

Clean Transit Enterprise

May 25, 2022

Regular Board Meeting – Wednesday, May 25, 2022, 1:00 pm – 3:00 pm, Virtual via Zoom Meeting

Video Recording: <https://www.youtube.com/watch?v=IRAsZ-rnbHg>

I. Roll Call (Kay Kelly) – Video Time: 00:07:31

- Board Members Present: Matt Frommer, Bonnie Trowbridge, Dawn Block, Cris Jones, David Averill, Theresa Takushi, Kelly Blynn, Richard Coffin, Mark Garcia
- Also Attending: Kay Kelly, Michael King, Brodie Ayers, Kathy Young, George Hypolite, Bethany Nicholas

II. Action Agenda (Chair Frommer) – Video Time: 00:08:41

- A motion by Chair Frommer to approve the meeting minutes from the April 12 CTE Board Meeting, seconded by Director Averill. Motion passed unanimously.
- A motion by Chair Frommer to approve the meeting minutes from the May 11 CTE 10 Year Plan Work Session, seconded by Director Takushi. Motion passed unanimously.

III. Working with Utilities on ZEV Planning (Brodie Ayers, Xcel Energy) – Video Time 00:18:15

- Xcel's Transportation Electrification Plan (TEP) was approved by the Public Utilities Commission in May 2020 and follows a three-year cycle.
- Xcel's Fleet Electrification Advisory Program (FEAP) provides fleets with free suitability assessment, data analysis and advisory services. The Electric Vehicle Supply Infrastructure Program (EVSU) provides no-cost advisory and turnkey services for fleet, workplace, community charging hubs and multifamily buildings. The EVSU funds can be combined with the Fleet Electrification Advisory Program, a no-cost data-driven assessment of EV fleet opportunities and charging infrastructure options to help build out the agencies' Electric Vehicle Transition Plan that 5339 applications are requiring. Fleets and workplaces can get a rebate of \$2,200 per Level 2 port and \$45,000 per DCFC through the Rebates for Income Qualified & High Emissions Communities (HEC/IQ).
- Electric Vehicle Supply Infrastructure (EVSU) for fleet charging should have its own meter to take advantage of EVSU Program rates for off-peak charging: \$0.11/kWh in the summer and \$0.01/kWh in the winter.
- Agencies will work with Xcel through an Electrical Vehicle Advisor. The process from engagement to implementation of electric charging takes approximately 3-6 months.
- Rural Electric Associations (REA) have funding through USDA for loans (0-5% interest rate) to pay for vehicle charging infrastructure.

Director Coffin: Regarding rebates for high emission communities, how are high emission communities defined?

Brodie Ayers: Xcel worked with the Public Utilities Commission during the development of the TEP to define high emission communities. It is based on census blocks meeting certain criteria. On a quarterly basis, you can petition to have your census block become part of the high emission community.

Chair Frommer: How are things going with RTDs 17 electric buses that are on order? Are the charger's part of the TEP funding?

Brodie Ayers: RTD has the buses and chargers on order. Xcel is working to get an agreement signed with RTD to build out chargers on RTD's facility on I-225 and Colfax. RTD procured the chargers on their own through an RFP, and the infrastructure going into that facility will be funded through the TEP funding.

Chair Frommer: There was a 2019 article from the Denver Post titled "RTDs Electric 16th Street Mall Buses Cost Nearly 60% More Than Diesel Coaches."

Brodie Ayers: That goes back to before the TEP, before Xcel had funding for infrastructure. Without that independent meter that charges what hits their overall commercial electricity rate. Now you have a much lower demand cost and cost per kWh.

Chair Frommer: Do you have a sense of electric buses' fuel cost per mile compared to diesel?

Brodie Ayers: You are seeing a 40% reduction in maintenance cost and a reduction in fuel cost. The Fleet Electric Advisory Program looks at the total cost over the life of the vehicle and total carbon reduction, to compare electric vehicles against diesel vehicles. That program is a great way to gather total cost and carbon reduction for federal funding applications.

Chair Frommer: When Xcel has some of the fleet analysis from the TEP, or has summarized that for the PUC, could you share that with this board?

Brodie Ayers: Yes, and the more transit vehicles we have the better the analysis will be.

IV. Update on Americans for Prosperity Lawsuit (George Hypolite, COAG) – Video Time 00:12:25

- The plaintiffs are asking SB 21-260 to be thrown out for violating Proposition 117 since the projected revenue of the Clean Transit Enterprise, Community Access Enterprise, Clean Fleet Enterprise, Bridge and Tunnel Enterprise, and the Non-attainment Area Air Pollution Mitigation Enterprise all combined reach over \$100 million threshold. They argue that if the enterprises do not violate Proposition 117 because they serve different purposes, SB260 would violate the single-subject constitutional prohibition. In addition, they claim that SB260 violates the single-subject rule because the legislature adjusted the TABOR Cap, which has nothing to do with the purpose of SB260. By creating these new enterprises, the legislature should have adapted the Referendum C TABOR cap down, or since the legislature adjusted the Tabor Cap up it is a violation of the single-subject rule.
- The state has not responded to the litigation. A team from the Attorney General's Office, Tax Protection Unit is assigned to this case. The team anticipated filing a responsive pleading (either an answer or motion to dismiss) by June 16th.

Kay Kelly: Will the board be having a closed session at our next meeting to discuss the lawsuit?

George Hypolite: After the state defendants file an affirmative pleading, we will understand more about our litigation strategy and can brief the board in more detail.

V. FY23 CTE Budget Proposal (Kay Kelly, CDOT) – Video Time 00:36:44

- CDOT's Division of Accounting and Finance (DAF) will provide budget support and fiscal oversight. We anticipate \$8,280,329 in total revenue for FY 2022-23 from the Clean Transit Retail Delivery Fee. Projected expenses include staff salaries to facilitate 50 awards per year and 6 meetings per year. Attorney General's Fee included costs related to the lawsuit and legal assistance to the board on day-to-day items. Professional service could include contracting with a vendor to develop the public accountability dashboard.

Richard Coffin: Is it possible to add funding for additional staff support?

Kay Kelly: Any budget we put forth is an estimate and there is room to adjust the budget throughout the year.

Bethany Nicholas: The board has the ability to amend the budget as they see fit.

- A motion by Chair Frommer to approve the proposed budget, seconded by Director Trowbridge. Motion passed unanimously.

VI. 10 Year Plan Discussion (Kay Kelly and Michael King, CDOT) – Video Time 00:51:30

- Since the first CTE Board Meeting on January 31, staff have held in-depth discussions on the CTE 10YP with 140 Transit Stakeholders, presented to 6 community meetings, and have received 37 survey responses and 2 written/emailed comments. Information from the Colorado Transit Zero Emission Vehicle Roadmap including background information on transit electrification barriers and opportunities was used to inform the 10 Year Plan.
- 2 CCR 607-1, Rules Governing Clean Transit Enterprise Processes and Fees was adopted by the board on April 12, 2022. The estimated revenue for this enterprise over the first 10 years is \$134,89,225. Although there are no project category funding caps in the 10 Year Plan, more funding for Planning and Facility Modification is expected to be provided in FY23-FY25 and more Vehicle and Infrastructure projects in future years (FY26-FY32).

Mark Garcia: Are the Contingency Reserve annual amounts? Could we have a total reserve listed in the revenue projection?

Kay Kelly: If we don't use the contingency reserve, it would be rolled into project funding for the next year.

Chair Frommer: From the Transit Zero Emission Vehicle Roadmap, the largest incremental cost was infrastructure, especially as we achieve price parity on the vehicle procurement side around 2027. In the later years, we will be spending more on the infrastructure side.

Kay Kelly: Estimates of program funding by category are based on the Transit ZEV Roadmap, but we do have the opportunity to refine this as we gain more experience.

- CTE's Funding Strategy (Video Time 01:16:00) will consist of grants, loans and rebates, focusing on grants in the early years. A weighted, multi-factor formula for scoring the projects will be developed by the CTE Board, CDOT staff and transit agency stakeholders prior to the first funding awards being made. Board will work with staff to develop specific minimum planning requirements that applicants must meet in order to be awarded funding for Facility Modifications, Vehicle Purchases and/or Charging or Fueling Infrastructure funding. Board will develop tiered match percentage requirements that account for the differing ability of transit agencies to contribute financially to projects.
- CTE will encourage the scrapping of the oldest and dirtiest in-service transit vehicles as a feature of all Vehicle acquisition programs. There is no required vehicle replacement ratio, vehicle-to-charger or vehicle-to-fueling station ratio.

- CTE Board will work with stakeholders to develop awardee data reporting requirements.
- CTE Funding Programs include planning, facilities modifications, vehicle acquisition, and charging/fueling infrastructure programs.
- Staff, board, and public comments: Charging/Fueling Programs updated to reflect that hydrogen is considered currently eligible, but there will be future offerings specifically for hydrogen vehicles and fueling infrastructure. Clearly stated that conversions and repowers are eligible under SB260. Revised the definition of Recovered Methane/RNG and guardrails to ensure 90% target is met. Potential for future vehicles/battery leasing and other innovative financing options were added.

VII. 10 Year Plan Finalization (Kay Kelly, Michael King) – Video Time 01:35:09

- A motion by Director Garcia to approve the proposed 10 Year Plan, seconded by Chair Frommer. Motion passed unanimously.

VIII. Future Meeting Cadence and Topics (Kay Kelly) – Video Time 01:50:18

- Monthly meeting cadence will need to continue through the summer, board meetings will shift to bi-monthly or quarterly cadence in the fall.

Chair Frommer: Are there any plans to put out a press release regarding the 10 Year Plan?

Kay Kelly: No current plans, but we will talk with the CDOT Office of Communications and report back.

IX. Adjournment (Matt Frommer) – Video 01:54:10

- Meeting Adjourned: 2:55 pm