that youth pass sales would be at the same level as they were prior to Student Transit Pass program, which was \$600,000. Therefore, this loss of funding had a \$400,000 negative impact on the budget. The legislature had inserted a new program for transportation projects, and there may be an opportunity to get funding for ADA service. This could replace the \$400,000 shortfall.

Ms. Adams noted that in the new bill, there was language that stated that there would be \$10 million available statewide, per year, for transit programs and projects. This could include a number of things for the elderly and disabled. Rule-making authority to further refine this had been given to the Department of Energy. Representative Terry Beyer had advocated for transportation's interests throughout the legislative session.

Mr. Evans mentioned that the District could possibly use ConnectOregon IV funding for the Gateway Park & Ride project. He asked if this could be used as a match for federal funding.

Mr. Lipkin said that there were numerous opportunities to try to fund the Gateway Park & Ride, including ConnectOregon IV and the state flex fund.

Mr. Schwetz added that the Gateway Park & Ride would be a partnership of the City of Springfield, the Oregon Department of Transportation (ODOT), and the private sector.

Mr. Eyster wanted to be sure LTD was in contact with the business people who would be affected by the Gateway Park & Ride.

Mr. Pangborn said that this was already happening in partnership with the City of Springfield.

**Monthly Financial Report—May 2011:** Ms. Hellekson reviewed the May Financial Statements and noted that the recent triennial report had been the most favorable report that LTD had ever received. She commended Purchasing Manager Jeanette Bailor and Mr. Lipkin.

Ms. Hellekson said that independent auditors would be in the building during the last week of June while new general manager Mr. Kilcoyne also was visiting.

Mr. Gillespie said that he had brought up a question at the last Board meeting regarding restroom facilities and availability for bus operators at the Gateway Mall because of the change to the Gateway route.

Director of Transit Operations Mark Johnson said that the timing was going to be changed so that drivers would have enough time to take a full break and keep the route running on time. He assured Mr. Gillespie that the issue would be resolved by the fall.

Mr. Pangborn said that the EmX route was operationally different than all other routes, especially related to timing; and drivers worked really hard to stay on time.

Mr. Necker asked if the Gateway EmX also would surpass its 20-year projections within seven months, as the Franklin EmX had.

Mr. Pangborn said that the Franklin EmX had surpassed its ridership projections within two months, but he would try to find out the answer to Mr. Necker's question.

**ADJOURNMENT:** Mr. Eyster adjourned the meeting at 8:15 p.m.

LANE TRANSIT DISTRICT

ATTEST

\_\_\_\_\_  
Dean Kortge  
Board Secretary

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Jeanne Schapper  
Administrative Services Manager/  
Clerk of the Board

Date Approved: November 16, 2011