

MINUTES

Board of Directors' Meeting

Call to Order

The Monday, August 9, 2021, regular meeting of the Orange County Transportation Authority (OCTA) and affiliated agencies was called to order by Chairman Do at 9:01 a.m. at the OCTA Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

Roll Call

The Clerk of the Board, Senior (COBS), conducted an attendance Roll Call and announced a quorum of the Board of Directors (Board) as follows:

Via Teleconference: Andrew Do. Chairman
Mark A. Murphy, Vice Chairman
Lisa A. Bartlett
Doug Chaffee
Barbara Delgleize
Katrina Foley
Brian Goodell
Patrick Harper
Michael Hennessey
Gene Hernandez
Steve Jones
Joseph Muller
Tam Nguyen
Vicente Sarmiento
Harry S. Sidhu
Donald P. Wagner
Ryan Chamberlain

Directors Absent: Tim Shaw

Staff Present: Darrell E. Johnson, Chief Executive Officer
Jennifer L. Bergener, Deputy Chief Executive Officer
Gina Ramirez, Clerk of the Board Specialist, Senior
Allison Cheshire, Clerk of the Board Specialist, Senior
Greg Weisberg, General Counsel

Via Teleconference: James Donich, General Counsel

Invocation

Director Bartlett gave the Invocation.

Pledge of Allegiance

Chairman Do led the Pledge of Allegiance.

Special Calendar

1. Adopt Resolutions of Necessity for the State Route 55 Improvement Project Between Interstate 405 and Interstate 5

Chairman Do opened the hearing and introduced James Donich, OCTA's General Counsel, who provided opening comments.

Mr. Donich stated as part of the statutory process. OCTA is required to provide notice of this hearing 30 days in advance of the hearing to interested parties and the property owners. Through that process, OCTA includes information on the time and date of the hearing. Last night, at 9:44 p.m. OCTA, received an objection letter from counsel for Bedrosian Tustin LLC (Bedrosian). This morning at 7:24 a.m. OCTA received an objection letter from the counsel for Ricoh Development of CA, Inc. Mr. Donich discussed both objection letters. He commented that they contained inaccuracies and wanted to clear up and assist the Board in their deliberation.

Mr. Donich discussed the four requirements for Board consideration to adopt the Resolutions of Necessity (RONs) and stated that 12 affirmative votes are required to pass the RONs.

Ross Lew, Program Manager, provided a PowerPoint presentation for this item.

Chairman Do inquired about public comments, and the COBS noted that one speaker was present for the record.

Erin Naderi, General Counsel from Palmieri, Hennessey, and Leifer, who represents Bedrosian, provided public comment on RON # 2021-052. The Owner objects to the RON for the following reasons:

- OCTA has not shown that the project is necessary for the public good with the least amount of private injury;
- OCTA has not shown the numerous highway easements are necessary for the project;
- OCTA has contractually committed to deliver the right-of-way to the contractor without knowing the project's requirements; and
- OCTA's offer and appraisal presented to the Owner does not address the five-year construction period that takes parking and removes and reconstructs the part of the building.

1. (Continued)

The COBS noted that the COB Department received public comments on August 9, 2021, from David Martinez and John C. Murphy of Murphy and Evertz, LLP. All public comments were emailed to the Board Members on August 9, 2021, at 8:20 a.m. The comments would be retained as part of the record for today's Board meeting.

A motion was made by Director Hernandez, seconded by Director Sarmiento, and following a roll call vote, declared passed 14-2, to adopt Resolution of Necessity Nos. 2021-052 and 2021-053, and authorize and direct General Counsel to prepare, commence, and prosecute a proceeding in eminent domain for the purpose of acquiring necessary right-of-way and real property interests for the State Route 55 Improvement Project between Interstate 405 and Interstate 5.

Directors Foley and Wagner voted in opposition.

Consent Calendar (Items 2 through 15)

2. Approval of Minutes

Director Wagner pulled this item to request the minutes from the July 26, 2021 Board meeting be amended to reflect the three opposing votes in the tally on Item #1.

Darrell E. Johnson, Chief Executive Officer (CEO), responded that staff would make the necessary correction.

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to approve the amended Orange County Transportation Authority and affiliated agencies' regular meeting minutes of July 26, 2021.

3. Fiscal Year 2020-21 Internal Audit Plan, Fourth Quarter Update

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to receive and file the fourth quarter update to the Orange County Transportation Authority Internal Audit Department Fiscal Year 2020-21 Internal Audit Plan as an information item.

4. Orange County Transportation Authority Internal Audit Department Fiscal Year 2021-22 Internal Audit Plan

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to:

- A. Approve the Orange County Transportation Authority Internal Audit Department Fiscal Year 2021-22 Internal Audit Plan.
- B. Direct the Executive Director of the Internal Audit Department to provide quarterly updates on the Orange County Transportation Authority Internal Audit Department Fiscal Year 2021-22 Internal Audit Plan.

5. Orange County Transportation Authority, Proposition 1B Bond Program, Project Number P2500-0008

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to direct staff to work, as requested with the California Department of Transportation on the appropriate disposition of the observations and recommendations identified through the audit conducted by the California Department of Finance related to Proposition 1B projects.

6. Administrative Controls Related to Conflict of Interest Code and California Form 700 Statement of Economic Interests, Internal Audit Report No. 21-510

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to direct staff to implement three recommendations provided in Administrative Controls Related to Conflict of Interest Code and California Form 700 Statement of Economic Interests, Internal Audit Report No. 21-510.

7. Coronavirus Update

Director Foley pulled this item to receive an update on OCTA's protocols for this month.

Mr. Johnson, CEO, provided an overview of the Coronavirus (COVID-19) response as follows:

- To date, the number of OCTA employees that have tested positive in July is 42 and 16 contractors.

7. (Continued)

- There is an incentive program in place for vaccinations, and 66 percent of OCTA employees are vaccinated. He noted that is about 75 percent of administrative staff, 60 percent of coach operators, and about 70 percent of the maintenance staff. At the headquarters offices at 600 South Main, 79 percent of the office staff has reported a vaccination status.
- On all OCTA's public transit buses, there are enhanced cleaning protocols.
- Masks are required for all riders and operators.
- Hand sanitizer stations and mask dispensers were installed on all buses.
- OCTA continues to promote "The No Mask No Ride" requirement from the Federal Transportation Security Administration through September 13, 2021.
- The staff is taking a cautious approach moving forward.
- The capacity constraints were lifted on June 15, 2021, and OCTA continues to follow existing ridership and capacity issues. He noted that OCTA currently runs about 70 percent of the pre-COVID service and carries about 50 percent of the pre-COVID riders.
- Staff continues to monitor all aspects of the Delta variant.
- Fifty percent of staff are back with hybrid and remote work environments.
- Executive staff are reviewing staff's total return to work on September 7, 2021, and are taking direction from public health officials.

Director Foley inquired about surveying employees to determine the obstacles to obtain vaccines.

Mr. Johnson, CEO, stated that some informal discussions were held regarding the Coach Operators' schedules. He noted it is a more challenging population to reach since they do not have employer-provided emails. OCTA continues to promote the incentive program to get vaccinated.

Director Foley inquired about having a mobile vaccine unit come to the bus yard.

Mr. Johnson, CEO, responded that staff had conversations with county health officials. He stated this is not conducive to Coach Operators' schedules as many of the Coach Operators' do not live close to OCTA facilities.

Director Hernandez stated that the COVID information is on the website. Board members can direct their constituents or the community to go and look there for a thorough briefing in detail of what Mr. Johnson discussed. He also expressed concern that OCTA carefully promotes the vaccine and does not come across as pressuring staff to get the vaccine when it is their decision.

Following the discussion, no action was taken on this receive and file as an information item.

8. Orange County Transportation Authority Investment and Debt Programs Report - June 2021

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to receive and file as an information item.

9. Fourth Quarter Fiscal Year 2020-21 Procurement Status Report

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to receive and file as an information item.

10. Fiscal Year 2020-21 Third Quarter Budget Status Report

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to receive and file as an information item.

11. Public Transportation Agency Safety Plan - Annual Review and Update

Director Goodell pulled this item and noted an error on Attachment A, page 11, fourth paragraph, with the word “lots” being redlined and replaced with “Origami.”

Maria Lopez, a public member, noted that on Attachment A, page 12, the system map was missing Route 862 in the legend on the map.

Johnny Dunning, Jr., Department Manager of Scheduling and Bus Operations Support responded that route 862 essentially mimics the future OC Streetcar service. The route operates at a low frequency of every 10 minutes. Staff will review how OCTA can line that route up with the Metrolink and Amtrak schedules. Mr. Dunning also stated that staff would correct the map and identify that route 862 was inappropriately highlighted.

Chairman Do inquired if there was an urgency to approve this item at this Board meeting.

Mr. Johnson, CEO, responded that there was no urgency, and this item could return to a future Board meeting.

Chairman Do requested that staff make the necessary corrections and deferred the item to the next Board of Directors meeting on August 23, 2021.

12. Capital Programs Division - Fourth Quarter Fiscal Year 2020-21 and Planned Fiscal Year 2021-22 Capital Action Plan Performance Metrics

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to receive and file as an information item.

13. Measure M2 Comprehensive Transportation Funding Programs - 2022 Annual Calls for Projects

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0, to:

- A. Approve proposed revisions to the Comprehensive Transportation Funding Programs Guidelines.
- B. Authorize staff to issue the 2022 annual call for projects for the Regional Capacity Program.
- C. Authorize staff to issue the 2022 annual call for projects for the Regional Traffic Signal Synchronization Program.

14. Comprehensive Transportation Funding Programs - Project X, Tier 1 Fiscal Year 2021-22 Call for Projects Programming Recommendations

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0 to, approve ten projects in the amount of \$2,697,424 for the 2021 Environmental Cleanup Program Tier 1 call for projects.

15. Cooperative Agreements for Regional Traffic Signal Synchronization Program Projects

A motion was made by Director Hernandez, seconded by Director Wagner, and following a roll call vote, declared passed 16-0 to:

- A. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-1-3597 between the Orange County Transportation Authority and the cities of Irvine and Lake Forest for the Alton Parkway Regional Traffic Signal Synchronization Program Project, with local agency in-kind services and cash matching funds totaling \$759,558.

15. (Continued)

- B. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-1-3598 between the Orange County Transportation Authority and the cities of Huntington Beach, Santa Ana, Tustin, Westminster, and the County of Orange for the First Street/Bolsa Avenue Regional Traffic Signal Synchronization Program Project, with local agency in-kind services and cash matching
- C. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-1-3599 between the Orange County Transportation Authority and the cities of Lake Forest, Mission Viejo, and Rancho Santa Margarita for the Portola Parkway/Santa Margarita Parkway Regional Traffic Signal Synchronization Program Project, with local agency in-kind services and cash matching funds totaling \$575,550.

Regular Calendar

16. Contractor Selection for the Back-Office System and Customer Service Center Operations for the 405 Express Lanes in Orange County

Kirk Avila, General Manager of Express Lanes, provided a PowerPoint presentation on this item.

Chairman Do provided the following comments:

- Customized software with multiple components and dealing with various partners who run different operation functions increases the complexity exponentially.
- A significant item the Board should note is that no complaints or change orders were received from Cofiroute.
- When you break down the scores between the two finalists, the difference isn't significant. The scores were based on subjective preferences, which staff felt may be beneficial to incorporate but were not.
- OCTA should consider issues there have been in the past with vendors over the years. In addition, consider the track record with a vendor OCTA has been working with for over 20 years. The variance in the breakdown of scores is not that great, and the preference may be objective. Both finalists can do the work, and Cofiroute, USA, LLC (Cofiroute) can scale up if needed.

Director Chaffee inquired about the contract and if it would be provided at a later date.

16. (Continued)

Mr. Johnson, CEO, responded as part of the Request for Proposal (RFP); the Board previously approved the draft RFP, and no changes had been made.

Director Chaffee inquired if OCTA's evaluation committee had investigated the recommended vendor on a late provision with Washington state and the penalty paid. In addition, he asked about the unhappiness of some companies with the services provided in both Florida and Texas.

Mr. Avila responded that reference checks are part of the evaluation process and stated ten reference checks were conducted for WSP USA Services Inc. (WSP).

Pia Veesapen, Director of Contracts, Administration, and Materials Management (CAMM), stated that reference checks were conducted as part of the procurement process. OCTA's CAMM department did contact all of WSP's references provided. In addition, OCTA's CAMM department contacted other transit agencies, and the comments supplied state that WSP had a mutually supportive working relationship and solid technical abilities. She noted that Washington state issues were resolved, and they have a good working relationship.

Ms. Veesapan discussed Electronic Transaction Consultants, LLC (ETC). OCTA's CAMM department spoke with Harris County Toll Road Authority (Harris County) individuals who reported that ETC provided the back-office implementation, and the project team was large. Harris County stated that staff involvement ranged from their CEO to development staff, and the performance for ETC was good when responding to changes and issues were addressed promptly.

Ms. Veesapan stated that OCTA received references from the Riverside County Transportation Commission (RCTC) for Cofiroute. They said Cofiroute did an excellent job on the 91 Express Lanes. In addition, positive comments came back from the Central Texas Regional Mobility Authority, and all the references came back very positive.

Director Chaffee inquired about staff checking with the Washington State Department of Transportation regarding the penalty paid by the vendor for the delay in implementation.

Ms. Veesapan responded that the comments OCTA received from Washington State were that it was a rough beginning and, Washington State said that the issues were not all on ETC. The Washington State agency had its problems. However, ETC pulled it together towards the end, and now they have an excellent working relationship.

16. (Continued)

Director Chaffee thanked staff for clarifying that WSP had to pay the penalty for the startup delays. He stated he would like the comfort of staying with the current vendor we have been working with instead of having two different vendors on similar projects.

Director Bartlett stated both vendors are excellent and inquired about the different approaches each firm took and asked Mr. Avila to elaborate on the various methods used. She noted one firm used the process of putting financial and other resources into the back office. The other flipped it and decided to put all the financial and personnel resources into customer service.

Mr. Avila responded it's not that each firm put all the resources in a particular area. It was the way they responded to the pricing component. He noted the WSP team does have more people allocated to the customer service center. He introduced Dan Baker from HNTB to provide some comments since he reviewed the pricing and score sheets.

Mr. Baker provided comments on the following:

- Two different categories, one for the office administration and one for the Customer Service Center operations.
- Overview of the differences between Cofiroute and WSP customer contact processes and cost differences.
- Evaluations of labor costs between vendors.

Director Bartlett inquired about the 91 Express Lanes ingress/egress points spanning two counties versus the Interstate 405 (I-405) project. And is it more complex having to scale up to the I-405 Project versus 91 Express Lanes because of the requirements.

Mr. Avila responded that the I-405 would be more challenging from a technical perspective. There are slightly different business rules regarding High Occupancy Vehicle requirements. The project would utilize both back-office and customer-facing components. The 91 Express Lanes currently includes both back-office and customer service. There are complexities between the two properties, and staff is confident that both firms can handle the project's scope of work.

16. (Continued)

Director Wagner stated he met with WSP and was impressed with the skill, dedication, and eagerness to serve OCTA. He noted he had not seen any dissatisfaction with Cofiroute's performance, and the staff report doesn't indicate that the I-405 is a more complicated property. The only risk with Cofiroute was on page 9 of the staff report on promoting internal employees. This is not an inherent risk to the 91 Express Lanes or the I-405. In addition, he did not see the justification why OCTA would spend more money to bring on a new vendor.

Director Hennessey discussed the following:

- This item was vetted at the Finance & Administration (F&A) Committee. He noted the Committee spent a lot of time asking many questions, and the Committee ultimately passed this item unanimously in support of the staff recommendation.
- Staff used the procurement process standard the Board approved, and this is the result.
- OCTA will do more tolling procurements in the future, and it was good to have two credible choices, and he has not seen anything that supports not going with staff's recommendation.

Chairman Do concurred with Director Hennessey. He stated if the Committee deliberated and there was a concurrent agreement, the Board is entitled to exercise their judgment and not second guess staff.

Director Hernandez stated that at the F&A Committee, there was a good discussion with valid points. However, this Board's opinion is to weigh all options and make a choice. The diversity of cost should have an option as part of the decision-making. He inquired if Cofiroute had to ramp up, will the cost be the same.

Director Muller expressed some of the same concerns being shared. He also discussed the following:

- Did the evaluators who reviewed the proposals without cost consider that WSP would come with new technology and that came with a price and evaluated them without the cost. When the cost is factored in and afforded, both firms deliver but can the cost be justified.
- OCTA has not had change orders from Cofiroute.
- OCTA knows Cofiroute and knows how they operate.
- WSP has had change orders on implementing projects at other properties.
- Was the cost part of the initial evaluation, and would that have changed the final recommendation.

16. (Continued)

Mr. Avila stated that the cost was not initially discussed, but the team members' experience was. OCTA has a relationship with Cofiroute and has enjoyed that partnership over the years.

Director Muller stated Cofiroute's intention to promote from within is one of OCTA's core values, and staff should see that as a positive and not a negative. The back-office is more important than the customer service side because if the back office goes down and cannot collect tolls, that is a problem. He inquired if WSP has enough money in the back-office support to handle a breakdown.

Mr. Baker saw nothing in their back-office support from a labor standpoint that raised any red flags that they wouldn't be able to support it. He also noted that WSP's system is an entirely cloud-based back-office system.

Director Muller inquired why there was a significant discrepancy between the vendors.

Mr. Baker responded that the pricing is based on a per-trip basis, violation, and account basis. We asked for additional pricing build-up detail, looked at year one only, and saw no red flags.

Vice Chairman Murphy discussed his concerns about a new system. He stated there is no substitute for proven experience when the results affect the agency's bottom line and both solutions are comparable.

The COBS read a public comment from Tawnya Freund of Cofiroute, USA. The public comment was emailed to the Board Members on August 9, 2021 at 8:20 a.m. The comment would be retained as part of the record for today's Board meeting.

A motion was made by Director Hennessey, seconded by Director Goodell, to approve staff's recommendation, and following a roll call vote, the motion failed 8-8.

Chairman Do, Vice Chairman Murphy, Directors Chaffee, Foley, Miller, Sarmiento, Sidhu, and Wagner voted in opposition.

A substitute motion was made by Vice Chairman Murphy, seconded by Director Wagner to select Cofiroute, USA, LLC and not staff's recommendation, following a roll call vote, declared passed 10-6.

Directors Bartlett, Delgleize, Goodell, Harper, Hennessey, and Hernandez voted in opposition.

Discussion Items

17. Public Comments

The COBS noted that the COB Department received public comment on August 8, 2021 from Marvin Nagel. The public comment was emailed to the Board Members on August 9, 2021 at 8:20 a.m. The comment would be retained as part of the record for today's Board meeting.

Maria Lopez, a member of the public, discussed her concerns with route 862 and asked OCTA to connect this route with Metrolink and Amtrak schedules. Ms. Lopez stated how difficult it was getting a shuttle to connect with the Metrolink train service. If the bus is late meeting the train, other transportation methods must be used, delaying arrival to the destination.

In addition, she noted the bus runs empty, and the only riders are Metrolink passengers. Several riders work in the civic center area along with students at the school of the arts. However, since route 83 no longer runs in the area, some employees and deputies from the courts utilize the 862. Last week one of Chairman Do's staff observed the empty bus, and the only time the bus has riders is when connecting to and from the train.

Chairman Do thanked Ms. Lopez for bringing the issue to the Board.

Mr. Johnson, CEO, requested that Mr. Dunning speak with Ms. Lopez after the Board meeting

Director Foley thanked staff for looking into the issue brought up by Ms. Lopez.

Director Sarmiento concurred with Director Foley and is happy to assist in any way.

18. Chief Executive Officer's Report

Mr. Johnson, CEO, stated that Mr. Dunning would speak with Ms. Lopez after the meeting to determine the issue with route 862 and report back to the Board.

Bipartisan Infrastructure Bill -

- OCTA continues to closely monitor the bipartisan infrastructure bill, which would include \$550 billion in new federal money for the nation's physical infrastructure over five years.
- The bill is slated for passage in the Senate this week and would then move to the House of Representatives.
- Staff will continue to monitor the bill and keep the Board apprised of any updates.

18. (Continued)

Anaheim Canyon Metrolink Station -

- On August 11, 2021, at 4:00 p.m., OCTA will host a community meeting via Zoom for the Anaheim Canyon Metrolink Station Project. This project will construct a second main track and a new station platform to meet rail transit demand and improve the station.
- Staff will be discussing project improvements and upcoming activities.
- A recording of the meeting will be uploaded to OCTA's YouTube channel.

Interstate 5 (I-5) South County Improvements Project -

- On August 12, 2021, at 5:30 p.m., OCTA will host a community meeting via Zoom for the I-5 South County Improvements Project. This project will increase capacity, improve operations and enhance safety in southern Orange County from State Route 73 to El Toro Road.
- Staff will highlight the community impacts for Stage 1 demolition of the Los Alisos Boulevard overcrossing and provide an overview of Segment 3 from Alicia Parkway to El Toro Road. This meeting will be live-streamed through the Project's Facebook page.

19. Directors' Reports

There were no Directors' Reports.

20. Closed Session

There were no Closed Sessions scheduled.

21. Adjournment

The meeting was adjourned at 11:05 a.m.

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, August 23, 2021** at the Orange County Transportation Authority Headquarters, Board Room - Conference Room 07-08, 550 South Main Street, Orange, California.

ATTEST:

Gina Ramirez
Clerk of the Board Specialist, Senior

Andrew Do
Chairman