



**Salem Area Mass Transit District  
BOARD OF DIRECTORS**

**August 23, 2018**

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and are available for viewing on the CCTV  
website at [www.cctvsalem.org](http://www.cctvsalem.org).



Salem Area Mass Transit District  
**BOARD OF DIRECTORS MEETING**

August 23, 2018  
Courthouse Square – Senator Hearing Room  
555 Court Street NE, Salem, Oregon 97301

**MINUTES**

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<b>PRESENT Board</b>	President Robert Krebs; Directors Colleen Busch, Steve Evans Marcia Kelley, Kathy Lincoln, Doug Rodgers and Jerry Thompson (by conference phone)
<b>Staff</b>	Allan Pollock, General Manager; David Trimble, Chief Operating Officer; Paula Dixon, Director of Administration; Al McCoy, Director of Finance/CFO; Steve Dickey, Director of Transportation Development; Patricia Feeny, Director of Communication; Chip Colby, Information Technology Manager; Michiel Majors, Safety & Loss Control Specialist; Roxanne Beltz, Trip Choice Program Coordinator; Jeremy Jorstad, Transit Planner I; Linda Galeazzi, Executive Assistant; Ben Fetherston, SAMTD Legal Counsel
<b>Guests</b>	Gregory S. Hathaway, attorney for Walmart, Hathaway Koback Connors LLP; Sarah Keady, Store Manager, South Commercial Walmart; Deborah Herron, Public Affairs and Government Relations, Walmart, Portland; Katya Goloviznina, Community Liaison, Salem Chamber of Commerce

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- A. CALL TO ORDER AND NOTE OF ATTENDANCE 6:36 PM**  
President Krebs called the meeting to order and a quorum was present.
- B. PLEDGE OF ALLEGIANCE** led by Vice President Steve Evans
- C. ANNOUNCEMENTS AND CHANGES TO THE AGENDA**  
Mr. Pollock shared a “Safety Moment” Thought for the Day with school back in session. He reminded people to slow down to 25 m.p.h. in the school zone and watch out for children crossing the road.  
  
Director Rodgers shared that when people talk with you about your health; it is wise to listen and be proactive; not reactive.
- D. PRESENTATION – PBJ Healthiest Employers of Oregon**  
Safety & Loss Control Specialist, Michiel Majors presented the Board with an award that was given to the District’s Wellness Committee at the Portland Business Journal’s Healthiest Employers of Oregon Recognition Luncheon. The District placed



eighth in a category of companies with under 500 employees. The Healthiest Employers Award recognizes companies that make wellness a reality for their employees and bottom lines.

**E. PUBLIC COMMENT**

**Greg Hathaway** – Attorney for Walmart Properties in Oregon - Address on File  
Mr. Hathaway, spoke about Walmart’s concerns with the South Salem Transit Center project (SSTC) that is proposed to be constructed on the southeast area of the Walmart parking lot. He noted the decision made by the Board of Directors at the April 26, 2018 meeting with the adoption of Resolution No. 2018-02 to authorize Salem Area Mass Transit District to acquire by purchase or by the exercise of the power of eminent domain certain real property necessary for construction of the SSTC project. Mr. Hathaway was at that meeting and had spoken against the project prior to the action taken. Mr. Hathaway presented a letter to the Board regarding the South Salem Transit Center, dated August 23, 2018 that will be entered into the record. [Herein given as Attachment A and by this reference made a part of these Minutes.]

**Sarah Keady** – Manager of the South Commercial Walmart - Address on File  
Ms. Keady has been with the company for 18 years and manages 218 employees. She spoke about the significant upgrades being made at the South Commercial Walmart with a remodel and new brand. She was concerned that the SSTC will take parking away from their customers.

**Deborah Herron** - Public Affairs and Government Relations, Walmart, Portland  
Ms. Herron recommended that the Board put a hold on the SSTC project. She wished to have a dialogue to see how Walmart and the District could partner.

President Krebs said the District was interested in making this a win-win situation.

**F. CONSENT CALENDAR**

**6:32 PM**

Motion:

**2. Approval of Minutes**

**a. Minutes of the July 26, 2018 Board Work Session**

**b. Minutes of the July 26, 2018 Board Meeting**

**2. Routine Business**

**a. Appointment of Sandra Hernandez-Lomeli to the Statewide Transportation Improvement Fund Advisory Committee**

Motion by:

**Director Marcia Kelley**



**Second:** Director Steve Evans  
**Discussion:** No items were deferred from the Consent Calendar.  
**Vote:** Motion passed (6) / Absent (1)

**G. Items Deferred From The Consent Calendar - None**

**H. ACTION ITEMS**

**1. Adoption of the Revised Strategic Plan 6:50 PM**

**Staff report:** Supplemental Agenda  
**Presenter:** Patricia Feeny, Director of Communication

Ms. Feeny described the process for updating the Strategic Plan beginning in February 2017 at the Board Retreat. She reviewed the final changes that were made to the Strategic Plan at the August 13, 2018 work session.

Director Lincoln stated that she hopes the newest version of the Strategic Plan gets out into the community. She felt it had a lot of good information. Director Busch agreed, stating that the Plan was thorough.

**Motion:** Moved to adopt the revised Strategic Plan.

**Motion by:** Director Steve Evans  
**Second:** Director Jerry Thompson  
**Vote:** Motion passed (6) / Absent (1)

**2. Approve the STIFAC Appointments for Chair and Vice-Chair 6:54 PM**

**Staff report:** Pages 17-18 of the agenda  
**Presenter:** Allan Pollock, General Manager  
**Motion:** Moved to appoint Jim Seymour as Chair, and Becky Gilliam as Vice-Chair of the District's Statewide Transportation Improvement Fund Advisory Committee for a term ending on June 30, 2019.  
**Motion by:** Director Colleen Busch  
**Second:** Director Kathy Lincoln  
**Vote:** Motion passed (6) / Absent (1)

**I. INFORMATION ITEMS 6:56 PM**

**Trip Choice - Fourth Quarter**

**Staff report:** Pages 19-24 of the agenda  
**Presenter:** Roxanne Beltz, Trip Choice Program Coordinator



Ms. Beltz reported that staff published several new pieces of marketing materials, finalized the State Street/SESNA Wander Walks map, published the second *Navigator* newsletter, and attended over 20 outreach events, fairs, and community meetings.

**September Service Change Briefing**

**7:03PM**

**Staff report:** Pages 25-26 of the agenda

**Presenter:** Jeremy Jorstad, Transit Planner I

Mr. Jorstad reviewed the service changes that will be implemented on Tuesday, September 4, 2018. There will be a new bay on the south side of Satter Drive NE near the intersection with Cooley Drive in order to help facilitate transfers at Chemeketa Community College. Routes 3, 12, and 13 will be rerouted to serve this bay. A few routes in southeast Salem will be modified to provide more frequent service to some corridors. These routes include Route 11/Lancaster-Verda, Route 24/State-Lancaster, Route 4/State Street, Route 7/Mission Street and Route 6/Fairview Industrial. These service changes will increase daily Revenue Hours by 13.1 and 135.6 Revenue Miles for an annualized increase of \$332,728.40. This increase was included in the adopted FY19 Budget.

**Performance – Fourth Quarter**

**7:05 PM**

**Staff report:** Pages 27-40 of the agenda

**Presenter:** Jeremy Jorstad, Transit Planner I

The Board receive a quarterly performance briefing on Cherrriots services for the fourth quarter of FY18 that began April 1, 2018 and ended June 30, 2018. All data is compared to the previous fiscal year. The data for these measures are derived from adjusted Trapeze schedules, vehicle fareboxes, rider counting systems, and reservation software (RouteMatch and Mobility DR).

**Receive and Review the Board of Directors Best Practices Self-Assessment**

**7:13 PM**

**Staff report:** Pages 41-48 of the agenda

**Presenter:** Paula Dixon, Director of Administration

Ms. Dixon reported that Rob Mills, Consultant with Special Districts Association of Oregon, led the Board in a 90-minute on-site meeting to conduct a Board Practices Assessment (BPA) at the August 13, 2018 Work Session to help the Board improve their effectiveness in six Key Performance Areas that make the difference between high risk and low risk districts. The Board received a follow-up summary of the Board's self-assessment along with the facilitator's notes from the meeting and



recommendations for improvement. No specific recommendations surfaced in the Assessment process and no specific consultant recommendations were offered at this time. The assessment is a consulting service offered by SDAO at no charge and qualifies the District for a 4% insurance premium credit.

**J. GENERAL MANAGER'S REPORT 7:16 PM**

Mr. Pollock reported that he had been on vacation in Park City, Utah where he rode the new Proterra electric buses. Mr. Pollock also serves on the American Public Transportation Association Board of Directors and has been nominated to serve on the Executive Committee.

**K. BOARD OF DIRECTORS REPORTS 7:17 PM**

Board members reported, both verbally and in writing, on citizen communications, committee and meeting participation, and special projects they were involved in during the month of August as a representative of the District. A list of Board assignments is on page 49 of the agenda.

**L. MEETING ADJOURNED 7:34 PM**

Respectfully submitted,

A handwritten signature in cursive script that reads 'Robert Krebs'.

Robert Krebs, President



HATHAWAY LARSON

Koback · Connors · Heth

August 23, 2018

HAND DELIEVERED

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Cherriots Board of Directors  
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Salem, OR 97301

Re: South Salem Transit Center/Walmart Store

Dear President Krebs and members of the Board,

As you know, I represent Walmart regarding your District's interest in acquiring property from Walmart for the South Salem Transit Center. The Walmart Store is located at 5252 Commercial Street SE and has been open for the past 26 years.

The South Salem Walmart Store has a strong community following and coordinates the "shop with a cop" day every year with the City of Salem Police Department. It has recently been remodeled (in and outside the store) and new LED lighting has been installed in the parking lot.

Gregory S. Hathaway  
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On April 26, 2018, your Board adopted Resolution No. 2018-02 authorizing the Transit District to acquire a portion of the Walmart property for the Transit Center by Eminent Domain. On July 31, 2018, your attorney sent Walmart (copy to me) the District's statutory 40-day offer letter to acquire the property. Your attorney advised that he would commence condemnation proceedings in Marion County Circuit Court if Walmart did not accept the offer within 40 days of the letter (September 9, 2018).

I appeared before your Board last April expressing concern that the District's proposed acquisition would adversely impact Walmart. The proposed acquisition will eliminate 144 prime parking spaces, and perhaps more, that will devastate Walmart's business at this location. As you might assume, the amount and location of parking at a large retail store like this is critical to the economic success of the store. As a result, I requested your Board to reconsider its decision to pursue the Walmart property for the Transit Center.

I also requested your Board (at a minimum) to suspend the process of acquiring the Walmart property until all of us had more information regarding this potential taking. As you may recall, I mentioned that I'd attempted to acquire certain documents from your staff that would better inform Walmart regarding this project:

(1) Whether the District had conducted a public process regarding the evaluation of alternative sites and the opportunity for Walmart and the community to participate in the selection process;

(2) Whether the City of Salem Planning Department had advised the Transit District of the land use permits the District would have to acquire before it could build a Transit Center on the Walmart property;

(3) Whether the loss of 144 prime parking spaces and the alteration of the Walmart site would require the City to approve modifications to Walmart's previously approved site plan; and



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(4) Whether the Transit District had commissioned a transportation impact assessment to evaluate the transportation impacts of the proposed Transit Center on the traveling public, Walmart's customers and its delivery trucks.

Your Board committed to working with me to acquire this information at your April meeting.

While your staff has provided me some information, none of this information addressed the aforementioned four items. On August 2<sup>nd</sup>, I filed a public records request with your Director of Administration to get all of the District's documents regarding the South Salem Transit Center. Yesterday, your attorney provided me a USB drive with 50.7 GB of the District's electronic files – which is extensive – containing 1,120 files and 73 folders of information. I have not had an opportunity to review this information. It is my understanding that the District still intends to provide me with "paper" documents as well.

Based on the information received so far, my conversations with the City of Salem, and our preliminary review of the Transit District's Appraisal Report, we can make the following conclusions that support our position that the Board's attempt to acquire Walmart's property by Eminent Domain is "Premature":

(1) There is no indication that your Board conducted any kind of public or community process regarding your site selection process;

(2) The City of Salem will require the Transit District to acquire a Conditional Use Permit for its proposed South Salem Transit Center. The City characterizes the proposed Transit Center as a "Passenger Ground Transportation Facility". As such, a public hearing will be required and the Transit District will be required to submit a Transportation Impact Assessment;

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(3) Any decision by the City can be appealed to the Land Use Board of Appeals, the Oregon Court of Appeals and potentially the Oregon Supreme Court. There are no guarantees that the City will approve a Conditional Use permit for the South Salem Transit Center on Walmart's property – and any final decision could take years;

(4) The City also advised that Walmart's approved site plan for its store will also require land use approval from the City. The City will require that the Transit District's Conditional Use Application be consolidated with a request to modify Walmart's site plan. The City was concerned that the site may not be able to meet the minimum parking requirements with the loss of 144 parking stalls;

(5) The City advised that the Transit District had not prepared a Transportation Impact Assessment, but would be required to submit one for the Conditional Use Application; and

(6) Our preliminary review of the Transit District's Appraisal is that it is significantly flawed and underestimates the value of the taking by as much as 100% or more. We have retained an appraiser and will share our position with your attorney once we've concluded our review.

Based on the foregoing, it is apparent that the Transit District is not in a position to proceed with Eminent Domain and spend public dollars on a project that may never be allowed on Walmart's property. Your Board should not authorize the acquisition and expenditure of public funds of the Walmart property before the Transit District has final land use approval from the City of Salem authorizing the Transit Center.

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We respectfully request your Board to either reconsider taking Walmart's property for the Transit Center, or suspend these proceedings until the City of Salem has authorized the use and approved the modifications to Walmart's site plan.

Thank you for your consideration.

Very truly yours,

HATHAWAY LARSON LLP

A handwritten signature in black ink, reading "Gregory S. Hathaway". The signature is written in a cursive style with a long horizontal flourish at the end.

Gregory S. Hathaway

GSH/mo

cc: Ben Fetherston, Esq. (Hand Delivered)  
Wal-Mart Legal