

AGENDA

RTD Accountability Committee

Monday, December 14, 2020

8:30-10:00

VIDEO/WEB CONFERENCE

Denver, CO

1. Call to order
2. Public comment
Up to 20 minutes is allocated for public comment and each speaker will be limited to 3 minutes. The RTD Accountability Committee requests that the public comment be limited to an item on the Committee's current agenda. Please note: public comment may also be submitted in writing to Matthew Helfant (mhelfant@drcog.org). Comments received will be shared promptly with RTD Accountability Committee members.
3. November 9, 2020 RTD Accountability Committee meeting summary (Attachment A)
4. Remarks from new RTD CEO and General Manager Debra Johnson
5. Subcommittee reports
 - Finance Subcommittee
 - Governance Subcommittee
 - Operations Subcommittee

ACTION ITEMS

6. Legislative Recommendations
(Attachment B) Ron Papsdorf, DRCOG Transportation Planning and Operations Director

DISCUSSION ITEMS

7. Preliminary Report Outline
(Attachment C) Douglas W. Rex, DRCOG Executive Director
8. CARES Act Discussion
(Attachment D) Matthew Helfant, DRCOG Senior Transportation Planner

ADMINISTRATIVE ITEMS

9. Member comment/Other matters
10. Adjournment

ATTACH A

MEETING SUMMARY
RTD ACCOUNTABILITY COMMITTEE

Monday, November 9, 2020

Note: Meeting held virtually via GoToMeeting

MEMBERS PRESENT:

Elise Jones (Co-Chair)
Crystal Murillo (Co-Chair)
Deyanira Zavala
Rutt Bridges
Chris Frampton
Rebecca White
Jackie Millet

Julie Duran Mullica
Kathy Nesbitt
Dan Blankenship
Krystin Trustman
Lynn Guissing
Troy Whitmore

Others Present: Douglas W. Rex, Mac Callison, Luke Palmisano, Alex Hyde-Wright, George Twigg, Melanie Choquette, Nicholas Williams, Eulois Cleckley, Eileen Yazzie, Debra Baskett, Jordan Sanchez, Cammie Grant, Peggie O'Keefe, Totsy Rees, Roger Sherman, Jannette Scarpino, Natalie Shishido, Adam Zarrin, George Gerstle, Jon Girand, Tanya Eydelman, Bruce Abel, Lindsey Alarcon, Kathleen Bracke, Nicole Carey, Shelley Cook, Paul DesRocher, Michael Ford, Nataly Handlos, Stephen Haurert, Julie Kirk, Doug MacLeod, John McKay, Heather McKillop, Barbara McManus, Natalie Menten, Angie Rivera-Malpede, Bill Sirois, Melanie Snyder, Moux Sullivan, Pauletta Tonilas, Bill Van Meter, Jyotsna Vishwakarma, Brian Welch, Christina Zazueta, Paolo Solorzano, and DRCOG staff.

Call to Order

Co-Chair Jones called the meeting to order at 8:30 a.m.

Public comment

There was no public comment.

October 19, 2020 Accountability Committee meeting summary

The summary was accepted as written by the committee.

Subcommittee reports:

- Finance Subcommittee – Rutt Bridges reported the subcommittee had a discussion on a proposal for RTD's role in the COVID crisis resolution and the dire need for rapid vaccinations to assist in RTD's economic recovery. Mr. Bridges stated that the committee would look to external means to accomplish this proposal and multiple meetings were set up to obtain information on distribution and feasibility of COVID-19 vaccines for RTD personnel. The committee received a comprehensive presentation on statutes that related to RTD and a presentation on CDOT's financial dashboard, which could be an effective way to increase transparency and improvement of RTD's financials.
- Governance Subcommittee – Julie Duran Mullica reported the subcommittee received a presentation from LA Metro on its Local Service Council structure and the role it plays in their governance model.
- Operations Subcommittee – Deya Zavala reported the subcommittee received a presentation from RTD and Matthew Helfant on their current fare structures. The majority of the subcommittee's conversations revolved around best practices for fares and how RTD could potentially simplify their current structures, while promoting ridership.

Legislative Concepts

Co-Chair Jones and Rutt Bridges presented the potential legislative changes to the committee. RTD was created by the Colorado General Assembly in 1969 to provide transit service in the Denver region through the Regional Transportation District Act. RTD is a political subdivision of the state and must follow provisions included in the Act and other state statutes. The Finance Subcommittee has had conversations around statutory recommendations for the Colorado General Assembly to consider during the 2021 legislative session. Mr. Bridges suggested to the committee that section 32-9-119.9 (Limited authority to charge fees for parking - reserved parking spaces) of the act be removed entirely. Co-chair Jones suggested that there should not be a set percentage regarding services provided by qualified private businesses (32-9-119.5). Co-chair Murillo suggested that there needs to be language added that specifically targets affordability of transit services, not just affordable housing. The committee reviewed and discussed these concepts and suggestions and had an overall agreement that these will help refine and develop a final recommendation. Lynn Guissing stated that she would share the suggested revisions with the RTD Board for comment.

Governance Model Concept

Julie Duran-Mullica presented the current concept and future options to the committee. The Governance Subcommittee has engaged in a peer review of transit governance models from around the country. A concurrent theme from the subcommittee's discussions is the desire to enhance local community involvement in the RTD decision-making process. A [draft governance structure concept](#) was developed and presented to the full committee. The document was reviewed, discussed, and the full committee provided direction to the subcommittee's chair. Co-chair Jones strongly favored the option targeting the formation of subregional transit councils, with the caveat that we do not necessarily model LA Metro's concept but create a model that caters more specifically to the Denver metro-area. Deyanira Zavala suggested somehow creating a hybrid model between the two options that were presented but avoiding the beginning phases of only having government representatives as the members. Ms. Duran-Mullica stated it was important to realize these are only concepts and the subcommittee will need guidance and focus on how to make these concepts a reality.

ADMINISTRATIVE ITEMS

Member comment/Other matters

There were no other matters by members

Adjournment

The meeting adjourned at 9:59 a.m.

ATTACH B

To: Members of the RTD Accountability Committee

From: Douglas W. Rex, Executive Director
(303) 480-6701 or drex@drcoog.org

Meeting Date	Agenda Category	Agenda Item #
December 14, 2020	Action	6

SUBJECT

Legislative recommendations

PROPOSED ACTION/RECOMMENDATIONS

Approve the legislative recommendations to be submitted to the Colorado General Assembly and Governor for their consideration.

ACTION BY OTHERS

N/A

SUMMARY

The RTD board, in collaboration with the Governor of Colorado and the transportation chairs of the General Assembly, created the independent RTD Accountability Committee. The Committee's mission is to provide feedback and a set of recommendations for improvement to the operations of and statutes related to RTD, to the board and staff of the RTD, the Governor, the General Assembly, and the public.

The Committee was given the option to issue a preliminary report to RTD, the Governor, and the General Assembly at the end of 2020. The timing of this report provides an opportunity to recommend legislative changes that can be enacted on in the 2021 Legislative Session. Committee members have drafted a set of recommendations for the full Committee to consider. These recommendations are focused on statutory restrictions that, if modified or deleted, have the potential to provide RTD with greater flexibility and opportunity to improve its finances and/or ridership. Per Committee policy, an equity assessment of these recommendations will be provided prior to the December 14th meeting.

PREVIOUS DISCUSSIONS/ACTIONS

N/A

PROPOSED MOTION

Approve the legislative recommendations to be submitted to the General Assembly and Governor for their consideration.

ATTACHMENT

Legislative Recommendations

ADDITIONAL INFORMATION

If you need additional information, please contact Douglas W. Rex, Executive Director, at drex@drcoog.org or (303) 480-6701; or Ron Papsdorf, Transportation Planning and Operations Director, at 303-480-6747 or rpapsdorf@drcoog.org.

Potential Legislative Changes to RTD Statutes

When the Governor and the Legislature established the RTD Accountability Committee (RTD AC), we were tasked with providing recommendations for improvement to the operations of and statutes related to RTD. Key among the Committee's assignments was examining how RTD can better serve its riders, expand ridership and achieve financial stability and growth while still meeting its core mission. Since then, the emergence of the COVID-19 pandemic has resulted in a 60% reduction in ridership and a major decline in current and projected sales and use tax revenue, further exacerbating RTD's unsustainable financial situation.

As the RTD AC explores potential recommendations for improvement, we have determined that some of the suggestions we may want to propose for RTD would be blocked by the language of Colorado statutes (Title 32, Article 9) first put in place when RTD was founded over 50 years ago and amended periodically thereafter.

In particular, we have identified several statutory restrictions that, if modified or deleted, have the potential to provide RTD with greater flexibility and opportunity to improve its finances and/or ridership. We acknowledge up front, however, that such changes aren't silver bullets and their impact while positive is likely to be modest. Nonetheless, if the Denver metro area is to have the world-class transit system it deserves, we will collectively need to pursue a whole range of improvements that maximize flexibility and innovation at RTD.

1. CRS 32-9-119.7 Farebox recovery ratios – plans

This provision requires that 30% of RTD's operating costs be funded by revenues collected (all non-sales tax revenue generated through the operation and maintenance of the mass transit system, except ADA services). While this provision doesn't appear to provide a current limitation on RTD, it would be in the future if RTD wanted the opportunity to significantly decrease fares as a way to restore ridership lost in the COVID-19 pandemic, expand ridership beyond pre-pandemic levels or improve the equity of mobility services.

One of the specific charges to the RTD AC was "A review of the district's plans for how to expand ridership." RTD's systemwide ridership had already been declining in recent years when the COVID-19 crisis resulted in a dramatic reduction in ridership on existing routes and the complete elimination of some other service as well. Recovery and expansion of ridership will necessitate flexibility to consider some "out of the box" measures to regain lost riders and attract new riders. Additionally, equity considerations for transit-reliant populations, especially low-income households, is a major focus for the RTD AC; ensuring transit affordability through an analysis of fare levels will also be a critical component of our work.

There are many potential examples of how maximum fare flexibility could be beneficial. RTD could offer a free month transit pass to people in the District who are immunized against COVID-19 as a way to simultaneously defeat the virus and rebuild pandemic-impacted ridership. Other transit agencies around the country, and several local governments in the RTD service area, are experimenting with low-fare or fare-free transit to attract new riders or bring former customers back. RTD needs the flexibility to explore options around fares and incentive programs to recover from the damage done by COVID-19 and to expand ridership beyond pre-COVID-19 levels. A \$6B rail system that carries a quarter of the passengers it carried in 2019 is a poor return on taxpayers' investment. This must be rectified.

The goal of mass transit should be to provide the most rides for the most people at the lowest total cost. Farebox recovery ratios fail to tell the whole story. A better and simpler measure of return on investment is the system's operating cost divided by total ridership. RTD needs to focus on delivering the greatest value for our infrastructure investment. The more people we carry on mass transit, the less we will suffer from congestion and the less we will pollute our air.

Proposed edits:

CRS 32-9-119.7 Cost efficiency of transit services provided – Maximizing ridership

(1) The general assembly hereby finds and declares that surface transportation in the Denver metropolitan area is a major problem confronting not only the citizens of the metropolitan area but also the citizens of the entire state of Colorado. The general assembly further finds that, although mass transportation is one component of an effective surface transportation system, the allocation of resources to mass transportation must be made in light of all surface transportation needs. The general assembly further finds that the district should be organized efficiently, economically, and on a demand-responsive basis and that the district should consider least-cost alternatives in discharging its responsibilities. ~~The general assembly further finds that the farebox recovery ratio of the district must be improved so that resources once allocated for mass transportation can be made available for other surface transportation needs.~~

(2) For the purposes of this section, "operating costs" means all expenditures, including depreciation, except for those incurred in long-term planning and development of mass transportation and rapid transit infrastructures and those costs incurred as a result of providing transportation service mandated by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 through 12213.

(3) The district shall provide in its financial reporting operating cost, ridership, and operating costs divided by ridership as measures of the cost efficiency of services provided.

~~*(d) For the fiscal year 1993 and each fiscal year thereafter, thirty percent.*~~

2. CRS 32-9-119.8 Provision of retail and commercial goods and services at district transfer facilities – residential and other uses at district transfer facilities permitted – definitions

RTD may negotiate and enter into agreements with other entities to provide retail and commercial goods and services to the public or provide housing at its transit stations and park-n-rides, but cannot provide retail and commercial goods and services itself, except for transit-related transactions. There are restrictions on such uses, however: the use may not reduce transit services, reduce the availability of adequate parking for the public, or, for uses involving the provision of retail or commercial goods or services, result in a competitive disadvantage to a private business near the facility providing similar goods or services. In addition, retail and commercial goods and services or residential uses at RTD facilities must be designed to offer convenience to transit customers and be conducted in a manner that encourages multimodal access from all users.

RTD-owned land and facilities are valuable transit-oriented development assets and can play a beneficial role in generating additional revenues and increasing use of the transit system. Eliminating restrictions related to parking and business competition could further enhance equitable Transit-Oriented Development (TOD) on RTD properties and allow RTD to derive more revenue from the use of its properties.

Specifically, 32-9-119.8(4) contains overly broad language that invites litigation from surrounding businesses “reasonably near a transfer facility.” Furthermore, 32-9-119.8(5) may prevent RTD’s ability to encourage development of affordable, transit-focused residences due to restrictions on allowable parking ratios. For example, according to a study by Seth Goodman and others, the median two-bedroom US city code requirement of 1.5 parking spaces consumes more than half the area of a typical two-bedroom apartment and adds \$375 per month in rent. This unnecessary parking requirement puts the development of transit-focused residences at a significant financial disadvantage and makes no sense for residents who rely on transit for mobility rather than personal vehicles.

Proposed edits:

(4) The use of a transfer facility for the provision of retail or commercial goods or services or for the provision of residential uses or other uses shall not be permitted if the use would reduce transit services, ~~would reduce the availability of adequate parking for the public, or, for uses involving the provision of retail or commercial goods or services, would result in a competitive disadvantage to a private business reasonably near a transfer facility engaging in the sale of similar goods or services.~~ The provision of retail and commercial goods and services or the provision of residential uses or other uses at transfer facilities shall be designed to offer convenience to transit customers and shall be conducted in a manner that encourages multimodal access from all users.

(5) Any development of any portion of a transfer facility made available by the district for the provision of retail or commercial goods or services or for the provision of residential uses or other uses shall be subject to all applicable local zoning ordinances, except for parking requirements, which will be established by RTD. RTD may also at its option charge fees for parking at district parking facilities.

3. 32-9-119.9 Limited authority to charge fees for parking – reserved parking spaces – penalties – definitions

RTD has spent millions of dollars providing structured park-n-ride parking garages and surface parking lots throughout its system but is restricted from requiring in-district residents to pay to park, unless they park for more than 24 hours. This Section limits the flexibility of RTD to manage the parking facilities that RTD has built and is seen as unnecessarily restrictive at a time when RTD faces a financial crisis. Removing this restriction would provide RTD with the ability to generate some revenues from parking if it so desired – although it would be important to not depress ridership by charging too much – and/or to use parking revenues to decrease fares, which could yield equity benefits and enhance ridership. Having more flexibility with regards to parking would also allow RTD to use parking spots and subsidies to

incentivize desired outcomes, e.g., giving electric vehicle drivers, carpoolers, and vulnerable populations cheaper parking or parking spots closer to the platform.

Proposed edit: [We recommend deletion of the entire section 32-9-119.9](#). Note that RTD's option to charge fees for parking is now established in 32-9-119.8(5), but otherwise, management of RTD parking facilities is left to RTD.

4. CRS 32-9-119.5 Competition to provide vehicular service within the regional transportation district

RTD is allowed to implement a system under which up to 58% of the district's vehicular service is provided by qualified private businesses. Statute sets out the processes and parameters for these privately provided services.

Ideally, RTD would use qualified service providers to provide transit service when that is the most cost-effective option, assuming quality of service and safety are assured. Expanding this provision to include non-profit and local government service providers could be beneficial by increasing the pool of alternative cost-effective providers.

Proposed edits:

(1) The general assembly hereby finds, determines, and declares that: Public transportation services are provided to assist the transit-dependent and the poor, to relieve congestion, and to minimize automotive pollution; public transportation service should be provided at the lowest possible cost consistent with desired service and safety; private transportation providers have been effectively used under competitive contracts to provide public transportation services at lower costs and with lower annual cost increases; obtaining cost-competitive public transportation services requires the establishment of a mechanism for competitive contracting; facilities and vehicles purchased for public transportation service are public assets which are held in the public trust; contracting for services has historically provided opportunities for minority, women, and disadvantaged business enterprises; and it is the intent of the general assembly that disadvantaged business enterprises, as defined in part 23 of title 49 of the code of federal regulations, as amended, shall have the maximum opportunity to participate in the performance of contracts.

(2) (a) The district may implement a system under which up to fifty-eight percent of the district's vehicular service is provided by qualified private businesses, non-profit organizations, or local governments, pursuant to competitively negotiated contracts.

(XI) No provision specifying wages, benefits, work rules, work conditions, or union organization of the employees of the provider beyond compliance with applicable regulation and law, including compliance with the "Federal Transit Act", 49 U.S.C. sec. 5333(b).

(3) (a) (I) Subject to the requirements of the "Federal Transit Act", as amended, the district may request proposals from private providers to provide up to fifty-eight percent of all of the vehicular service of the district as measured by vehicle hours or vehicle hour equivalents. The district's decision as to which vehicular services are subject to requests for proposals must represent the district's total vehicular service operations; except that each individual request for proposals may designate one type of vehicular service.

Service provided by private businesses, non-profit organizations, or local governments, pursuant to this section shall be accomplished through attrition of the district's full-time employees. Layoffs shall not occur solely as a result of the implementation of this section. If the director of the division of labor standards and statistics in the department of labor and employment orders an arbitration pursuant to section 8-3-113 (3), C.R.S., the arbitrator shall not have the power to establish a level of vehicular service to be provided by private businesses, non-profit organizations, or local governments, in accordance with this section.

ATTACH C

To: Members of the RTD Accountability Committee

From: Douglas W. Rex, Executive Director
(303) 480-6701 or drex@drcog.org

Meeting Date	Agenda Category	Agenda Item #
December 14, 2020	Discussion	7

SUBJECT

Preliminary Report Outline

PROPOSED ACTION/RECOMMENDATIONS

N/A

ACTION BY OTHERS

N/A

SUMMARY

The RTD Accountability Committee intends to issue a preliminary report as provided for in the Accountability Committee agreement. The preliminary report will document any formal recommendations to date. The preliminary report will also summarize the Committee's work so far, identify issue areas it is exploring, and preview the work ahead.

Staff have developed an outline for the preliminary report and will seek input from the committee. Staff will finalize the report's content and prepare a draft for review by the subcommittees and full committee. The preliminary report is anticipated to be adopted by the Accountability Committee at its January 11, 2021 meeting.

PREVIOUS DISCUSSIONS/ACTIONS

N/A

PROPOSED MOTION

N/A

ATTACHMENT

Preliminary Report Outline-Draft

ADDITIONAL INFORMATION

If you need additional information, please contact Douglas W. Rex, Executive Director, at drex@drcog.org or (303) 480-6701; or Matthew Helfant, Senior Transportation Planner, at 303-480-6731 or mhelfant@drcog.org.

RTD Accountability Committee – Preliminary Report – Outline

1. Cover Page
2. Membership
3. Summary
4. Background
 - a. Creation
 - b. Duties
5. Initial Activities
 - a. Operating Protocols
 - b. Equity
 - c. Subcommittees
 - d. Focus Areas
 - e. Consultant
6. Summary of Investigations/Issues
 - a. Governance Subcommittee
 - b. Operations Subcommittee
 - c. Finance Subcommittee
7. Initial Legislative Recommendations

ATTACH D

To: Members of the RTD Accountability Committee

From: Douglas W. Rex, Executive Director
(303) 480-6701 or drex@drcog.org

Meeting Date	Agenda Category	Agenda Item #
December 14, 2020	Discussion	8

SUBJECT

CARES Act Discussion

PROPOSED ACTION/RECOMMENDATIONS

N/A

ACTION BY OTHERS

N/A

SUMMARY

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by Congress and signed into law by President Trump on March 27th, 2020. This over \$2 trillion economic relief package provides direct economic assistance for several facets of the American economy.

The package included \$25 billion in direct relief for transit agencies to help them prevent, prepare for, and respond to the COVID-19 pandemic. RTD received an award of approximately \$232 million. One of the items this Committee was tasked with is a review of recent financials from the district, including any recent audits and a thorough review of the agency's use of CARES Act stimulus funds.

The RTD Accountability Committee consultant, North Highland, was asked to review RTD's CARES Act expenditures. This review included examination of documents and interviewing key RTD staff. North Highland will provide a briefing at the December 14 Committee meeting.

PREVIOUS DISCUSSIONS/ACTIONS

N/A

PROPOSED MOTION

N/A

ATTACHMENT

N/A

ADDITIONAL INFORMATION

If you need additional information, please contact Douglas W. Rex, Executive Director, at drex@drcog.org or (303) 480-6701; or Matthew Helfant, Senior Transportation Planner, at 303-480-6731 or mhelfant@drcog.org or Tanya Eydelman, North Highland, at tanya.eydelman@northhighland.com.