

# Foothill Transit Executive Board

## MINUTES

The regular meeting of the Foothill Transit Executive Board was held Friday, March 28, 2008, at the Foothill Transit Board Room, 2<sup>nd</sup> Floor, 100 South Vincent Avenue, West Covina.

President Lantz called the meeting to order at 8:03 a.m. The following members were present, constituting a quorum of the Executive Board:

Paula Lantz, President  
Peggy Delach, Vice President  
Dan Kirby  
Lola Storing,  
Patricia Wallach

Staff and Guests present:

Doran Barnes, Executive Director  
Kevin McDonald, Deputy Executive Director  
Ed Gill, Legal Counsel  
Darold Pieper, General Counsel  
Lee Millen, Deputy Secretary  
Richard Hasenohrl, Director of Finance  
Gary Nehls, Director of Procurement  
LaShawn King Gillespie, Director of Planning  
Bob Arthur, Director of Special Projects  
George Karbowski, Director of Operations & Maintenance  
Wayne Fritz, General Manager  
Peter Greenberg, General Manager  
Ann Minors, Los Angeles County, Department of Public Works  
Wendy Bui, Transit Group, Los Angeles County

### **PLEDGE OF ALLEGIANCE**

President Lantz led those present in the Pledge of Allegiance.

### **APPROVAL OF MINUTES FOR THE REGULAR MEETING OF FEBRUARY 22, 2008 AND THE SPECIAL EXECUTIVE BOARD MEETING OF MARCH 5, 2008**

This item was deferred to the April 25, 2008, Executive Board meeting.

**PRESENTATIONS:**

**Legislative Update by Assembly Member Ed Hernandez**

Staff requested this item deferred to the April 25, 2008, Executive Board meeting.

**Contractors' Employee Recognition**

Wayne Fritz, General Manager, introduced and recognized the Arcadia location MV Transportation Employees & Operators of the Month: Jeffrey Campbell, Employee of the Month; and Ricky Jones, Operator of the Month.

Peter Greenberg, General Manager, introduced and recognized Noe Alaniz as the Pomona location First Transit Operator of the Month.

The Executive Board commended the awardees.

The Executive Board recognized Councilmember Manuel Garcia, City of Industry, and Kevin Olms, Veolia.

**PUBLIC COMMENT**

Doran Barnes introduced Kevin Olms, Veolia Controller, who reported that as Vice President, Reporting and Accounting, his duties include communications between North America, Canada, and Veolia's corporate office in France. He is pleased to be a part of the Foothill Transit team and supports its endeavors.

**CONSENT CALENDAR:**

The Executive Board adopted the Consent Calendar items 7 through 12.

Motion: Member Storing, seconded by Vice President Delach  
Vote: Unanimously carried

**REGULAR AGENDA:**

**2007 GO RIO PASS PROGRAM UPDATE**

LaShawn King Gillespie, Director of Planning, reported that in 2005 Foothill Transit entered into a two (2) year pilot program with Rio Hondo College. The program allows Rio Hondo to purchase boarding passes that allow full-time students to ride Foothill Transit lines and other local providers at no additional cost by showing a student ID with a special sticker attached. Ms. Gillespie introduced Russell Castaneda-Calleros, Director of Government Relations and Community Relations for Rio Hondo College.

Mr. Castaneda-Calleros recognized Felicia ???, Linda Somilleda, Director of Marketing & Communications, Vanessa and Rochelle, ??? for their contributions and support. Mr. Castaneda-Calleros provided a power point presentation on Go Rio programs, which included funding, ridership, survey results, and increasing public transit awareness and improving inconvenient bus schedules (copy on file).

The Go Rio transit program has had a positive impact on the community, and in the lives of full-time students and their families; general consensus is that the program should continue. Students will be asked to elect to pay a \$3 fee for these services that could pay for 75% of the program. Efforts continue to educate students on public transit benefits via an aggressive marketing campaign, and to continue developing recommendations for bus service improvements.

Vice President Delach noted that this is a fabulous program and thanked Mr. Castaneda-Calleros for sharing his informative presentation. Member Kirby commented that it's good to know that the program is appreciated and that it's a great opportunity for all full-time students.

In response to President Lantz, Mr. Castaneda-Calleros will provide Foothill Transit with the survey data collected along with any updates and/or changes regarding this program.

The Executive Board received and filed the 2007 Go Rio Pass Program Update (copy on file).

Motion: Vice President Delach, seconded by Member Wallach  
Vote: Unanimously carried

### **WEST COVINA PARK AND RIDE UPDATE**

Bob Arthur, Director of Special Projects, presented a power point update and noted that the last update on the West Covina Park and Ride project was presented to the Executive Board in January 2008. Since that time staff has met with representatives from Caltrans, the Federal Transit Administration (FTA), and one of the neighboring property owners to review and discuss the project, while work continues on the environmental documents and precise plan and approval.

Currently there are a total of 717 parking spaces; 640 spaces are contained inside the parking structure; 77 spaces are outside on the gray; and 534 spaces are designated for park-and-ride usage. The remaining 183 parking spaces are available to the building tenants, customers and any drive-through ATM customers.

New designs and architectural standards compliment the existing administrative office building, and the current environmental impact draft report has been submitted to the

City of West Covina, the Federal Transit Administration, and Caltrans for their preliminary review. The report is expected to be presented to the Executive Board at the May 2008 meeting for final approval.

In response to Member Kirby, Mr. Arthur explained that none of the buses will enter into the park and ride site for pick up of any passengers; Vincent Avenue is stripped and has a dedicated right turn lane and a combined right and through lane to North Vincent. The proposed plans have two dedicated right turn lanes onto the eastbound 10 Fwy. and two dedicated through lanes along Vincent to ease congestion. Additionally, there is a bus cut-out on the northeast corner of Lake Avenue and Vincent. Another cut-out is proposed for the Silver Streak and other commuter bus passengers to exit. This includes a proposal to have a dedicated right turn lane off of Vincent and onto Lake eastbound.

In response to President Lantz, Mr. Arthur explained that the morning location would be across the street at the existing cut-out (next to Apple Bee's); morning customers will exit the garage, walk to the Lake and Vincent intersection and cross the street. The afternoon passengers will exit at the site. Although this intersection is always busy; walking across the intersection in the morning would not be inconvenient. Doran Barnes, Executive Director, noted that the primary local bus line connection will continue to be in West Covina; this includes the Silver Streak and other express commuter buses.

In response to Member Kirby, Mr. Barnes reported that the parking structure could possibly provide client parking during non-commuter hours to the adjacent shopping mall during the holiday season; possible on-site signage with store advertising is also being considered. Ed Gill, Legal Counsel, advised that allowing for additional parking during Foothill Transit's non-peak hours, i.e., evenings and week ends, is in compliance with the FTA.

The Executive Board received and filed the status report on the West Covina Park and Ride project.

Motion: Member Wallach, seconded by Member Storing  
Vote: Unanimously carried

### **FOOTHILL TRANSIT HOLLYWOOD BOWL SERVICE**

Mr. Barnes recognized Wendy Bui, Transit Group, County of Los Angeles, and a member of the Administrative Advisory Committee representing Member Michael De La Torre, and Ann Minors, Los Angeles County Department of Public Works. Ms. Minors reported that her duties include overseeing the Hollywood Bowl park & ride service. Foothill Transit was commended for its excellent service provided to the Hollywood Bowl over the years.

The Hollywood Bowl has seven (7) parking lots, and ongoing efforts continue with private contractors to increase parking. However, the Hollywood Bowl seats 17,500 with parking for only 2,500 vehicles. The 2-door style charter buses provide a faster passenger exit, thus lessening vehicle congestion.

Ms. Minors noted her opposition to a proposed fare increase from \$2.50 to \$4.40 each way, affecting Hollywood Bowl patrons, and reported that the Hollywood Bowl fare publication has been circulated with the current fare structure (\$5). President Lantz expressed concerns regarding a \$500,000 loss for Foothill Transit without a fare increase. Ed Gill advised that current regulations dictate that the third-party pays for any or part of the charter fare; subsidy is the key issue in this service.

The Executive Board thanked Ms. Minors for her presentation.

Kevin McDonald, Deputy Executive Director, reported that Foothill Transit has provided park and ride service to the Hollywood Bowl for a number of years, and the County of Los Angeles has subsidized that service. This service was in compliance with existing Federal Transit Administration (FTA) guidelines. On January 14, 2008, the FTA made revisions to its rule regarding charter service, and that rule goes into effect on April 30, 2008. The rule states that any transportation that meets the following criteria is considered to be a charter service:

- a). It is provided by a recipient of federal transportation dollars to the public for events or functions that occur on an irregular basis or for a limited duration; or
- b). A premium fare is charged; or
- c). It is paid for in whole or in part by a third party.

Historically, customers who wish to ride Foothill Transit to get to the Hollywood Bowl have paid \$5 for round-trip transportation to the Bowl. The current agreement with the County of Los Angeles is based on the county subsidizing the additional cost of the service beyond customer fares for a predetermined number of events at a predetermined hourly rate for service.

In light of the new FTA charter regulation, there are four possible options for the Executive Board to consider –

1. *Provide the service without funding from the County.* The Hollywood Bowl has already prepared and printed brochures indicating that the round-trip fare to the Bowl is \$5. Foothill Transit may not provide a “premium” fare for the service under the FTA regulation, but may charge a usual or customary fare – thus the \$4.40 fare. This service would be considered public transportation service under the FTA’s new regulation.
2. *Request an advisory opinion from the FTA.* Under the new regulation, an interested party may request an advisory opinion from the FTA Chief Counsel on a matter involving specific factual events. If the FTA concludes that the service is

charter service, Foothill Transit can provide the unsubsidized public transit service described in item 1 above; or the following options addressing the provision of charter service would be available –

3. *Follow the new regulation's procedures that a transit agency may follow when it is requested to provide charter service.* The new regulation requires private charter operators to register on an FTA website if they are interested in providing charter service in a particular geographic area. If a registered charter provider indicates an interest in providing that service, it so notifies the transit system and the transit system cannot provide the charter service. If no registered charter provides express interest in providing the service, the transit system may provide it.
4. *Petition the FTA Administration for an exception to the charter regulation for an event of regional or national significance.* The FTA regulation provides that a transit system may petition the FTA to provide charter service for an event of regional or national significance.

The projected cost including fuel to run the upcoming season of the Hollywood Bowl Park and Ride service is \$576,000. Should the Executive Board authorize the Hollywood Bowl service to be provided at the \$4.40 per trip fare, the projected annual operating loss would be \$422,000 based on most recent ridership. The increased fare may, however, reduce future ridership. If the service were to be provided at the \$2.50 per trip fare, the operating loss is projected to be \$488,500. This service cannot be subsidized by way of the county-wide Formula Allocation Procedure until FY 2011 when audited FY 2009 data are available. LAIF funds could be used to subsidize the service in the interim.

Mr. Barnes noted that staff supports the last three options and recommends implementation to be launched simultaneously. However, due to concerns regarding option #1, it is also recommended that option #1 be implemented on a yearly basis with careful monitoring; any challenges should become apparent by next summer.

Member Wallach noted that with an approval of the four options and the amendment to option #1 with \$2.50 each way, concerns remain regarding subsidy and staff updates would be essential. Mr. Barnes noted that should any unforeseen subsidizing issue arise, additional monies will be taken from Foothill Transit's reserves. It is recommended that the Executive Board direct staff to aggressively pursue any subsidizing available to Foothill Transit.

President Lantz expressed concerns on amending option #1, and on the related publications by the Hollywood Bowl. Member Kirby commented that the service provided to the Bowl has a positive marketing impact on Foothill Transit.

Following further discussion, the Executive Board approved the proposed four (4) options concerning the provision of service by Foothill Transit to the Hollywood Bowl for the 2008 Summer Concert season (copy on file) provided that:

- Amendment to option #1 include a \$2.50 fare each way and be reviewed on a year-to-year basis;
- The Hollywood Bowl submit to the Executive Board any fare publication for approval prior to public circulation, otherwise Foothill Transit is released from any related monetary responsibility; and
- Staff will work with the County at every opportunity to seek any subsidy funding available to Foothill Transit; staff will provide updates.

Motion: Member Wallach, seconded by Member Storing  
Vote: Unanimously carried

### **TRANSIT ACCESS PASS (TAP) FAREBOX REPORT**

Staff requested that this item be deferred to a subsequent meeting.

### **DISCONTINUATION OF METROCARD SALES**

Staff requested that this item be deferred to a subsequent meeting.

### **COMPRESSED NATURAL GAS (CNG) EXCISE TAX CREDIT**

Richard Hasenohrl, Director of Finance, reported that Clean Energy, Foothill Transit's natural gas supplier and equipment maintenance contractor recently requested amendments to its operations and maintenance agreements with Foothill Transit in Pomona and Arcadia that would 1) credit Foothill Transit with 50 percent of the available excise tax credit; 2) increase the maintenance fee at Arcadia; and 3) exercise the options on the Arcadia maintenance agreement through 2020. The financial impact of these amendments would be a net increase in Foothill Transit's annual revenue stream of approximately \$1 million through September 2009 or longer if the legislation is extended by Congress.

This additional revenue would continue through September 2009, while the increased maintenance fee would continue through the end of the proposed contract extension in 2020.

Clean Energy contends that they are the only entity that qualifies for and is entitled to the excise tax credit, and Foothill staff is aware that they have applied for and received the credit to-date. They have indicated their desire to share that credit with Foothill Transit in exchange for an increase in the maintenance fee and early exercise of the option years on the Arcadia CNG station maintenance contract.

Clean Energy's assumptions and the amount of the credit have been researched by reviewing the Internal Revenue Service (IRS) Code, revenue rulings and treasury notices. The IRS, including its revenue rulings and treasury notices, determine the implementation of the excise tax credit. The research indicates that Foothill Transit is

entitled to the full credit, yielding a total annual credit of \$2,460,000 or \$1,455,000 more than the amount offered by Clean Energy.

The IRS Code for the implementation of the excise tax credit is silent on the subjects of gas ownership while the gas is being compressed and equipment maintenance. The IRS Code states that only a registered "Alternative Fueler" is eligible for the excise tax credit and an alternative fueler is a person that:

- Produces or uses an alternative fuel in its trade or business (CNG is an alternative fuel), and
- Is liable for the excise tax, but for an exemption.

The IRS Code states that the excise tax is imposed, i.e., the liability is created, when the alternative fuel is delivered into the fuel supply tank of the propulsion engine of a motor vehicle.

Foothill Transit clearly uses CNG to propel its buses and is responsible for delivering the CNG into the fuel supply tank, thereby creating an excise tax liability if not for the exemption. Also, Foothill Transit is a registered alternative fueler (Registration number 05-CA-2007-005422-AL).

Foothill Transit staff has met with representatives from Clean Energy to discuss this matter. A follow-up conversation is tentatively scheduled during the week of April 3. At this point, there is a disagreement on various details regarding eligibility for the Excise Tax Credit program.

Foothill Transit staff has contacted the IRS and spoken with different representatives regarding this matter. No specific written guidance regarding eligibility has been received. However, the verbal advice from different representatives has varied and is unclear. The best way to conclusively determine who is eligible for this credit is to seek a written opinion from the IRS.

In response to Member Kirby, Mr. Gill advised that with a favorable ruling from the IRS the remaining process would be to submit and file an application for the actual refund.

The Executive Board thanked Mr. Hasenohrl for his informative report.

The Executive Board authorized the Executive Director to forward correspondence with the necessary attachments to the IRS and seek a ruling regarding Foothill Transit's ability to claim the CNG Excise Tax Credit.

Motion: Vice President Delach, seconded by Member Kirby  
Vote: Unanimously carried

**CONTRACT AWARD – ARCADIA FACILITY EXPANSION (IFB NO. 07-029)**

Gary Nehls, Director of Procurement, reported that in January 2007, the Executive Board authorized the issuance of an Invitation for Bid (IFB) No. 07-029 for the expansion of the maintenance building at Foothill Transit's Arcadia Operations and Maintenance facility. These modifications to the facility's maintenance garage are necessary to appropriately accommodate Foothill Transit's 30 Silver Streak low-floor NABI 60-foot articulated buses.

This project will add three new bus maintenance bays to the existing building with direct drive-through capabilities. Additionally, modifications to the facilities wash building replaces the existing high pressure hydraulic scissor-lift type chassis wash equipment with a state of the art drive-through system. This new system will service any length coach in the fleet.

The IFB announcement for the construction services was issued on November 1, 2007, and sent directly to contractors as well as published in two local newspapers. On November 27, 2007, a mandatory job walk and pre-bid conference was conducted and 20 individuals representing 18 construction companies were provided a tour of the site and allowed to ask project-related questions. Bids were received on January 8, 2008, from four construction firms. All bid packages were thoroughly reviewed to determine responsiveness to the requirements stated in the IFB. A copy of the lowest bid received from States Link Construction, Inc. was provided, and the bid amounts were also included as **Attachment A** (copy on file). Funding for this project is available in the approved FY 2008 Business Plan.

In response to Member Kirby, Mr. Gill explained that the Construction Manager's analysis indicates that although some building materials are high in price other areas are low regarding this bid. Additionally, a re-bid process could create delays and consequently produce a high bid; good bids were received and the bid from States Link Construction, Inc. is the most reasonable at this time.

Following discussion on the contractor's willingness to negotiate building material prices, the Executive Board authorized the Executive Director to execute a contract in the amount of \$2,917,988 to State Link Construction, Inc. and to negotiate final contract terms and conditions for the expansion of the maintenance building at the Arcadia facility.

Motion: Vice President Delach, seconded by Member Storing  
Vote: Unanimously carried

**CALIFORNIA HIGHWAY PATROL TERMINAL INSPECTION**

George Karbowski, Director of Operations and Maintenance, reported that in January, during an unscheduled terminal inspection by the California Highway Patrol (CHP), the

inspector identified several issues that needed to be corrected. Work commenced immediately to correct the identified deficiencies. One of the most challenging issues is the process for conducting pre-trip inspections on a coach. The issue involves the items that are to be inspected when there is an in-field driver change.

The inspector pointed out that the Vehicle Code requires that a number of safety-related items be checked at every in-field change of operator. Staff's understanding of current practice industry-wide is that the second and subsequent operators of a transit vehicle perform only an abbreviated exterior inspection of the vehicle when an in-field driver change occurs. Foothill Transit's Arcadia location is the only facility where this issue has been raised. Depending on where and when these coach-operator exchanges and inspections are conducted, there could be significant customer service and budget impacts. The time required for these activities will need to be added to the published schedules.

Planning and Operations staff are working with Foothill Transit's contractors to ensure compliance with the requirements of the Vehicle Code with the least possible customer and budget impact.

For approximately 20 years, Foothill Transit has routinely received the highest scores from CHP inspections. Foothill Transit's Arcadia location is the only facility where discrepancies were found; this includes issues that were never before noted in any prior inspections. All items have been addressed and after immediate work on the mechanical issues identified by the inspectors, it was found that these deficiencies involved a change of contractor work.

This impact requires an additional 15-20 minute check by the relief operator, and depending on whether the coach operator exchange takes place at the end of the line during a layover or mid-trip to facilitate a required meal and rest break period, the cost could be as high as \$800,000 annually.

Member Kirby expressed concerns about 15-20 minute inspections while passengers are aboard and its impact to Foothill Transit's quality service regarding schedule adherence. President Lantz noted that not all transportation agencies are having the same operating experiences.

In response to Member Storing, Wayne Fritz, General Manager, explained that concerns by the CHP are specifically regarding the safety items contained in the required inspections. Mr. Barnes noted that although the implementation process is being looked at in conjunction with the October service changes, concerns remain regarding the possibilities of any fleet's operation being shut-down by the CHP.

Mr. Fritz reported that changes to the pre-curb inspection form have been made and indicate emphasis on the additional safety items for inspection. Furthermore, all relief operators are aware of the new requirements for inspection, and that inspections are to

be conducted at the next relief point and/or lay-over point available. Currently, this process does not impact any service or ridership, however, new technology, i.e. Zone-R, could reduce inspection time by up to 50%.

Mr. Barnes advised that staff should be directed to pursue all remedial efforts to avoid any fleet shut-down should there be any presumption of non-compliance.

The Executive Board received and filed a report on the California Highway Patrol (CHP) Terminal Inspection at Foothill Transit's operations and maintenance facility in Arcadia, and directed staff to pursue any and all opportunities for remedial efforts that would avoid a Foothill Transit fleet shut-down.

Motion: Member Storing, seconded by Vice President Delach  
Vote: Unanimously carried

### **EXECUTIVE DIRECTOR COMMENT**

Doran Barnes reported the following:

- He and staff visited Veolia headquarters/campus in France, and toured operating locations in six (6) cities. Technological advances and approaches are ideas to consider for Foothill Transit;
- Michael De La Torre is recovering well from surgery.
- He and David Reyno recently attended the APTA Conference;
- Mr. Barnes thanked the Executive Board for addressing issues about Foothill Transit's new charter regulations as they will provide necessary guidelines for further discussion;
- The April agenda is expected to include the FY Business Plan; issues regarding Fareboxes; and a host of other issues this should make for a full agenda; and
- The next Governing Board meeting is scheduled on May 7, 2008.

### **BOARD MEMBER COMMENT**

Member Storing thanked Member Kirby for his participation and good business humor. The Executive Board thanked all present for their attendance.

### **CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Initiation of litigation pursuant to Government Code Section 54956.9 (c): Two Cases**

**CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Existing Litigation, Government Code Section 54956.9 (a):**  
**Name of Case: Comet Electric, Inc. v. Steton Construction Group, Foothill Transit Authority, Great American Insurance Company, Superior Court, Los Angeles County, Case No. BC383392**

The Executive Board recessed into Closed Session at 9:40 a.m.

The Executive Board reconvened from Closed Session at 10:08 a.m.

Darold Piper advised that legal counsel was given instructions, but no reportable action was taken in Closed Session.

### **ADJOURNMENT**

There being no further business, the Executive Board adjourned at 10:12 a.m.