



COLORADO

Department of Transportation

Clean Transit Enterprise Board

August 21, 2024



AGENDA

- Welcome and Roll Call (Chair Frommer)
- Public Comments
- Action Agenda (Chair Frommer)
 - DECISION ITEM: Approval of Minutes - 6/27/24 CTE Board Meeting
- Program Administrator Update (Kay Kelly, CDOT)
- Enterprise Financial Update (Kay Hruska and Sam Foster, CDOT)
 - DECISION ITEM: Approval of TC Loan amount for SB24-230 Start-up Costs
- CTE Capital Award Recommendations (Shilpa Kulkarni and Andy Geleske, CDOT)
 - DECISION ITEM: Approval of CTE Capital Awards
- Annual Board Member Best Practices Training (Kathy Young, COAG)
- Adjournment

Program Administrator Update

Kay Kelly, CDOT



Program Administrator Update

- CTE Capital Grant Award Recommendations!
- Spending Authority Request Submitted to OSPB on August 1, 2024
- Oil & Gas Production Fee Start Up Efforts
- [Colorado Charging and Fueling Infrastructure Grant Application](#) - Submit a Comment or Letter of Support by August 26, 2024
- ZEB Con - August 27-29 in Philadelphia

Enterprise Financial Update

Kay Hruska and Cassie Rutter, CDOT



CTE Accounting Update - Year-To Date Figures Through June 2024*

Fiscal Year 2023-24 Budget to Actual for Fund 540								
Clean Transit Enterprise								
Line Item		Approved Budget	Total Quarter 1	Total Quarter 2	Total Quarter 3	Total Quarter 4	Total	Remaining Funds
1	Fiscal Year Revenues							
2	Clean Transit Retail Delivery Fee	\$ 8,982,450	\$ 2,218,860	\$ 2,691,889	\$ 2,622,866	\$ 3,136,369	\$ 10,669,985	
3	Interest Revenue	-	54,580	99,763	134,588	215,110	504,041	
4	Total FY 2023-24- Revenue	\$ 8,982,450	\$ 2,273,440	\$ 540	\$ 2,757,454	\$ 3,351,479	\$ 11,174,026	
5	Fiscal Year Allocations							
6	Administration & Agency Operations							
7	Administration and Agency Operations							
8	Staff Salaries	\$ 275,895	\$ -	\$ 3,817	\$ 3,202	\$ 11,597	\$ 20,942	\$ 254,953
9	Attorney General Fees	1,000	387	507	200	427	1,520	(520)
10	Office of the State Audit-Annual Financial Audit	2,000	-	-	-	-	-	2,000
11	Professional Services	100,000	-	-	-	-	-	100,000
12	Language Translation Services	25,000	-	-	-	-	-	25,000
13	Board/Staff Travel	5,000	-	-	-	-	-	5,000
14	Board Meeting Expenses	600	-	-	-	-	-	600
15	Miscellaneous	1,000	-	-	-	-	-	1,000
17	Total Administration and Agency Operations	\$ 410,495	\$ 387	\$ 4,324	\$ 3,402	\$ 12,024	\$ 22,462	\$ 388,033
18	Contingency Reserve							
19	Board Reserve Fund (10%)	\$ 913,287	\$ -	\$ -	\$ -	\$ -	\$ -	913,287
20	Total Reserve Funds	\$ 913,287	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 913,287
21	Programmed Funds							
22	Programmed Funds	\$ 7,658,668	\$ -	\$ -	\$ -	\$ -	\$ -	7,658,668
23	Total Programmed Funds	\$ 7,658,668	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,658,668
24	Total FY 2023-24 Budget	\$ 8,982,450						
25	Total FY 2023-24 Allocations	\$ 8,982,450						

*not final fiscal year end figures; pending annual audit



Revenue Forecasts

FY 2023-24 Revenue (\$0.0311 fee):

- Total Forecasted: \$8,982,450
- Collected: \$10,670,012

FY 2024-25 Revenue (\$0.0322 fee):

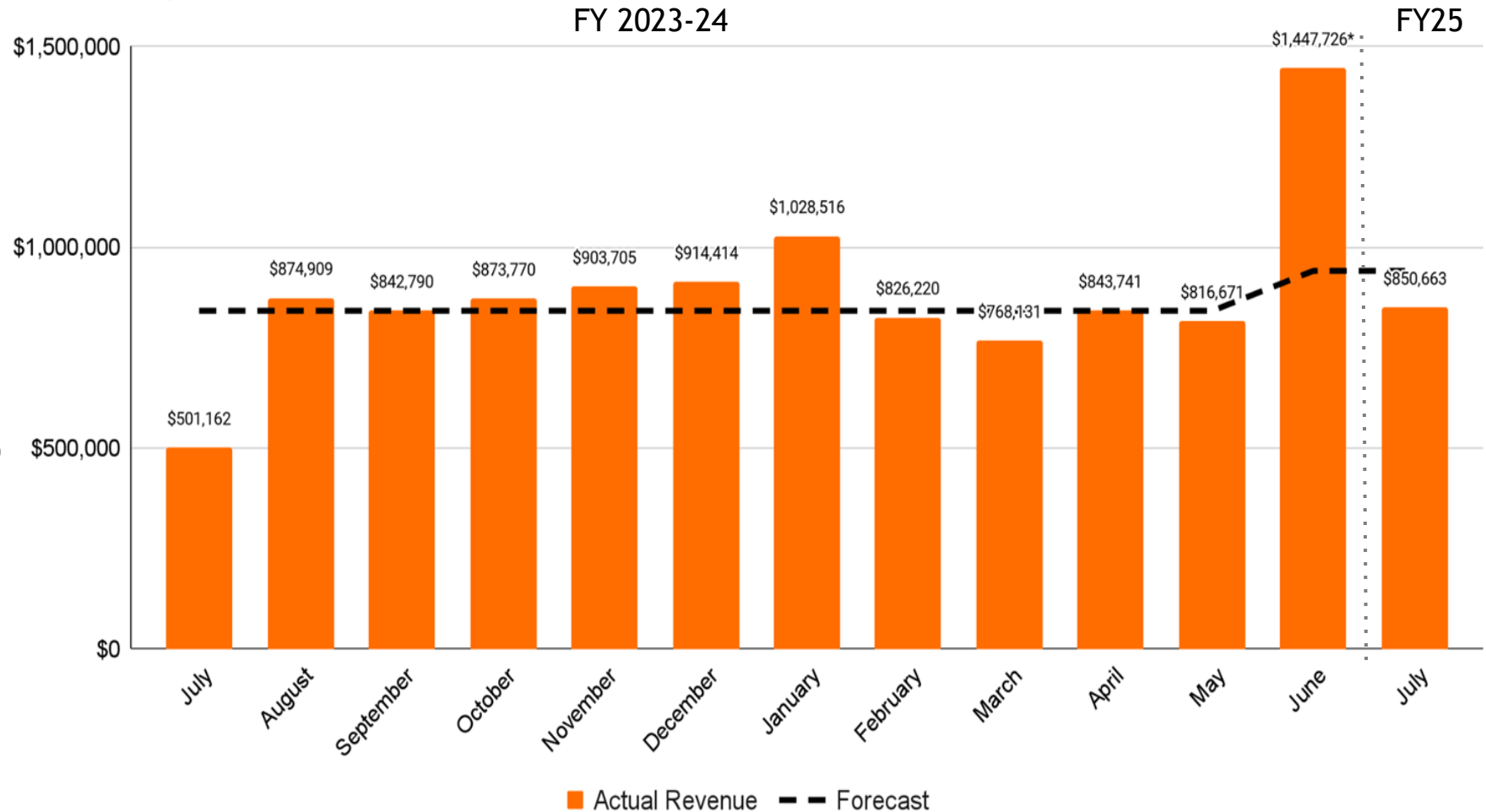
- Forecast in FY24 Q1: \$9,902,388
(based on estimated fee of \$0.0317)
- Forecast in FY24 Q4: \$11,300,000
(based on final approved fee of \$0.0322)

FY 2025-26 Oil and Gas Production Fee:

Total of \$56,777,910

- Local Transit Operations: \$39,744,537
- Local Transit Grant Program: \$5,677,791
- Rail Funding Program: \$11,355,582

Retail Delivery Fee Actual and Forecasted Revenue



*June 2024 includes \$611,012.13 in Period 13 accruals



Clean Transit Enterprise Cash Fund Status

Actual FY 2023-24 Year Ending Cash Balance	\$19,486,965
Cash Fund Balance as of August 14, 2024	\$20,336,509
Total FY25 Spending Authority Adopted by Joint Budget Committee 2/8/24	\$18,134,321



SB24-230 Start-Up Loan

SB24-230 *Oil and Gas Production Fees:*

- Fee collections will begin July 1, 2025 but CTE will not receive revenue until early 2026
- A temporary loan from the CDOT Transportation Commission is needed so staff can begin implementation of the bill's requirements
- A loan of \$600,000 will cover CDOT staff time and meeting-related expenses, consultant support for meeting facilitation, stakeholder engagement, formula development, etc.

Expense Description	FY25 - FY26 Funding
Personal Services	\$437,000
CTE Director and Staff	\$370,000
OIM/DTR Director and Staff	\$40,000
DAF Staff	\$22,000
OPGR Staff	\$5,000
Professional Services	\$160,000
Operating Costs	\$3,000
TOTAL	\$600,000



SB24-230 Start-Up Loan - Terms

Annual Interest Rate	3.5%
Loan Term (Years)	2
Payments per year	1
Loan amount	\$600,000 .00
Term	6/30/2026

- ❖ The interest rate of 3.5% is based on the current State Infrastructure Bank (SIB) loan rate adopted by the Transportation Commission for FY25.
- ❖ The interest is based on an annual amount; actual interest due will differ slightly based on the actual date funds are disbursed to CTE and also when CTE repays the loan.

Amortization Schedule:

Fiscal Year	Payment	Interest	Principal	Balance
FY25	\$0.00	\$21,000.00	-	\$621,000.00
FY26	\$642,735.00	\$21,735.00	\$600,000.00	-



SB24-230 Start-Up Loan - Process Steps

- Staff developed an estimate of start-up costs that was presented at the Transportation Commission workshop on August 14, 2024.
- Transportation Commission approved setting aside \$600,000 from their Program Reserve fund for purposes of a loan to CTE for SB24-230 start-up costs at the August 15, 2024 meeting.
- CTE Board is being asked to approve the loan amount at this meeting.

Next Steps:

- Transportation Commission will entertain a resolution at the September meeting to approve the loan to CTE.
- Upon passage of the TC resolution, loan documents will be prepared and submitted to CTE for final approval and signature at the next CTE Board Meeting.



Proposed Motion for Board Consideration

Move for the Clean Transit Enterprise to approve the Transportation Commission loan amount of \$600,000 for start-up costs relating to SB24-230.

CTE Capital Grant Program Award Recommendations

Emily Crespin, Shilpa Kulkarni, and Andy Geleske, CDOT



Round One CTE Grants Update

- **Planning Projects**

- Board approved 4 awards for funding in October 2023
- Contracting process is underway
- Expected notice to proceed - Fall 2024

- **Capital Projects**

- Applications Closed on: May 3, 2024
- \$15,000,000 in CTE Funding Available
- \$28,623,759 in Applications Received
 - Facilities - 2 applications
 - Infrastructure - 3 applications
 - Vehicles - 12 applications for 35 vehicles
- Panel of subject matter experts scored the applications in July based on criteria established by the CTE Board
- Recommended awards were reviewed with the Chief of Innovative Mobility and Director of DTR. We are now bringing them to the CTE Board for your review and potential approval.



Funding Requests for CTE Capital Grant Program

Grant	Purpose	Eligible Funding Request	Applications Received	Applications Awarded
CTE Facilities	The CTE Facilities Program supports the modification or upgrade of existing transit facilities to make them safe and suitable for ZEV deployments. This category requires a 50% local match.	\$2,550,910	2	1
CTE Infrastructure	The CTE Infrastructure Program supports the purchase and installation of charging and/or fueling infrastructure to support transit ZEVs. This category requires a 20% local match.	\$6,781,600	3	1
CTE Vehicles	The CTE Vehicle Program helps fund the purchase or acquisition of zero-emission transit vehicles. This category can cover up to 100% of the incremental cost of a ZEV. While no match is required, the applicant should have a way to fund the remaining cost of the base vehicle.	\$19,291,249	12	9



Grant Evaluation Criteria

CTE Capital Grant Program Evaluation Criteria	
Emissions Reduction	25%
Service to DI Communities	25%
Agency and Project Readiness	25%
Match Level	15%
Geographic Distribution	10%



Recommended Awards for the CTE Capital Grant Program: Facilities and Infrastructure

Facilities

Applicant Name	Project Title	Funding Request	Recommendation	Recommended Funding Amount
Via Mobility Services	Via Mobility Services Renewable Energy Microgrid Project	\$1,500,000	Award	\$1,500,000

Infrastructure

Applicant Name	Project Title	Funding Request	Recommendation	Recommended Funding Amount
Town of Avon	TOA - 2024 EV Charging Equipment	\$384,000	Award	\$384,000



Recommended Awards for the CTE Capital Grant Program: Vehicles (slide 1 of 2)

Applicant Name	Project Title	Funding Request	Recommendation	Recommended Funding Amount
Laradon Hall Society for Exceptional Children and Adults	Laradon Van Replacement	\$238,484	Award	\$238,484
Roaring Fork Transportation Authority (RFTA)	RFTA: Replace 10 Diesels with Battery Electric Buses (BEBs)	\$7,800,000	Partial Award	\$5,460,000
Developmental Disabilities Resource Center (DDRC)	DDRC Transit 4 Vehicle Replacements	\$150,000	Award	\$150,000
Town of Breckenridge	VW Funds Gap Request	\$4,204,445	Partial Award	\$2,943,112



Recommended Awards for the CTE Capital Grant Program: Vehicles (slide 2 of 2)

Applicant Name	Project Title	Funding Request	Recommendation	Recommended Funding Amount
Town of Telluride	Town of Telluride 1 Bus Replacement	\$164,507	Award	\$164,507
Town of Winter Park	Town of Winter Park Two Electric Bus Purchase	\$1,380,600	Partial Award	\$966,420
Town of Avon	TOA - 2024 2 BEV Buses	\$1,714,706	Award	\$1,714,706
City of Fort Collins	City of Fort Collins, Transfort - 4 Bus Replacements (updated to 1 bus)	\$882,945	Award	\$882,945
City of Boulder	City of Boulder, 2 Battery Electric Buses - Expansion	\$1,550,378	Partial Award	\$595,826



CTE Facilities Applications

1. Via Mobility Services [\$1,500,000]

- a. Details: Requesting funds to construct bus canopies and install solar panels, battery storage, and electrical equipment at the existing Via Mobility Services operations and fleet maintenance center in Boulder. The project includes solar PV panels, Battery Energy Storage System (BESS), Control System (hardware and software), all electrical upgrades, including relaying, switching, and grid interconnection equipment.
- b. Committee Recommendation: **Award**

2. Roaring Fork Transportation Authority (RFTA) [\$1,050,910]

- a. Details: Requesting funds to construct the final core phase of their 8-phase Regional Transit Center in Glenwood Springs with Phase 8 being a ZEV Maintenance Storage facility for specialized ZEV parts and equipment.
- b. Committee Recommendation: **Withdrawn**



CTE Infrastructure Applications

1. City of Fort Collins [\$4,397,600]

- a. Details: Requesting funds for the purchase and installation of 4 depot chargers (8 total dispensers) at the Transfort Maintenance Facility (TMF), 3 on-route chargers at the South Transit Center (STC), and solar panels at the TMF, STC, and the Downtown Transit Center.
- b. Committee Recommendation: **Deny (Limited Funding)**

2. Roaring Fork Transportation Authority (RFTA) [\$2,000,000]

- a. Details: Requesting funds for the purchase and installation of five dual depot chargers (10 total plugs) to charge new BEBs.
- b. Committee Recommendation: **Deny (VW Settlement to partially fund)**

3. Town of Avon [\$384,000]

- a. Details: Requesting funds for the purchase and installation of one charger with two charging ports to the Avon Regional Transportation Facility to charge BEV buses.
- b. Committee Recommendation: **Award**



CTE Vehicles Applications (slide 1 of 4)

1. Laradon Hall Society for Exceptional Children and Adults [\$238,484]

- a. Details: Requesting funds to purchase two electric vans to replace existing rolling stock.
- b. Committee Recommendation: **Award**

2. Roaring Fork Transportation Authority (RFTA) [\$5,460,000]

- a. Details: Requesting funds to purchase 10 BEBs to replace existing rolling stock. They submitted a complimentary request for funding under the Volkswagen Settlement Program.
- b. Committee Recommendation: **Partial Award (to receive further funding through VW)**

3. Developmental Disabilities Resource Center (DDRC) [\$150,000]

- a. Details: Requesting funds to purchase two electric vans to replace existing rolling stock.
- b. Committee Recommendation: **Award**



CTE Vehicles Applications (slide 2 of 4)

4. Town of Breckenridge [\$2,943,112]

- a. Details: Requesting funds to cover the remaining gap, if the Volkswagen Settlement funds are awarded, to purchase 7 BEBs to replace existing rolling stock.
- b. Committee Recommendation: **Partial Award (to receive further funding through VW)**

5. Town of Telluride [\$164,507]

- a. Details: Requesting funds to purchase 1 electric cutaway shuttle bus to replace existing rolling stock.
- b. Committee Recommendation: **Award**

6. Town of Winter Park [\$966,420]

- a. Details: Requesting funds to purchase 2 BEBs to replace existing rolling stock. They submitted a complimentary request for funding under the Volkswagen Settlement Program.
- b. Committee Recommendation: **Partial Award (to receive further funding through VW)**



CTE Vehicles Applications (slide 3 of 4)

7. Town of Avon [\$1,714,706]

- a. Details: Requesting funds to purchase 2 BEBs to replace existing rolling stock.
- b. Committee Recommendation: **Award**

8. City of Fort Collins [\$882,945]

- a. Details: Requesting funds to purchase four BEBs to replace existing rolling stock. However, after conversations with Fort Collins staff confirming that they were not awarded the FY24 5339(b) and (c) funds, the request has been adjusted to fund the incremental cost of one BEB.
- b. Committee Recommendation: **Award**

9. City of Boulder [\$595,826]

- a. Details: Requesting funds to purchase 2 BEBs to expand existing fleet/service.
- b. Committee Recommendation: **Partial Award (Limited Remaining Funds)**



CTE Vehicles Applications (slide 4 of 4)

10. Town of Avon [\$430,000]

- a. Details: Requesting funds to cover the gap between the current cost of a 35' BEV bus and the funding requested in 2022 and later awarded by FTA for the purchase of one BEB to replace existing rolling stock.
- b. Committee Recommendation: **Deny (To be funded through state funds instead)**

11. Mountain Valley Developmental Service (MVDS) [\$197,020]

- a. Details: Requesting funds to purchase one electric van to replace existing rolling stock.
- b. Committee Recommendation: **Deny**

12. City of Aspen [\$578,164]

- a. Details: Requesting funds to purchase 1 BEB to replace existing rolling stock.
- b. Committee Recommendation: **Deny**



CTE Grant Awardees Takeaways

- If the Board approves the committee's recommended awardees, CTE will:
 - Partially fund **28 electric transit vehicles**
 - Provide 80% of the funding for one charger with two charging ports
 - Provide 50% of the funding for the first fleet electrification plus microgrid project in Colorado, a potential model for other public or private fleets to build upon



Proposed Motion for Board Consideration #1

Move for the Clean Transit Enterprise Board to approve the 2024 Capital Awards as detailed in the award recommendations memo and based on the recommendations of the scoring committee and Enterprise staff:

- \$1,500,000 in programmed funds for 1 facility project*
- \$384,000 in programmed funds for 1 infrastructure project*
- \$13,116,000 in programmed funds for 9 vehicle projects that will result in 28 vehicle purchases*



REVISED Proposed Motion for Board Consideration

Move for the Clean Transit Enterprise Board to approve the 2024 Capital Awards as detailed in the award recommendations memo and based on the recommendations of the scoring committee and Enterprise staff:

- \$1,500,000 in programmed funds for 1 facility project*
- \$384,000 in programmed funds for 1 infrastructure project*
- \$923,116 in programmed funds for 7 vehicle projects that will result in 24 vehicle purchases*

With a conditional approval for \$388,484 in programmed funds for 2 vehicle projects that will result in 4 vehicle purchases for Laradon Hall Society for Exceptional Children and Adults and for Developmental Disability Resource Council pending eligibility review and confirmation from legal council.



Planning for Round 2 of CTE Grants

- CTE rules state that we will coordinate our CTE Notices of Funding Availability (NOFAs) with standing DTR consolidated calls for projects
- In FY24, DTR issued two calls for projects:
 - The Summer 2023 NOFA for Admin/Operating/Mobility Management included CTE ZEV Planning grant opportunities
 - The Spring 2024 NOFA for Capital projects included CTE Infrastructure, Facility Modification and Vehicle grant opportunities
- Timing of FY25 NOFAs are currently under discussion with consideration for:
 - Admin/Operating NOFA alignment with Federal Transit Administration appropriation timeline
 - Overall timing of grant-making activities within CDOT to improve efficiency (led by the new CDOT Subrecipient Grant Support Unit)
 - Likely release of planning NOFA in Fall 2024



Feedback & Discussion




Annual Board Member Best Practices Training

Kathy Young, Colorado Office of the Attorney General



**ANNUAL BEST
PRACTICES
TRAINING**

- **Clean Transit Enterprise**
- **August 22, 2024**

- **Kathy Young**
 - **First Assistant Attorney General**
 - **Transportation Unit**
 - **Kathy.Young@coag.gov**
- 

Best Practices

- Section 24-3.7-102, C.R.S., requires annual training in several areas including:
 - ◆ Statutory powers and duties;
 - ◆ Identifying and managing conflicts of interest;
 - ◆ Understanding the requirements of the Colorado Open Records Act and open meetings laws.

Clean Transit Enterprise



Section 43-4-1203, C.R.S. – Legislative Declaration

Section 43-4-1204, C.R.S. – Definitions

Section 43-4-1203 – CTE created, Board created, powers and duties, fee



Section 43-4-1204 – Production fee for clean transit imposed by the enterprise, local transit operations program, local transit grant program, rail funding program, cash funds, report.

Conflict of Interest

- Rules of Conduct – A Commissioner who receives no compensation other than a per diem allowance . . . “shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.”

Section 24-18-108.5, C.R.S.

- Voluntary Disclosure – Two step process:

- ◆ You can make a written disclosure to the Secretary of State that adequately describes the financial interest; and
- ◆ Immediately before the vote, you state for the record the fact and summarize the nature of the interest.

Section 24-18-110, C.R.S.



AMENDMENT 41

- In November 2006 with the passage of Amendment 41 to the Colorado Constitution. Amendment 41 is now known as Article XXIX and is titled “Ethics in Government”. Section 5 of Article XXIX created the Independent Ethics Commission with the express purpose of hearing complaints, issuing findings, and assessing penalties, as well as issuing advisory opinions on ethics issues arising under Article XXIX and under any other standards of conduct and reporting requirements as provided by law.
- <https://iec.colorado.gov/>

CORA – In a Nutshell



All public records **shall** be open for inspection by any person at reasonable times, except as provided in part 2 or as otherwise provided by law.

◆ Section 24-72-203, C.R.S.



Is My Record a “Public Record”?

- What is a public record? Definition is very broad and includes:
 - ◆ Internal and external communications, such as might take place among agency staff, between staff and a board, between board members, between staff, between members of one agency and another agency, and between members of the public/3rd parties.
 - ◆ No limitation on means of communication. A “public record” includes both hard-paper documents and electronic records/documents.



Public Record Denial of Inspection

- Basis for denying inspection of “public records” found in section 24-72-204, C.R.S.
- Reasons are many, and range from “contrary to any state statute” and court order, to reasons in the public interest such as test questions and scoring keys from licensing exams, security arrangements, trade secrets, certain employment records, etc.
- Legislature has deemed some documents simply to not be public records - work product prepared for elected officials – defined in Section 24-72-202(6.5) – is an example.

But I Want them NOW!



The requestor must have access to the records within a “reasonable time.”



“a ‘reasonable time’ shall be presumed to be three working days or less.”

Sec. 24-72-203(3)(b), C.R.S.



The period may be extended by seven working days upon finding of “extenuating circumstances.”

Sec. 24-72-203(3)(b), C.R.S.- for example, a large amount of documents have been requested.



In no event can extenuating circumstances apply to a request that relates to a single, specifically identified document.” Section 24-72-203(3)(c), C.R.S.

Remedies

Options for Denial of Access Include:

- Fourteen day “cooling off” period – Section 24-72-204(5)(a), C.R.S.
- Requestor may apply to the district court for an order, with court costs and reasonable attorney fees to the prevailing party. Sec. 24-72-204(5), C.R.S.
- Custodian may sue to obtain a declaratory order determining status of records for CORA request where it cannot be determined. NO ATTORNEYS FEES! Section 24-72-204(6), C.R.S.



Open Meetings Law (OML)

- “It is declared to be a matter of statewide concern and the policy of this state that the formation of public policy is public business and may not be conducted in secret.” Section 24-6-401, C.R.S.
- To give citizens an expanded opportunity to become fully informed on issues of public importance
- To allow citizens to participate in the legislative decision-making process that affects their personal interests

What is a meeting?

A Meeting is Defined by the Act as:



Any kind of **gathering**, convened to discuss **public business**, in person, by telephone, electronically, or by other means of communication.



Section 24-6-402(1)(b)

When Are Meetings Considered Public?

- All meetings of two or more members of a state public body at which any **public business** is discussed or at which any **formal action** (public policy, rule making, legislation, policy making, interpretation of policies, rules, regulations, guidance documents or the like) may be taken are declared to be public meetings open to the public at all times. Section 24-6-402(2)(a)
- To determine whether “public business” is discussed, Court looks to policy-making responsibilities and powers of the state body

Board of County Comm'rs v. Costilla County Conservancy Dist, 88 P.3d 1188, 1189 (Colo. 2004); Intermountain Rural Elec. Assn. v. Colo. PUC, 298 P.3d 1027 (Colo. App. 2012)



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What is Not a Meeting?



- Chance meetings
- Social gatherings at which discussion of public business is not the central purpose
- Other events in which public business is not the central purpose
- Section 24-6-402(e), C.R.S.



Meetings Must be Noticed

- Notice must be “full and timely.” Section 24-6-402(2)(c)
- “Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public.”
- Posting must occur no less than 24 hours prior to the meeting

Minutes

- Minutes are prepared for all meetings. Section 24-6-402(2)(d).
- Minutes are open to the public for review. *Id.*
- Minutes of meeting during which an executive session is authorized shall only reflect the topic discussed in executive session. *Id.*

What is Executive Session?

- Meeting of the board without the public present
- Can only be used for discussions of specific topics
- Cannot be used to take any formal action
- Exception to Open Meetings Law
- Must follow specific steps to go into executive session – 2/3 vote, must be recorded.



Permissible purposes of executive session - § 24-6-402(3), C.R.S.



Purchase of property for public purposes



Attorney advice

Legal actions involving the body
For purposes of receiving legal advice on specific legal questions



Matters required to be kept confidential by law



Specialized details of security arrangement or security investigations



Employee or union negotiations



Discussions regarding appointment of public officials or employee discipline

Only if the official/employee requests executive session

What happens if someone sues to get executive session recording?

- Sentential Colorado v. Rodriguez - Petition for review in district court
- Plaintiff must show “grounds sufficient to support a reasonable belief that the state public body ... engaged in substantial discussion of any matters not enumerated in [the exceptions].” § 24-6-402(5.5)(a), C.R.S.
- In camera review
- The portion of the executive session that was improper will be made public



Failure to Comply With OML

- Invalidation. Decisions of the Board may be invalidated should the Board fail to adhere to the requirements of the Open Meetings Law. This may occur in the case of a regularly-scheduled meeting that has not been properly noticed or in a situation where two or more Board members discussed an agenda item in a context outside of a regular meeting. Section 24-6-402(8), C.R.S.
- Willful Misconduct. Members who engage in “meetings” outside the regularly scheduled public meetings may be found to have been engaged in “willful misconduct” and, therefore, be subject to removal from the Board.
- Negative Publicity/Litigation. Failure to follow the requirements of the Open Meetings Law may result in the Board, and its members, being questioned publicly concerning the content of the alleged outside conversations. Not only does this impact negatively upon the Board but, moreover, should litigation ensue, members may be required to testify against other members either in deposition or at hearing regarding the alleged failure to comply with the law. The remedies available to a party who has been successful in proving a violation of the Open Meetings Law include injunctive relief, costs, and attorney fees. See § 24-6-402(9), C.R.S.
- Release of Otherwise Confidential Information. A court may open the portion of the executive session that was held in violation of the Open Meetings Law. Consequently, otherwise confidential information discussed in executive session may be disclosed publicly. Section 24-72-204(5.5), C.R.S; see, e.g., *Gumina v. City of Sterling*, 119 P.2d 527, 532 (Colo. App. 2004) (holding that if a local public body fails strictly to comply with the requirements set forth to convene an executive session, it may not avail itself of the protections afforded by the executive session).





Questions & Discussion





Upcoming Meetings and Topics

Upcoming Meetings:

- October 2024

Topics:

- Clean Transit Retail Delivery Fee Topics:
 - Planning for Round 2 of CTE Planning Awards
- Oil and Gas Production Fee Topics:
 - SB24-230 Implementation
- Other topics at the Board's pleasure



Clean Transit Enterprise Information

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Department of Transportation

<https://www.codot.gov/programs/innovativemobility/cte>

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Resources

- Clean Transit Enterprise
- Electric Vehicle Ride & Drive Event
- Electrification
- Mobility Services
- Mobility Technology
- Transit and Rail

Clean Transit Enterprise

To support Colorado's transit electrification through planning efforts, transit site upgrades, procurement of electric transit buses, and deployment of associated charging infrastructure.



About the Clean Transit Enterprise

This enterprise is created within the Colorado Department of Transportation (CDOT) to support public transit electrification planning efforts, facility upgrades, fleet motor vehicle replacement, as well as construction and development of electric motor vehicle charging and fueling infrastructure. The bill allows the enterprise to impose a clean transit retail delivery fee to fund its operations, and to issue grants, loans or rebates to support electrification of public transit.

Contact Us

cdot_cleantransitenterprise@state.co.us

Resources

- [Board Appointments](#)
- [Enterprise Funds](#)
- [Board Powers & Duties](#)
- [Clean Transit Enterprise 10 Year Plan](#)
- [2021 Transit Zero Emission Vehicle \(ZEV\) Roadmap](#)
- [Clean Transit Enterprise Processes and Fees, 2 CCR 607-1](#)

Upcoming Meetings

Board of Directors Meeting
July 13, 2022
12:00-2:00 pm
[YouTube Link](#)
[Schedule & Agenda](#)

Prior Meetings

Board of Directors Meeting - January 31st, 2022
[Video Recording](#)

Subscribe for CTE Updates

* indicates required

Email Address *

First Name

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THANK YOU!



Clean Transit Enterprise

8/21/2024

Regular Board Meeting – Wednesday, August 21, 2024. 1:00 – 3:00 pm, Virtual via Zoom Meeting

Video Recording:

1. Call to Order, Roll Call (Matt Frommer) - Time 10:40

Director Dawn Block, Director Bonnie Trowbridge (indicated she'll be joining a little late), Director Mark Garcia, Director Cris Jones, Director David Averill (will be joining in late), Director Theresa Takushi, Director Kelly Blynn, and Director Richard Coffin. Chair Matt Frommer.

2. Action Agenda - Time 10:40

A motion by Chair Frommer to approve the meeting minutes from the last board meeting on June 27, 2024. Seconded by Director Coffin. The motion passes unanimously. No oppositions or abstentions.

3. CTE Capital Grant Award Recommendations (Kay Kelly) – Time 10:45

- We are getting an update today on getting money allocated with zero-emission
 - Revenue Stream is getting approved and once it is, we will be able to manage it.
 - The state of Colorado is submitting a CFI Grant Application.
 - We will submit applications to submit medium and heavy-duty charging hubs. They will be on NEVI-dedicated corridors.
 - We are asking for letters of support from people in the meeting to get additional support
 - Needs to be done by Aug 26, 2024
 - Staff will be sending people to ZEB Con.
 - Will be about zero-emissions buses in Philadelphia on Aug 27-29.
 - We will share information about this later.
- Questions:
 - Matt Frommer:
 - “Are vehicles allowed to be used by anyone in the buffer zones for the CFI grant?”
 - Response:
 - This charging would be open to everyone and will give benefits to anyone operating a medium/heavy duty fleet in the area.
 - Is this still a good fit for everyone and a good choice for charging?
 - Response:
 - We have gotten great responses and looked at other agencies and they have reported positive results.
 - Mark Garcia:
 - “How does transportation approval for OHVP consider for this?”
 - Response: Oil and gas fees are not related to this document. We are putting the money aside for this purpose and isn't related to this.

4. CTE Financial Update (Kay Hruska & Cassie Rutter) – Time 10:50 am

- These numbers are not final so do not be alarmed
- Most expenses are related to staff costs implementing CTE.
- Cassie R:
 - We are still finalizing revenue forecasts.
 - *FY 2023-24 Revenue (\$0.0311 Fee)*
 - Total Forcasted : \$8,982,450 | Collected: \$10,670,012
 - *FY 2024-25 Revenue (\$0.0322 Fee)*
 - Forecast in FY21 Q1: \$9,902,388 (based on an estimated fee of \$0.0317)
 - Forecast in FY24 Q4: \$11,300,000 (based on an approved fee of \$0.0322)
 - *FY 2025-26 Oil and Gas Production Fee | Total of \$56,777,910*
 - Local transit Operations: \$39,744,527
 - Local transit grant programs: \$5,677,791
 - Rail Funding Program: \$11,355,582
 - Cash Balance:
 - Ending cash balance is near \$19.4 billion
 - Cash Fund Balance: \$20,336,509
 - Total FY25 Spending Authority adopted by Joint Budget Committee on 2/8/24 : \$18,134,321
 - Start-up loan:
 - Fee collections will begin on July 1st 2025.
 - We have asked for a temporary loan from the cdot trans commission so staff can implement the bill requirements
 - Terms of the loan:
 - Interest rate of 3.5%. Is the base interest rate adopted by the transportation commission for FY25
 - We anticipate a full payback in 2026.
 - SB24-230 Start-up loan process:
 - Funding has been made available and the loan will be approved later today to get it approved.
 - Trans commission will entertain a resolution at the end of September to approve it for cte
 - Move for the clean transit enterprise to approve the transportation commission loan amount of \$600k for start-up costs relating to SB24-230.0
 - Was approved.

5. CTE Grants Update- Andy Geleske (filling in for Mike) 11:30

- The board approved 4 awards for funding in October 2023
 - Contract is underway
 - Notice to proceed - *Fall 2024.*
- Capital projects 2024.
 - Application closed on May 3, 2024
 - \$ 15 million in CTE funding available
 - \$28.6Million available
- Funding Requests for CTE Capital Grant Process for facilities and infrastructure and vehicles.
 - **Facilities:**
 - Via Mobility Services (\$1.5Million)

- The project includes bus canopies, solar panels, battery storage and more.
 - Recommendation: award
- Fork Trans Authority (1.05mil)
 - Was withdrawn
- Infrastructure:
 - City of Fortcollins:
 - Was denied
 - Roaring fork trans authority (2Mil) - requested funds for the purchase and installation of 4 dual depot chargers (10 total)
 - Denied. Volkswagen settlement to partially funded
 - Town of Avon (384k)
 - Awarded
- Vehicle Applications:
 - Laradon Hall Society for exemption children and adults (238k) - Requested funds for purchase 2 ev
 - Awarded
 - Looking for trans authority (\$5.4mil) awarded
 - Awarded
 - Town of brekendridge (\$2.9mil)
 - Partially awarded. Further funded through Volkswagen
 - Town of Telluride (\$164k)
 - Awarded
 - Winterpark
 - Awarded
 - Town of Avon (\$1.7mil)
 - Awarded
 - City of Fort Collins (\$882k)
 - Awarded
 - City of Boulder (\$882k)
 - Awarded
 - **Question:**
 - “how much is the partial award?”
 - Response: nothing noted in the slide how much it was.
 - **Denied:**
 - Town of Avon
 - To be funded via state funds instead
 - Mountain Valley Developmental Service
 - Denied. Didn't have transition plans
 - City of aspen
 - Denied. Didnt score very well due to the application not being sufficient.
- Motion: if the committee awards the awards, CTE will
- Questions:
 - **Mark Garcia:** “Why was Fort Collins denied?”
 - Response:
 - *They had 2 combo grant recommendations but they wanted to just narrow it down to 1.*

- **David Averill:** *“Why were private non-profits not eligible for this grant application? He is requesting a written opinion on if they can and wants clear wording on who is available for it.”*
 - Response (kay)
 - *“we do have a rule in the Cte and legislation. We are actively looking at what is part of it.*
 - David says he respectfully disagrees there is clear language. He offers a motion of approval as long as the office gets full language set from the AG office.
 - Kathy Young (response)
 - *She will need to review this until she can give her opinion. The council and attorney will need to look at this and then touch base with Kay.*
 - David inserts a comment below for things to be further discussed:
 - *From the bill: (4) "Mass transit" means a coordinated system of transit modes providing transportation for use by the general public.*
 - *(5) "Public mass transit operator" means a state or local governmental entity which provides mass transit services within the state of Colorado.*
 - *The Enterprise may: (b) ISSUE GRANTS AND PROVIDE LOANS AND REBATES AS AUTHORIZED BY SUBSECTION (8) OF THIS SECTION; AND*
 - *Page 140 of the Act:*
 - *(b)(IV) THE REPLACEMENT OF MOTOR VEHICLES USED BY **PUBLIC TRANSIT PROVIDERS** THAT ARE NOT ELECTRIC MOTOR VEHICLES BY ELECTRIC MOTOR VEHICLES, OR, IF ELECTRIC MOTOR VEHICLES ARE NOT PRACTICALLY AVAILABLE, BY COMPRESSED NATURAL GAS MOTOR VEHICLES, AS DEFINED IN SECTION 25-7.5-102 (5), IF AT LEAST NINETY PERCENT OF THE FUEL FOR THE COMPRESSED NATURAL GAS MOTOR VEHICLES WILL BE RECOVERED METHANE, AS DEFINED IN SECTION 25-7.5-102 (20)*
 - Kay inserts the comment below making sure to define what is included or not.
 - *Clean Transit Enterprise has 2 CCR 607-1 that states - “Transit Agency” means an organization that provides Transit services to the general public or a segment of the public defined by age, disability, or low income.*
 - Mark Garcia:
 - *Says we should refocus on what the definitions are so additional confusion does not happen.*
- **Richard Coffin:**
 - *States he is very happy about everything so far*
 - *Want to know the project timelines? There are estimates for cost and delivery. Does he have flexibility on when things must be finished - especially with known delays?*
 - Response:

- *"We do allow for extensions and they can work with project managers."*

- Mark Garcia:

- *"Is there progress on the awards?"*
 - Response: (Emily Crespin)
 - *Yes - we have finished the reward process and will get the rewards sent out at the end of the year.*
 - *We are finishing up the scope of the projects and the director role will most likely finish this up.*
 - *They are expected to see it be finished quicker.*
 - Response (kay)
 - *We are issuing 400 so we had a success*

- Matt Frommer

- *What is the timeline of the planning?*
 - Response:
 - *We have different planning calls depending on what the project is*
- *How much of the Volkswagen grant money is left?*
 - Response:
 - *We have enshrined the money already with the EPA and the money was sent over to individual states and was sent to states based on how many EVs Volkswagen they had. The money will be running out soon and this grant money is the last amount.*
 - *There is a lot of demand for the money!*

- They wish to remove the nonprofits from the motion but some wishes just to include all of it.
 - There is debate about "what is public transit?" "What is public?"
 - The big issue is the type of services the non-profit is providing.
 - 2 grants to be removed.
- **Motion:**
 - This will be revisited at the end of the presentation.

6. Annual Best Practices Training (Kathy Young) – Time 11:35

- Review:
 - The reason why we are doing this training is that all state public boards must get annual training to refresh statutory power and duties, identify and manage conflicts of interest, and understand the requirements of the CO Open Records Act
- Went over the different sections:
 - Conflict of interest:
 - Rules of conduct - a commissioner who receives no compensation other than a per diem allowance shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial interest.
 - Voluntary disclose: 2-step process
 - You can make a written disclosure to the secretary of state that adequately describes the financial interest
 - Immediately before the vote, you state for the record the facts and summarize

the nature of interest.

- **Amendment 41:**
 - In November 2006 - established Independent Ethics Commission:
 - You are allowed to get dinners, fees waved at conferences, and more
 - You can only get a \$75 value of gifts a year.
- **CORA - in a nutshell**
 - All public records shall be open for inspection by any person at reasonable times, except as provided in part 2 or as otherwise provided by law.
 - You just basically need to send it to Kathy Young about this.
 - Is my record a “public record”
 - Internal and external communications, such as might take place among agency staff, between staff, and a board, between board members, another agency, etc
 - Public record denial of inspection:
 - Find if there is a basis for denying inspection of public records found in section 24-72-204.
 - Reasons are many.
 - There is a short workaround time - 3 days, sometimes 7 but that depends.
 - Remedies:
 - 14-day “cooling off period”.
 - Requester may apply to the district court for an order, with court costs, and reasonable attorney fees to the prevailing party.
 - The custodian may sue to obtain a declaratory order determining the status of records for CORA requests where it cannot be determined.
 - No attorney fees
- Open Meetings Law (OML)
 - Went over the state law.
 - A meeting is defined as: “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by any other means of communication”.
 - Are just 2 or more directors considered a meeting?
 - Minutes are required.
- Questions:
 - Chris Jones:
 - “I work for the city of Boulder, am I okay to vote?”
 - Response:
 - Yes, you are!

7. Capital Grants Recommendations (Matt Frommer) 12 pm

- Motion: Move for the Clean Transit Enterprise Board to approve the 2024 capital awards as detailed in the award recommendations memo .. with conditional approval for \$388,484 in programmed funds for 2 vehicle projects that will result in 4 vehicle purchases for Laradon Hall Society for Exceptional Children and Adults for Developmental Disability Resource Council pending eligibility review and confirmation from legal counsel
 - APPROVED

8. Meeting Adjourned (Matt Frommer) - Time (12:04 PM)

