

AMES TRANSIT AGENCY BOARD OF TRUSTEES

AMES, IOWA

February 20, 2014

The Ames Transit Agency Board of Trustees met on February 20, 2014 at 8:00 a.m. in CyRide's Conference Room. President Rediske called the meeting to order at 8:04 a.m. Present: Trustees Rediske, Madden, Goodman, Murrell and Schainker.

Public in attendance: Jan Dreesman, Jamie Gurganus, Dale Dyvig, Rob Hurd and female guest.

APPROVAL OF MINUTES: Trustee Madden made a motion to approve the minutes from the January 22, 2014 Ames Transit Agency Board of Trustees Meeting. Trustee Schainker seconded. (Ayes: 5. Nays: None) Motion carried.

PUBLIC COMMENTS: President Rediske asked the public in attendance if there were any comments aside from the public in attendance to discuss Dial-A-Ride or the Advertisement issue listed in the agenda. There were no comments.

ELECTION OF VICE PRESIDENT: Director Kyras stated that with the departure of board member Drenthe, there was a vacancy on the board for the position of Vice President. She further indicated that Trustee Murrell had expressed an interest in filling this vacancy. Trustee Schainker nominated Trustee Murrell. Trustee Murrell accepted the nomination. Trustee Goodman made a motion to elect Trustee Murrell as Vice President. Trustee Schainker seconded. (Ayes: 4. Nays: None) Motion carried.

DIAL-A-RIDE SERVICE-ADA REGULATIONS: Director Kyras provided a presentation that included a history of the Dial-A-Ride service, ADA requirement, HIRTA contract and the results of customer satisfaction surveys. The overview of the history explained that CyRide operated the program from 1990-2003, Heartland provided the service from 2003-2011 and HIRTA began operating Dial-A-Ride in 2012.

Since the Dial-A-Ride service has been under contract, ridership has fluctuated between 9,000-11,500 rides provided annually. Currently, there are 382 people eligible for the service, with 80 active users and 280 of the 382 over the age of 60 years.

Director Kyras further explained the costs of the program, stating that the costs per trip were just under \$15 with Heartland and just over \$15 per trip with HIRTA. If CyRide were to directly operate the service, the cost is estimated to be \$30 per trip. The national average is \$20-\$50 per trip. The passengers per hour have decreased from 4.1 in FY 2012 to 3.0 in FY 2013. Trustee Goodman asked how the cost was calculated. Director Kyras responded that it was a per trip calculation on weekdays and an hourly rate for Saturdays and Sundays.

Director Kyras elaborated on the funding of the program, explaining that the FTA provided CyRide with an allocation of \$202,000. Total expenses for the program are about \$160,000, of which the FTA funds \$128,000, local matching funds are \$22,000 and rider revenue totals about

\$10,000. If the program is not contracted to another service provider, the program is deemed an operating expense rather than a capital expense and places 100% of the funding obligation on CyRide. Trustee Schainker asked for clarification on expense versus allocation. Tom Davenport, Transit Coordinator, explained that \$128,000 is the estimated expense that uses the FTA dollars and that the difference between the allotted amount of \$202,000 and the \$128,000 expense would be carried over to the next year. Director Kyras added that the difference between \$202,000 and \$128,000 is the amount used for bus stop improvements such as shelters. Trustee Madden asked if there was a formula that dictated the amount of federal allocation. Director Kyras responded that it was a formula that determined this amount.

Director Kyras reviewed the definition and criteria that is used for eligibility for Dial-A-Ride, explaining that eligible customers must not be able to ride the fixed routes. and that one personal care attendants and companion is allowed to ride with the customer. Trustee Madden questioned whether or not there was a cost for a personal care attendant and Director Kyras replied that they are free, but companions pay the same rate as the eligible person.

Director Kyras explained that there are six criteria for service that must be met under the ADA requirements.

- Service area must be within ¾ mile of a fixed route
- Reservations must be made the day before a requested trip, up to 14 days in advance and that the reservations must be taken during normal business hours
- Fares must not be more than 2 times the regular fare, which is \$1.25
- Trip priorities cannot be imposed (ex: a medical trip cannot take priority over a trip for groceries)
- Hours and days of operation must complement that of the fixed route service
- Capacity constraints cannot be imposed (no limits to number of rides and no trips can be excessive in length, 45 minutes or longer)

Director Kyras explained an example trip request with a requested pick up time of 2:45 pm could be picked up as early as 1:45pm and as late as 3:45pm because the rules state that a pick up can occur one hour before or after a requested time. She added that when a person needs to be at an appointment at a specific time, that special consideration is made in that they would not be picked up after the time of their appointment, but could be picked up to an hour before the appointment.

Director Kyras said that the minimum requirements are exceeded by the Dial-A-Ride service in four areas, including: the curb-to-curb requirement because door-to-door service is offered, eligibility requirements because we automatically approve those in wheelchairs, the service area requirement because we include the entire city and the fare requirement because at \$2 per trip, it is less than double the rate of the regular fixed route fare. Another ADA requirement is that subscription trips cannot account for more than 50% of scheduled trips at any one time, so that there is availability for next day requests. A waiting list can be established for subscription requests.

Director Kyras reviewed the stipulations of CyRide's three-year contract with HIRTA, explaining that it renews the current contract each year on July 1st and follows an Iowa DOT

format that is reviewed by the City Legal Department. Under this contract, HIRTA must: follow all ADA regulations, collect the fare set by CyRide, maintain the appropriate insurance requirements, schedule reservations efficiently, provide 100% of ADA eligible requests, wait 10 minutes if they arrive at a pick up before the scheduled time and wait 5 minutes if arrive on time, run 90% of trips on time and no more than 5% of trips can exceed 45 minutes in length. HIRTA is required to report to CyRide on a monthly, quarterly and yearly basis. Things such as operational statistics, drug and alcohol testing results are provided, in addition to a monthly invoice. According to the contract, HIRTA is compensated \$12.55 per trips during the weekday and \$42 per hour for trips occurring on Saturday or Sunday. There is also a fuel surcharge when fuel prices exceed \$3.50 per gallon.

Director Kyras acknowledged that there has been a decline in the level of satisfaction with the service since 2011 and staff has worked with HIRTA to resolve issues that were concentrated in issues with scheduling and issues with the HIRTA staff that was responsible for dispatching and scheduling trips for customers. Director Kyras also shared that HIRTA staff has been better educated in the differences between the Story County program and the Dial-A-Ride program.

President Rediske asked for comments or questions from the public in attendance. Jan Dreesman, Dial-A-Ride passenger, stated her concerns with the number of buses available for the Dial-A-Ride program and the funding plans for the future of the program. Ms. Dreesman said that people are not getting the rides they need and has concerns that drivers at HIRTA are asked to drive too many hours. Ms. Dreesman asked if CyRide was responsible for the Dial-A-Ride contract with HIRTA. Director Kyras indicated that CyRide is responsible for ensuring that HIRTA meets the ADA requirements of the program. Ms. Dreesman questioned if HIRTA was providing a quality service. Director Kyras responded that CyRide monitors the service on a monthly, quarterly and yearly basis through reporting, as well as through the survey of the customers each year, but does not oversee day-to-day operations.

Another Dial-A-Ride passenger in attendance, Jamie Gurganus, stated that the 80 active Dial-A-Ride customers have issues getting the rides they need, including being denied rides because HIRTA's other obligations. Ms. Gurganus said that there are times when the length of waiting for phone call requests to HIRTA exceeds 20 minutes. She opts to utilize email to communicate her requests because she does not have the time to wait to talk to someone at HIRTA over the phone. Ms. Gurganus further elaborated on this issue saying that this is an issue when it is a "will call" situation for a medical appointment and it is difficult to get through to request a pick up. Ms. Gurganus also stated she avoids scheduling rides around 3 pm because of another group that rides at that time, which causes requests for that time to be denied. Director Kyras asked for clarification on whether the trips are denied or if another time is suggested. Ms. Gurganus said that there have been times when there is no option provided.

Ms. Dreesman stated that her neighbor was denied trips for 2 weeks. Director Kyras said it is possible for HIRTA to deny non-Dial-A-Ride trips and it would need to be clarified if this person was eligible for Dial-A-Ride. Ms. Dreesman added that the reason our surveys have improved is due to the fact that people have stopped using the service. Trustee Madden asked if it was possible to provide specific dates and times of situations where service requests are not being met. Ms. Dreesman said that she has provided this information to Director Kyras. Ms. Dreesman

asked if it is possible for CyRide to assist HIRTA with demand. Trustee Madden asked if it was possible to contract with a cab company to subsidize the program on the weekends. Tom Davenport said that the cabs do not have wheelchair lifts, so they would not qualify. Trustee Madden posed the question of whether or not a cab company could be contracted to get a wheelchair lift and if the cost of this would be of further concern.

Trustee Goodman stated that he is flexible with solutions and asked if it was possible to move funds from the bus stop improvements to address this more quickly. Director Kyras said that she could meet with HIRTA and customers again to address issues and ensure that ADA requirements are being met. Trustee Schainker recommended that Director Kyras meet with HIRTA and customers of the Dial-A-Ride program and then report back to the Board. Trustee Goodman asked Ms. Dreesman if she would be comfortable with paying a higher fee for Dial-A-Ride if the experience could improve as a result in the increased price. Ms. Dreesman replied that she would be willing to pay more, but others may not be able to do so. Ms. Dreesman also added that she has already worked with HIRTA and is frustrated in the results of these meetings. Trustee Schainker stated that it needs to be verified by Director Kyras whether or not HIRTA is meeting the minimum requirements of the program and if they are denying rides to people. Trustee Goodman made a motion to have staff meet with HIRTA and customers to determine if HIRTA was meeting the ADA requirements of the program. Trustee Schainker seconded. (Ayes: 5. Nays: None.) Motion carried.

TRANSIT ADVERTISING POLICY: Director Kyras stated the board requested a review of the language in the advertising policy's section 3.01 at the previous board meetings. Director Kyras invited Assistant City Attorney Mark Lambert to join the meeting to assist with questions regarding this language. The language was redrafted in the policy to include the opportunity for the Transit Board to address complaints and is in the board packet on page 9 and 10. Attorney Lambert stated that the initial legal advice was to direct complainants to the FTC or Iowa Attorney General's office because they have experience about the truthfulness of advertisements. Attorney Lambert further commented that there are concerns about upholding the 1st Amendment and the fact that a governmental agency is selling advertising. He indicated that there are risks in not running an advertisement unless it is obviously not true. Public issues such as puppy mills or the treatment of animals are considered political in nature and their truthfulness is in the eye of the beholder.

Trustee Schainker asked what Attorney Lambert recommended. Attorney Lambert stated that he would recommend not exempting advertising and keep the original language and changes sited in alternative #1. Trustee Madden stated his agreement. Trustee Goodman indicated that he thought it would be fine for the Board to look at the issue and then run the advertisement; issues or complaints could be taken to the FTC directly. Trustee Schainker asked for clarification. Trustee Goodman further elaborated that if the Board didn't find it misleading that they run the advertisement and then direct complainants to the FTC. Attorney Lambert said that public issues can be difficult to determine because of rhetoric. Trustee Goodman said that he would prefer that the Board have some control if there is an initial concern and that they have the ability to decide if it should be put up or not. Attorney Lambert said that this would be ok if the advertisement was targeting someone directly. Trustee Schainker asked if the Director would be making this initial decision or what the process for appeals would be. Attorney Lambert said that, under

CyRide existing policy, that initial decisions would be made by the Director. Trustees Goodman and Madden both indicated that currently Director Kyras would make the decision and then a complainant could appeal to the Board of Trustees.

Trustee Schainker asked Attorney Lambert if the original language was recommended. Attorney Lambert replied that the original language did not consider going to the FTC or Attorney General directly. Director Kyras added that she would have no way to know if an advertisement is true or not, so she would direct anything in question to the Board and allow the Board to rule and they could direct to the FTC. Further discussion clarified the same information. Attorney Lambert stated that he recommended that the Board not decide and that people complaining are directed to the FTC or Iowa Attorney General, so one of those agencies make the decision if something is deemed false or misleading. Trustee Madden proposed having the Director make a decision, then be appealed to the Transit Board and then the FTC. Attorney Lambert agreed that this approach was acceptable.

Trustee Goodman proposed changing the wording of “may consult” to “must consult” with City of Ames legal counsel in section 4.02 of the policy. Trustee Schainker asked if this section was directing people to the FTC for a decision. Attorney Lambert said that complaints about false advertising go to the FTC, who would determine if it is false or misleading. Trustee Madden stated that supporting the First Amendment is not always agreed with by everyone, so if a decision is made and someone is not pleased with that decision, they would be able to go to the FTC with the complaint. Trustee Goodman proposed leaving the advertisement up and then having a determination by the Board and then the FTC. Trustee Schainker said that he would like to have the city attorneys review to determine if it is a First Amendment issue because the appeals process may not be feasible for complainants. Trustee Schainker clarified that this information is on page 5 of the policy, section 4.02 that states three transit trustees may consult with city attorneys be changed to “must consult with city attorneys”. Trustee Madden stated he is not supportive of the change of “may” to “must”. Trustee Schainker asked who the three members cited in the policy are. Director Kyras replied that it is the current Board President, Trustee Schainker and Trustee Madden, so that complaints could be addressed in a timely manner.

Trustee Schainker made a motion to change the language so that the three transit members referenced shall consult with legal counsel. Trustee Goodman seconded. President Rediske summarized the issue, stating that a motion was made to change 4.02 of the Advertising Policy from “may” to “shall” consult with legal counsel. (Ayes: 4. Nays: 1.) Motion carried.

Trustee Rediske asked if there was any further action and summarized the changes discussed, clarifying that alternative #3, with the addition of the changes just voted on it section 4.02 of the policy to change the wording from may consult to shall consult. Trustee Goodman made a motion to approve alternative #3 with the said changes. Trustee Schainker seconded the motion. (Ayes: 5. Nays: None) Motion carried.

TRANSIT ADVERTISING ISSUE: President Rediske stated the next item on the agenda was the review of an ad placed by the group Bailing Out Benji. Director Kyras said that not knowing

how the Board would vote on the policy in the previous agenda item, that she had asked both groups (DyVig's Pet Shoppe and Bailing out Benji) for information in writing. Dale Dyvig of Dyvig's Pet Shoppe was present and asked to address the transit board stating that it was his understanding that the Board was for solving issues for CyRide and that they would hear both sides of the issue and come to a vote about allowing the advertisements or not. Mr. Dyvig said that the Benji Ad in question was not true and that if the advertising agency and the Board had looked at this prior to its placement this would not be an issue. Mr. Dyvig stated that the ad is directly aimed at his business and that it discourages people using services from his store. Mr. Dyvig also said that the Board should decide what is right for the City of Ames and should not allow an advertisement that discriminates against a business and resident who pays taxes.

Mindi Callison of Bailing Out Benji, was invited to speak next. Ms. Callison stated that the advertisement was taking aim at promoting education about a national problem and the advertisement was put up to raise awareness at a local level. Ms. Callison also said that the advertisement does not site a specific store and that the advertisement was signed off on by Houck Advertising as well as CyRide. Mr. Dyvig stated that the advertisement directed people to the Bailing Out Benji website, which had previously sited Dyvig's Pet Shoppe as a store that sells puppy mill puppies, but Dyvig's name has since been removed from the website.

Director Kyras indicated that when she originally approved the advertisement she did not have information indicating the advertisement was false and that the advertisement did not site Dyvig's Pet Shoppe specifically. Director Kyras said that since there was a complaint, it would now go to the three members of the Board as stated in the Advertising Policy that was just agreed upon. Trustee Schainker asked if the board could invite the parties to meet again. Trustee Madden suggested that it be addressed now. Trustee Schainker recommended that the Board adjourn and then meet with the parties present.

Another member of the public, Rob Hurd, addressed the Board, stating that this is a political issue that brings to light animal rights versus animal welfare. Mr. Hurd said that not all puppy stores get puppy mill puppies and that there is no legal definition of a puppy mill. Mr. Hurd stated that there is only one store in Ame, IA that sells puppies and that the advertisement is promoting negative comments about this business.

Trustee Goodman suggested that items 8, 9 and 10 on the agenda be tabled until the next meeting so that the parties present could further discuss the advertisement with the three transit board members charged with addressing the issue. Trustee Schainker seconded. (Ayes: 5. Nays: None.) Motion carried.

DATE OF NEXT MEETING: Wednesday, March 26 at 3:15 p.m.

Meeting adjourned at 9:44 a.m.

Daniel Rediske, President

Julie Merges, Recording Secretary