

Minutes of the  
Orange County Transportation Authority  
Orange County Transit District  
Orange County Local Transportation Authority  
Orange County Service Authority for Freeway Emergencies  
Board of Directors Meeting

## **Call to Order**

The November 25, 2019 regular meeting of the Orange County Transportation Authority (OCTA) and affiliated agencies was called to order by Chairman Shaw at 9:02 a.m. at the OCTA Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

## **Roll Call**

Following the Invocation and Pledge of Allegiance, the Clerk of the Board noted a quorum was present, with the following Directors in attendance:

Directors Present:     Tim Shaw, Chairman  
                               Steve Jones, Vice Chairman  
                               Doug Chaffee  
                               Laurie Davies  
                               Barbara Delgleize  
                               Andrew Do  
                               Gene Hernandez  
                               Joe Muller  
                               Mark A. Murphy  
                               Richard Murphy  
                               Miguel Pulido  
                               Michelle Steel  
                               Donald P. Wagner  
                               Ryan Chamberlain, District Director  
                                     California Department of Transportation District 12

Director Absent:     Lisa A. Bartlett  
                               Michael Hennessey  
                               Jose F. Moreno  
                               Gregory T. Winterbottom

Also Present:     Darrell E. Johnson, Chief Executive Officer  
                           Ken Phipps, Deputy Chief Executive Officer  
                           Laurena Weinert, Clerk of the Board  
                           Olga Prado, Assistant Clerk of the Board  
                           James Donich, General Counsel  
                           Members of the Press and the General Public

## **Special Calendar**

### **Orange County Transportation Authority Special Calendar Matters**

**1. Presentation of Resolutions of Appreciation for Employees of the Month for November 2019**

Darrell E. Johnson, Chief Executive Officer (CEO), presented OCTA Resolutions of Appreciation Nos. 2019-087, 2019-088, and 2019-089 to George Beyer, Coach Operator; Gabriel Sanchez, Maintenance; and Steven King, Administration, as Employees of the Month for November 2019.

**2. Public Hearing for the 2019 Orange County Congestion Management Program**

*(A verbatim transcript of this public hearing is on file in the Clerk of the Board's office.)*

Director Wagner asked why the public hearing was being recorded (by a stenographer) and why the public hearing was not opened. James Donich, General Counsel, responded that OCTA's process is to have staff present the item, open the public hearing for public comments, close the public hearing, and the Board of Directors (Board) take a vote. Mr. Donich clarified that this item is required to have a public hearing prior to the Board adoption of the Congestion Management Program.

Greg Nord, Section Manager for the Long-Range Planning and Corridor Studies, presented this item, provided background and reason for the public hearing, as well as referenced Attachments A, B, and C of the Staff Report.

Chairman Shaw opened the public hearing and requested the Clerk of the Board read into the record the noticing done to inform the public and local agencies of today's public hearing.

Chairman Shaw opened the floor for public comments, and there were no public comments received, and a motion was made by Director Davies, seconded by Director Pulido, and declared passed by those present, to close the public hearing.

A motion was made by Director M. Murphy, seconded by Director Hernandez, and declared passed by those present, to:

- A. Consider public hearing comments received on the 2019 Orange County Congestion Management Program.
- B. Adopt the 2019 Orange County Congestion Management Program.
- C. Direct staff to forward the 2019 Orange County Congestion Management Program to the Southern California Association of Governments for a finding of regional consistency.

## **Consent Calendar (Items 3 through 27)**

### **Orange County Transportation Authority Consent Calendar Matters**

#### **3. Approval of Minutes**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to approve the Orange County Transportation Authority and affiliated agencies' regular meeting minutes of November 11, 2019.

#### **4. Conflict of Interest Code and 2019 Annual Statement of Economic Interests Filing**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to direct the Clerk of the Board to distribute and monitor the 2019 annual Statement of Economic Interests - Form 700 to Members of the Board of Directors and designated positions, to be filed by April 1, 2020.

#### **5. Fiscal Year 2019 Triennial Review**

Chairman Shaw pulled this item and commented on the following:

- The Federal Transit Administration (FTA) recently completed a Triennial Review of OCTA's transit operations for compliance with federal requirements and best practices.
- The FTA Triennial Review is a demanding process that takes several months and reviews all aspects of OCTA's transit operations over the past three years.
- The FTA had no findings, and fewer than 1 in 10 transit agencies receive a report with no findings.
- The FTA findings demonstrated that OCTA routinely delivers the highest level of service to transit riders, while keeping safety as a top priority.
- The FTA review team complimented several of OCTA's programs as the best they have seen in the nation.
- Chairman Shaw congratulated OCTA staff for a tremendous accomplishment.

Darrell E. Johnson, CEO, thanked the Finance and Administration Committee and OCTA staff for their work on the Triennial Review.

No action was taken on this receive and file the Fiscal Year 2019 Triennial Review information item.

**6. Oversight Controls and Contract Compliance Related to the Orange Transportation Center Parking Structure Project**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to direct staff to implement three recommendations provided in Oversight Controls and Contract Compliance Related to the Orange Transportation Center Parking Structure Project, Internal Audit Report No. 19-508.

**7. Investments: Compliance, Controls, and Reporting, January 1 through June 30, 2019**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to direct staff to implement two recommendations provided in Investments: Compliance, Controls, and Reporting, January 1 through June 30, 2019, Internal Audit Report No. 20-502.

**8. Board Member Compensation, Mileage Reimbursements, and Training, Internal Audit Report No. 19-513**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to direct staff to implement one recommendation provided in Board Member Compensation, Mileage Reimbursements, and Training, Internal Audit Report No. 19-513.

**9. 91 Express Lanes Update for the Period Ending September 30, 2019**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file as an information item.

**10. Status Report of State Legislation Enacted in 2019**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file as an information item.

**11. Orange County Transportation Authority 2019-20 State and Federal Legislative Platforms**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to:

- A. Adopt the revised 2019-20 State and Federal Legislative Platforms.
- B. Direct staff to distribute the adopted platforms to elected officials, advisory committees, local governments, affected agencies, the business community, and other interested parties.

**12. Performance Evaluation of Federal Legislative Advocate, Potomac Partners, DC**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file the staff evaluation as an information item and provide any additional comments.

**13. Performance Evaluation of Sacramento Legislative Advocate, Platinum Advisors, LLC**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file the staff evaluation as an information item and provide any additional comments.

**14. Fiscal Year 2018-19 Comprehensive Annual Financial Report and 91 Express Lanes Fund Financial Statements**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file the fiscal year 2018-19 Comprehensive Annual Financial Report and 91 Express Lanes Fund Financial Statements.

**15. Fiscal Year 2019-20 First Quarter Grant Reimbursement Status Report**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file as an information item.

**16. Update on the Loan Agreements with the Cities of Anaheim, Buena Park, Placentia, and the West Orange County Water Board**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file as an information item.

**17. Orange County Employees Retirement System Early Payment for Fiscal Year 2020-21**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to authorize the early payment of approximately \$28.9 million by January 15, 2020, to the Orange County Employees Retirement System, for member contributions for fiscal year 2020-21.

**18. Agreement for Cloud Disaster Recovery Solution**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Agreement No. C-9-1543 between the Orange County Transportation Authority and Thomas Gallaway Corporation, doing business as Technologent, in the amount of \$985,638, for a cloud disaster recovery solution for a five-year term.

**19. Innovation Update**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file as an information item.

**Orange County Transit District Consent Calendar Matters**

**20. Consultant Selection for On-Call Materials Testing and Inspection Services for Facilities Projects**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to:

- A. Approve the selection of Ninyo & Moore Geotechnical & Environmental Science Consultants as the firm to provide on-call materials testing and inspection services for facilities projects.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-9-1356 between the Orange County Transportation Authority and Ninyo & Moore Geotechnical & Environmental Science Consultants, in the amount of \$461,465, for a three year initial term, with one, two-year option term, to provide on-call materials testing and inspection services for facilities projects.

**21. Consultant Selection for Preparation of Plans, Specifications, and Estimates for Transit Security and Operations Center**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to:

- A. Approve the selection of Stantec, Inc., as the firm to prepare plans, specifications, and estimates for the Transit Security and Operations Center.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-9-0965 between the Orange County Transportation Authority and Stantec, Inc., for preparation of plans, specifications, and estimates for the Transit Security and Operations Center.

**22. Agreement for the Purchase of Bus Operations Support Vehicles**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Purchase Order No. C-9-1646 between the Orange County Transportation Authority and FFBH Motors, LLC, doing business as Frontier Ford, in the amount of \$373,703, for the purchase of nine model year 2020 Ford Explorer Hybrid vehicles.

**23. Approval to Release Request for Proposals for Vanpool Service Providers**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to:

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 9-1698 for selection of vanpool service providers.
- B. Approve the release of Request for Proposals 9-1698 to select firm(s) to provide subsidized commuter vanpool services and Measure M2 Project V Station Van Program service for a five-year initial term, with two, two-year option terms.

**24. Approval to Release Request for Proposals for OC ACCESS Eligibility Determination Services**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to:

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 9-1621 to provide OC ACCESS eligibility determination services.
- B. Approve the release of Request for Proposals 9-1621 to select a firm to provide OC ACCESS eligibility determination services for a three-year initial term, with a two-year option term.

## **Orange County Local Transportation Authority Consent Calendar Matters**

**25. Amendment to Cooperative Agreement with the Southern California Regional Rail Authority for the Orange County Maintenance Facility**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Amendment No. 1 to Cooperative Agreement No. C-9-1127 between the Orange County Transportation Authority and the Southern California Regional Rail Authority, in the amount of \$703,000, for its efforts for the preliminary engineering and environmental documentation of the Orange County Maintenance Facility project. This will increase the maximum obligation for the cooperative agreement to a total contract value of \$703,000.

**26. Contract Change Order for Utility Conflicts for the Construction of the OC Streetcar Project**

This item was pulled by Directors Steel and Wagner and a lengthy discussion ensued as follows:

- The recommended Contract Change Order (CCO) seems to be for bad record keeping due to utilities conflicts.
- This item's CCO is typical of urbanized underground utilities issues.
- Concerns about the agreement with the City of Santa Ana (Santa Ana) that OCTA bears the costs of utilities conflicts, and Santa Ana should be accountable for the costs.
- Concerns that the utilities issues are because there is lack of quality control and city accountability issues.
- The OC Streetcar Project (Project) benefits the cities of Garden Grove and Santa Ana, and system-wide there is a countywide benefit.
- The city with the utility issues should bear the costs.
- It is typical for the agency coming in to bear the costs. Additionally, it depends on the franchise rights and who owns the utilities, and the differences were highlighted.
- In the downtown Santa Ana area, there has been poor record keeping dating back 150 years, and the issues were highlighted.
- The newer utilities' conflicts were highlighted.
- Examples were provided of OCTA capital project ideas generated by the cities that OCTA agreed to take on as a project, and utilities were the single biggest risk factor.
- OCTA conducted advanced potholing services to identify utilities as best for the Project area.



**26. (Continued)**

- The utilities issues dollar limits are noted in the Project agreement, budget, and project contingency.
- Generally, sewer and waterline utilities will have a profile and alignment on the plans. Other utilities have line maps, and the depth and exact location can vary by as much as four to five feet.
- OCTA requires Walsh Construction Company II, LLC (Walsh), to trench for a utility placement or relocation, and Walsh is finding utilities not noted on any records.
- The Transit Committee discussed this item at its recent meeting.
- About 90 percent of the utilities are completed, and in early 2020, the Project will go into a different phase and will retire much of the utility conflict risks.
- For the life of the Project, Santa Ana is paying \$500,000 per year.
- The money used for this Project could have been used for the bus service.
- The Project will be a transit extension to the Metrolink system.
- After the Project is completed, the Board will discuss how to go forward with the \$800 million forecasted Measure M2 Project S funds that could be leveraged with federal and state funds.

Director Wagner requested that the OC Streetcar Board agenda items not be placed as a Consent matter.

James Donich, General Counsel, stated that there has not been an action taken to recover costs for a utility issue, and OCTA's rights for recovery costs are very complicated. Mr. Donich also stated that the franchise rights are between the city and the utilities.

Transit Committee Chairman Do commented that if today's discussion were carried out for recovery of costs from the city, going forward, jurisdictions would not want to do work with OCTA, as well as provided comments about the legal matters of utility costs responsibility.

Director Pulido offered for Santa Ana's Public Works Director to meet with Director Hernandez about his concerns, etcetera.

A motion was made by Director Do, seconded by Director Pulido, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 4.1 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$833,300, for work to address utility conflicts for the construction of the OC Streetcar project.

Directors Hernandez, Steel, and Wagner voted in opposition.

**27. Environmental Mitigation Program Endowment Fund Investment Report for September 30, 2019**

A motion was made by Director Hernandez, seconded by Director Davies, and declared passed by those present, to receive and file as an information item.

**Regular Calendar**

**Orange County Transportation Authority Regular Calendar Matters**

**28. Reserve Policy**

Sean Murdock, Director of Finance and Administration, provided a PowerPoint presentation for this item as follows:

- Policy Goal;
- Background;
- Bus Program Reserve Policy;
- 91 Express Lanes Reserve Policy;
- Motorist Services Program Reserve Policy;
- Future Reserves; and
- Recommendations.

A discussion ensued regarding:

- The reserves come from revenues that support each program, and as part of the annual budget, the reserves are set aside.
- The bus program revenues are for the following:
  - Future capital purchases.
  - Operations of the bus service, in case there are impacts to the revenues, as to not have immediate bus service cuts.
- The revenues are not used to reduce fares/fees.

Director Delgleize requested the service tally data on the Freeway Service Patrol. Staff will advise Director Delgleize as to when the annual report will come forward to the Board.

A motion was made by Director Davies, seconded by Director Do, and declared passed by those present, to adopt the Reserve Policy and implement the policy in current and future financial plans.

## **Orange County Local Transportation Authority Regular Calendar Matters**

### **29. OC Streetcar Project Quarterly Update**

Jim Beil, Executive Director of Capital Programs, Kelly Hart, Project Manager of Operations, and Tresa Oliveri, Community Relations Officer, co-presented a PowerPoint presentation for this item as follows:

- Background;
- OC Streetcar Features;
- Santa Ana River Bridge:
- Construction – Segment 1;
- Maintenance and Storage Facility;
- Construction – Segments 2 through 5;
- Third-Party Utilities Relocations;
- Outreach;
- Vehicles; and
- Other Key OC Streetcar Updates.

A discussion ensued regarding:

- OCTA staff does not know who owns the water well.
- The construction costs for the Project is approximately \$408 million.
- The funding for the Project is as follows:
  - Measure M2 - \$165 million
  - State cap-and-trade funds - \$25 million
  - Federal funds – under \$217 million and \$149 million of the federal funds are discretionary through the Full Funding Grant Agreement (FFGA) administered by the FTA.
- The letter OCTA received from Representative Peter DeFazio, Chairman of the House Transportation and Infrastructure Committee, is regarding the implementation of Capital Investment Grant Program.
- The Trump administration reassessed every FFGA eligibility which took approximately nine months. At that time, the Board was made aware of the time, effort, and cost associated with the Trump administration's reassessment.
- In November 2018, OCTA's FFGA was the first to be signed under the FTA program.
- Director Pulido stated that City of Anaheim Mayor Sidhu looks forward to being on the OCTA Board and having future discussions on connectivity of Harbor Boulevard to the OC Streetcar.

No action was taken on this receive and file information item.

## **Discussion Items**

### **30. Measure M2 Interstate 5 Corridor Improvements**

Darrell E. Johnson, CEO, provided opening comments and introduced Kurt Brotcke, Director of Strategic Planning, who provided a PowerPoint presentation for this item as follows:

- Interstate 5 (I-5) Comprehensive Improvements;
- Measure M2 (M2) – I-5:
  - Project A
  - Project B
  - Projects C/D
  - Project D;
- M2 I-5 Schedule;
- Public Outreach; and
- Summary.

A discussion ensued as follows:

Director Chamberlain looks forward to the December presentation/discussion with OCTA on what the California Department of Transportation (Caltrans) is doing related to high-occupancy vehicle lanes and high-occupancy toll lanes studies.

Chairman Shaw stated that OCTA and Caltrans have a good partnership with delivering so many great projects, and OCTA recognizes it is a state highway system and appreciates Caltrans' partnership.

No action was taken on this information item.

## **Discussion Items**

### **31. Public Comments**

A public comment was heard from Robert Zordani who is a registered engineer in the California. Mr. Zordani highlighted his experience on building freeways in Southern California. He also stated that for the last three years, of personal time, he developed a conceptual alternative to mitigate the traffic for the I-5/EI Toro Road project.

Mr. Zordani highlighted the benefits of his conceptual alternative and offered to meet to discuss.

**32. Chief Executive Officer's Report**

Darrell E. Johnson, CEO, reported the following:

- Provided a follow-up to Director Delgleize's earlier question, under Item 28, that in January 2020, the Freeway Service Patrol annual update will come forward to the Regional Planning and Highways Committee and Board.
- Connect OC-LA Transit Study:
  - OCTA's Connect OC-LA Transit Study is currently underway to review creative ways for a more connected regional public transit system, as well as ways to improve public transit experience.
  - Last week, OCTA began public outreach to transit riders traveling between Orange and Los Angeles counties.
  - In the next few weeks, survey teams will visit various bus stops and locations along the County border.
- Metrolink Holiday Express Train:
  - For the first three Sundays in December, Metrolink will run its Holiday Express Train.
  - The round-trip holiday train costs \$20 per person and includes carolers, Santa Claus, children activities, and giveaways.
  - The Orange County Holiday Express Train will be roundtrip from the Laguna Niguel/Mission Viejo Station to Oceanside on Sunday, December 1st.
  - There will be a kickoff event at the Laguna Niguel/Mission Viejo Station at 10:50 a.m. and the train will depart at 11:50 a.m.
- Mr. Johnson wished everyone a very happy and safe Thanksgiving Holiday and stated that OCTA's administrative offices will be closed this Thursday and Friday for the Holiday.

**33. Directors' Reports**

Director Chamberlain referenced today's public speaker, and Caltrans will reach out and meet with Mr. Zordani to discuss his suggestions for the I-5/EI Toro Road project.

Chairman Shaw wished everyone a happy Holiday.

**34. Closed Session**

There were no Closed Sessions scheduled.

**35. Adjournment**

The meeting adjourned at 10:36 a.m.

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, December 9, 2019**, at the OCTA Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

ATTEST:

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Laurena Weinert  
Clerk of the Board

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Tim Shaw  
Chairman