



The COMET Executive Committee Meeting minutes are prepared and presented in summary form. An audio recording of the meetings are on file at The COMET and are part of the approved minutes. If you would like to hear the recording from the meeting, please contact Paige Jernigan at cometadmin@thecometsc.gov.

Per SC Code of Laws, Title 30, Chapter 4, Section 30-4-80 - All public bodies shall notify persons or organizations, local news media, or such other news media as may request notification of the times, dates, places, and agenda of all public meetings, whether scheduled, rescheduled, or called, and the efforts made to comply with this requirement must be noted in the minutes of the meetings. The COMET complied with the notification of this meeting on Tuesday, June 30, 2020 at 3:15 p.m.

The Central Midlands Regional Transit Authority
Executive Committee Meeting Minutes
Thursday, July 2, 2020 at 12:00 P.M
3613 Lucius Road, Columbia, SC 29201 – Teleconference

Members Present:

Ron Anderson, Chair*
John V. Furgess, Sr.*
Col. (R) Rogers Leaks, Jr.*
Dr. Robert Morris*
Andy Smith*

Guests Present:

Pam Baker, Burr & Forman Law Firm*
Frannie Heizer, Burr & Forman Law Firm*

Absent Board Members:

None

**Indicates participation by phone.*

The COMET Staff Present

John Andoh, Executive Director/CEO
Paige Jernigan, Administrative & Customer Service Specialist

1. CALL TO ORDER
Mr. Anderson called the meeting to order at 12:15 P.M.
2. DETERMINATION OF QUORUM
A quorum was determined at 12:15 P.M.
3. ADOPTION OF THE AGENDA



Motion:

A motion was made by Mr. Smith and seconded by Col. Leaks to adopt the agenda.

Yay: Anderson*, Furgess, *Leaks*, Morris*, Smith*

Nay: None

Absent: None

Motion passed.

4. ADOPT MINUTES FROM the June 2, 2020 MEETING

Motion:

A motion was made by Dr. Morris and seconded by Col. Leaks to adopt the minutes from the June 2, 2020 meeting.

Yay: Anderson*, Furgess*, Leaks*, Morris*, Smith*

Nay: None

Absent: None

Motion passed.

5. MATTERS REFERRED FROM THE BOARD OF DIRECTORS

- Discuss Previous Motions from March 2017 to Present

Mr. Anderson reviewed the motions on Page 10.

- Investigate Contract by Legal Counsel
- Discuss Employee at the July 2020 Board of Directors Meeting - Will be discussed at the July 29, 2020 Board of Directors Meeting.

6. DISCUSSION (Frannie Heizer and John Andoh)

A. Discussion of Intergovernmental Agreement

Attorney Heizer referred to the two (2) memos that are in the Packet, Page 17 and Page 91. She explained the legal basis as communities get service. She explained that each political subdivision that is a member of the Authority must have at least one (1) voting position on the Board.

She explained after federal law change in 2015, the federal funding could be used for operations. Prior to the change could only be used for capital including preventative maintenance, not operating expenses. She continued stating that the amount of money that comes to the Authority from the feds is based on the population of Richland and Lexington county.

Lexington County has determined that because the Authority receives federal funding on their behalf, they deserve more service in that area and a seat on the Board. She added that the service in Lexington County now is being funded by federal money with the local



match coming from the local government. She added that the reason for the discussion is in case Lexington County decides to apply their dollars towards something else.

Process:

The Authority must approve the request or the amended agreement, then local government that represents 90% of the population of the service area. As result, this will go to Richland, Columbia and Lexington Councils.

Mr. Furgess questioned why this did not go to the political subdivisions first? Attorney Heizer explained that the Board needs to approve the document and then move forward. She added that she felt like this should go to the Board first.

Col. Leaks wanted clarification of membership and how do we know who are members? Attorney Heizer explained that Lexington County is a member but none of the cities in Lexington are members at this time. She specified that regarding the membership application form, the letter submitted would be suffice as there is no actual form to be completed. She confirmed no one is a member unless the Board approves and the political subdivision votes "yes." She added that this is the beginning of this process. Discussion ensued regarding the application process.

The Committee agreed to have Attorney Heizer to investigate the information further.

Dr. Morris expressed concern of the percentage of funding Lexington County is paying, less than one percent, versus the number of seats on the Board. Mr. Anderson explained that he suggests setting a Lexington/Richland ratio. He added as the service ebbs and flows, we should write a provision to balance the ratios based on the population division. He added that essentially, you must pay to be on the Board. Discussion continued regarding eligible towns and membership.

Mr. Andoh confirmed that the funding received from Lexington County is \$2.5 million in federal funding and \$220 thousand in state funding. Dr. Morris requested further investigation regarding the funding. He suggested a second legal opinion to remain neutral. It was discussed and Dr. Morris suggested going to the Attorney General.

Dr. Morris asked about the Council of Governments (COG) role in this process. Attorney Heizer explained that the Council of Governments (COG) has never determined who would be on the Board. She confirmed that Council of Governments (COG) cannot be excluded. Attorney Heizer explained the next step would be Board approval of the amendment. She added that then Richland County and City of Columbia would also have to approve. Dr. Morris suggested getting them involved before any decisions are made.



Mr. Furgess expressed concern regarding the Penny referendum funding being excluded in the determination of the transit system. Mr. Anderson explained the state law, the state enabling legislation. Mr. Furgess reminded that the enabling legislation says nothing regarding the Penny referendum for a regional system.

Mr. Andoh stated that per the Intergovernmental Agreement Section 5.02 that we are supposed to negotiate every year with Lexington County for funding. He explained that he visited Lexington County to negotiate to be sure they were paying their share of the funding per the Board's request. As result, Richland Penny does not subsidize service in Lexington County. It was explained that less than 1% of the funding is reflective of less than 1% of the bus service. Discussion continued regarding the process of delivering a response.

Motion:

A motion was made by Mr. Furgess and seconded by Dr. Morris to recommend to the Board to send the recommendations and requests in the form of the letter to follow up with the principal parties of the Intergovernmental Agreement.

Yay: Furgess, *Leaks*, Morris*, Smith*

Nay: Anderson*

Absent: None

Motion passed.

Motion:

A motion was made by Mr. Anderson and seconded by Dr. Morris to direct legal counsel to get Attorney General's opinion on two questions:

- 1) Can the Richland Penny funds be used for providing transportation in Lexington County?
- 2) Is there any way that size of their contribution matters with respect to whether they get a voting seat?

Col. Leaks suggested asking the Attorney General about the membership process.

Mr. Anderson amended the motion to state:

Motion:

A motion was made by Mr. Anderson and seconded Dr. Morris to direct legal counsel to get Attorney General's opinion on three (3) questions:

- 1) Can the Penny tax funds be used for providing transportation in Lexington County?
- 2) If a municipality qualifies for membership is there any way that their participation on the Board commensurate with their contribution?



3) What is the process for becoming a member in respect to the section of statute that was being referred to in the application?

Yay: Anderson*Furgess, *Leaks*, Morris*, Smith*

Nay: None

Absent: None

Motion passed.

B. Discussion of Transit Operations Contracting

Attorney Baker explained that this this topic is based on a motion that was made by Dr. Morris and seconded by Mr. Furgess requesting that we review:

(1) Whether the process was handled properly. She explained that she outlined the Committee meetings and the process in the memorandum she provided. She added that the language with the five percent (5%) cap was added to the final RFP improperly.

(2) Whether managers for the new contract were rejected prior to the contract being signed. Attorney Baker stated that an individual proposer had inappropriate conversations and was disqualified. She stated that decisions had been made regarding the rejection of managers prior to the contract being signed and before the last Board meeting. She confirmed that RATP Dev informed her that they had not rejected any staff from Transdev prior to the contract being signed for a management position. She did state that the contracting officer rejected some of their candidates.

(3) Whether the contract was signed before the last Board Meeting on May 27, 2020. She confirmed that the contract in fact was signed on May 29, 2020.

Mr. Furgess asked about the contracting officer rejecting key personnel. Attorney Baker stated that she has spoken with RATP Dev regarding the key personnel and their qualifications. Mr. Andoh stated that he has a spreadsheet of those who applied and who was considered if they were qualified.

Mr. Furgess inquired why the questions presented to the Board regarding Mr. Leo Auger and the one hundred and fifty (150) union hours were not mentioned in the memorandum. He wanted to know if Mr. Auger was aware of all the changes that were made. It was clarified that the copy that went to Mr. Auger did not contain the language regarding the union hours. Discussion ensued about the process and the Board authority.

Dr. Morris referred to the last paragraph in the hiring process section. He stated that Mr. Andoh rejected some of the candidates of the RATP Dev key personnel. His concern is that the



Executive Director can reject employees recommended by the contractor without Board approval.

Mr. Anderson stated that there are two (2) different processes. He added that there is a provision that if the contractor replaces key personnel, that staff would be considered interim for sixty (60) days and then the Board can reject that candidate. If no rejection, they are automatically accepted.

Mr. Anderson explained that the Board added a policy that when key personnel is replaced, the Board would like to see those candidates. He explained that the Committee did not incorporate this policy when the Request for Proposal was written. He continued that when the Request for Proposals was submitted, each proposer had candidates attached. Mr. Andoh went through and evaluated the candidates to see if they were a good fit. The intent was to have the Board review those candidates, but it was not made clear in the previous policy. Mr. Andoh then brought to the Service Committee the rejected and the replacement candidates for review.

Mr. Andoh confirmed that no one from Transdev applied in the Request for Proposal process because Transdev did not submit a Proposal. The Contracting Officer rejected RATP Dev's candidates, leaving RATP Dev to have to look to Transdev employees for replacement. Mr. Andoh confirmed that RATP Dev provided a list of who had applied for all positions and there were Transdev employees including key personnel, who applied for key positions.

Attorney Baker confirmed the date on the memorandum is incorrect. She said it should be dated July 1, 2020.

Mr. Anderson asked what else needs to be done. Dr. Morris stated that he wanted Attorney Baker to look at the candidate spreadsheet and see if they in fact applied. Mr. Anderson suggested they contact a percentage of the candidates on the spreadsheet for confirmation of contact by RATP Dev. Attorney Baker stated that RATP Dev will be providing her information regarding the hiring process.

7. ADJOURN

Motion:

A motion was made by Mr. Furgess and seconded by Col. Leaks to adjourn the Executive Committee meeting at 1:43 P.M.

Approved: Anderson*, Furgess*, Leaks*, Morris*, Smith*

Absent: None

Motion passed.



CENTRAL MIDLANDS REGIONAL TRANSIT AUTHORITY

Adopted this Aug., 2020, Agenda Item _____

Prepared by:


Paige Jernigan, Administrative & Customer Service Specialist

Approved by:


Andy Smith, Board Secretary

