

AMES TRANSIT AGENCY BOARD OF TRUSTEES

AMES, IOWA

October 18, 2016

The Ames Transit Agency Board of Trustees met on October 18, 2016 at 7:00 a.m. in CyRide's Conference room. President Haila called the meeting to order at 7:02 a.m. with Trustees Madden, Schainker, Staudt, Haila and Valentino present. Absent: Trustee Gartin.

Kaila Kenjar, City of Ames' Human Resources Director and Duane Pitcher, Finance Director, were also present.

PUBLIC COMMENTS: No public comments.

AFORDABLE CARE ACT (ACA) IMPACT ON CYRIDE OPERATIONS: Director Kyras explained that CyRide staff along with the City of Ames Human Resource and Finance Departments have been meeting for more than six months to gain an understanding of the Affordable Care Act (ACA) requirements and how it applies to CyRide's flexible work environment for its drivers.

Ms. Kenjar provided board members with background information regarding ACA, sharing that insurance must be offered to individuals working more than 30 hours per week or 1,560 hours per year and that it must be determined affordable under the ACA. Ms. Kenjar said the role of the Human Resources Department is to make sure that when CyRide hires people that they are offered coverage when needed and to make sure that the City of Ames continues to comply with the ACA throughout the employee's tenure with the City.

Trustee Gartin arrived at 7:04 am.

Ms. Kenjar said there are financial implications to satisfying the ACA, which impacts how CyRide's Operation's Division operates. She indicated that this is the biggest challenge to balance the operations with the ACA requirements. Further, she indicated that potential financial risks could be effective beginning in January of 2016.

Trustee Schainker shared his thoughts that there are both financial and operational implications for CyRide and that this is a serious issue that should have been addressed prior to this time.

Director Kyras then provided a PowerPoint presentation regarding the problem, discussions that have taken place over the last six months, possible solutions and financial mitigation sources.

Director Kyras began by explaining the challenges of current work policies under the ACA: CyRide has part-time drivers that work more than 30 hours and it is difficult to know which ones with work more than 1,560 hours in a year with overtime and the possibility of changing work hours over the year, as well as very few hours available in the summer. To change these policies will make it more difficult to hire/retain employees.

Director Kyras indicated that there are three groups of drivers that need to be addressed in the short-term. These groups include employees that: worked more than 1,560 hours last year, recently achieved Step C in the City's Pay Plan and are currently scheduled for more than 30 hours per week. She indicated that a long-term solution would be needed to be identified, but that more research was needed to determine the best approach that was financially feasible and impacted CyRide operations the least.

President Haila suggested that staff contact similar transit systems to determine how they have addressed the ACA. He shared his concerns that changes in CyRide's policies could lead to a hiring problem so that CyRide could not meet its service needs.

Director Kyras then presented the five options that the CyRide, Human Resources and Finance group have been discussing. The first option is to reclassify driver positions into 40 hours, 30 hours, or under 30 hours positions and not allow people to move between the three categories during the year. She indicated that this option would largely impact students and that CyRide could lose employees as they were unable to conform to these changes. She also stated that all employees in the under 30 hour category would not be able to take overtime; which would require employees over 30 hours to be forced to take all of the overtime hours at a higher wage rate. Further, she indicated that it was believed that current CyRide drivers would be unhappy with this option and that CyRide could lose an estimated 20 drivers, increasing turnover and, most likely, lead to morale issues. She indicated that the earliest CyRide staff could complete this task would be the fall 2017 semester and that it would be more administratively burdensome.

Director Kyras indicated that the second option is a variation of the first option where drivers would work either under 30 hours or over 30 hours, but that a "variable" driver category would be added where these individuals would not initially be offered insurance, but their hours would then need to be monitored and insurance offered if they exceeded the 1,560 hours in a year. This would allow some of the <30 hour drivers to take overtime hours and lessen the impacts of the first option, such as turnover, moral, forced overtime and its cost. She also indicated that it could be implemented more quickly, but would be more administratively burdensome. Employees would not be able to change status (>30 or <30 hrs/week) throughout the year as in the first option.

Trustee Schinker asked if the number of employees offered insurance could be narrowed due to the unknown number of hours they might work over the course of a

year. Kaila Kenjar, City of Ames Human Resources Director, indicated that a twelve month measurement period could be established and their hours tracked on a month to month basis, but indicated that this was a time-consuming task and administratively costly. She also indicated a management plan would need to be developed on how to administer this option.

President Haila requested further clarification in a situation when the driver reduced their hours from >30 to <30 hours and having to take insurance away, then to possibly give it back the next year. Ms. Kenjar shared that in a case when the individual met the 1,560 hours for the lookback period, then they would need to be offered insurance in arrears during the next standard measurement period and would be set up for the next 12 months in a stability period and monitored on a month by month basis. Duane Pitcher, City's Finance Director, indicated that as long as drivers can select their hours throughout the year, they will have the opportunity to move onto and off of insurance or they would have to pay for it and we are not able to do this as it would no longer be affordable under the ACA.

Senior Vice President Kate Gregory asked for further clarification on how the monitoring worked. Ms. Kenjar explained that they would need to be placed into an ACA stability period, looking forward for 12 months and then moved into the City's standard measurement period and further, that this administrative tracking would need to be completed by CyRide staff with some assistance from the Finance Dept.

Trustee Madden asked clarifying questions regarding the measurement periods and which drivers were currently offered insurance. He acknowledged the complexity of the CyRide issue in contrasting it to the university's experience where part-time employees are defined as working 20 hrs./week only. Director Kyras shared that the challenge for CyRide was that with its large summer season variation, it is only able to employ 24 full-time employees throughout the year and needed a significant number of part-time drivers during the school year, some working more than 30 hrs., to maintain current service levels.

Ms. Kenjar answered board questions about the need for a policy on how to administer its insurance benefit as employees moved in and out of eligibility under the ACA, month by month measurement requirements and when employees would be "rolled into" the standard measurement period. She also indicated that whenever a business is not offering coverage to an employee on the front end, it must be measured on the back end, on a month to month basis, for twelve months.

Trustee Madden indicated he believes that a model that moves people in and out of eligibility less often would be more favorable.

Director Kyras explained the third option, which is to not change CyRide policies, but come into compliance with ACA by offering insurance to employees working over 30 hrs.

She indicated that there would be no impact on employees, except more individuals would be offered insurance, but that not all of these employees would be working the 1,560 hours for the year, due to decreased summer hours; thereby offering insurance to more individuals than would be required under the ACA. Further, she indicated that this could be implemented immediately.

Trustee Schainker clarified this option indicating that CyRide could offer drivers that only worked an average of 29 hours for the year the opportunity for insurance, because they were scheduled for more than 30 hours during the school year, but they had reduced or no hours over the summer. He also asked how many part-time drivers work over 30 hours and how many under 30 hours. Director Kyras indicated that approximately 42 part-time employees are currently scheduled for over 30 hours.

Trustee Madden inquired about the city's premium. Director Kyras indicated that the employees share is 10% of the monthly premium amount.

Trustee Schainker indicated that the premium must be determined to be affordable under the ACA, so this could impact the employee's premium share. Kaila Kenjar told the transit board, that the City's plan is okay for the affordability requirement under the single coverage premium rate.

Trustee Schainker clarified that to choose this option, it will require policies/documentation on how to manage changes in an employee's status and hours and that the board would be taking a financial risk if it is not administered correctly. Trustee Schainker shared that Option #1 is the city staff's recommendation, not taking into account its impact on how CyRide can operate its service.

Trustee Madden shared his thoughts that employee benefits are a negotiable item, but that Option #3 would most likely be seen as a positive option as it does not change work policies and extends an offer of insurance to more employees. He indicated we should be prepared to have conversations with the union.

President Haila asked for an explanation of the financial risk of applying it incorrectly, indicating this needed to be factored into the decision, as it might be more advantageous to offer insurance to everyone so that possible penalties are not incurred, but acknowledged this would be expensive.

Director Kyras shared with board members that CyRide has already implemented a new policy where any new drivers hired in the last month have been required to pick a work schedule that totals less than 27 hours or more than 30 hours in an attempt to limit the concerns where they are hired at less than 30 hours and then pick up overtime, which then exceed the 30 hours per week worked.

Director Kyras then explained the fourth option, which is to offer insurance to everyone, regardless of their schedule at a premium for ½-time or ¾ time rates, based on their employment status. She indicated that this option is the least administratively burdensome, is a positive factor in morale, but is estimated to be the most costly. She indicated that the City/CyRide could potentially move forward with this option in January.

Director Kyras then detailed the fifth option, which is to eliminate all full time positions and only hire employees for less than 30 hours. Under this option, full time employee's hours would be reduced to part time and it is anticipated that CyRide could lose employees under this option. She also indicated that it would be difficult to attract non-students as they will never have full-time employment at CyRide. This will require more tracking of employees as all employees will be less than 30 hour, and would be able to pick up overtime hours up to 30 hours total. This option has no cost of insurance, but is anticipated to have a higher cost as additional employees would be needed, which means a need for more administrative/training staff to process payroll and hire/manage a larger workforce. Further, she indicated that this could not be implemented until next summer. Ms. Kenjar explained the benefits of this option were the reduced risk as everyone is under 30 hours and lower administration cost to track hours.

Trustee Schainker shared his thoughts that a more acceptable way to approach this option might be to grandfather in current full-time employees. Trustee Madden shared that he was reluctant to eliminate full-time driver positions.

Director Kyras shared potential revenue sources that could address the additional costs of the ACA: fuel savings to-date of approximately \$100,000, closing balance in excess of the 10% board-adopted balance, as well as the closing balance at 10% of approximately \$1.1 million, and up to \$68,000 in a pending Job Access Reverse Commute grant. She also shared areas where expenses could be reduced: \$225,000 in used buses and local match for facility needs of \$200,000. She further indicated that these revenues and expense savings could provide the dollars needed to help address the ACA costs in the current year.

Senior Vice President Gregory requested further refinement of the ACA impact costs, as opposed to the order of magnitude costs included in the information provided. Director Kyras indicated that staff had not prepared information regarding estimated cost; however, had roughly looked at Option #3, which ranged from \$800,000 as a worst case scenario to a more likely cost of \$400,000. Senior Vice President Gregory urged staff to calculate a range for the remaining options to weigh the ramifications of each, citing concerns about including the appropriate amount in next year's budget.

Director Kyras laid out a possible scenario on providing better budget estimates for next year if the board chose Option #3. She indicated that employees would be offered

insurance in the next 30 days and then staff would know how many employees chose insurance, single and family coverage to incorporate this additional cost into the 2017-2018 budget.

Ms. Gregory emphasized her belief that the decision before the transit board reflected a "big risk" decision, recommending that the estimated cost of each and the financial risks need to be defined to make an informed choice in a fairly short period of time

Director Kyras shared her thoughts that the transit board would need to weigh the risks against the costs and impacts to CyRide to determine the short and long-term solutions to the issue.

President Haila shared his concerns as a board member in making a decision at this meeting, based upon limited information, and a short period of time to understanding all the facets of the issue. He suggested meeting again in a week or two to continue the discussion.

Ms. Gregory questioned what the worst case scenario of the financial risks might be.

Trustee Schainker shared his thoughts that it would be difficult for staff to make educated estimates on costs without agreement on the assumptions being made - i.e. 100% of employees would accept insurance or 75%.

Ms. Gregory shared her thoughts that three pieces of information would assist her in better understanding the issue and options - what are the financial risks of each based on its implementation date; what is each option's insurance cost (worst cost scenario); and what are policy change costs for each.

Trustee Gartin shared a fourth concern - whether each proposal would bring CyRide into compliance. Further, he suggested a spreadsheet to track each employee's hours for the year.

Ms. Gregory shared her thoughts that the ACA will ultimately change CyRide's work hour policies. She further asked how the ACA worked for other employees in the City. Trustee Schainker indicated that all other departments were being told to not work a part-time employee over 30 hours; however, he indicated that CyRide staff has indicated it needs more flexibility to meet its service requirements. He further shared that the ACA has not been litigated, so it would be difficult to know for sure how certain provisions would be interpreted in litigation.

Trustee Gartin said he was not comfortable with choosing an option at this meeting, and recommended getting advice of outside counsel on each options compliance with the ACA.

Trustee Madden shared his thoughts regarding outside counsel and indicated they could provide value to businesses that need the flexibility, such as grocery stores or hospital and that CyRide could benefit from this review. Trustee Schainker recommended choosing one option and having an attorney review the policies that would need to be developed if an option other than #1 was chosen. Ms. Kenjar said that any option, other than #1 or #5, would need to have policies developed to guide its implementation and that an attorney would need to review this for compliance.

Trustee Gartin requested clarification on when this issue was recognized. Ms. Kenjar indicated that she was fairly new to the position, but that she became aware of the issue at the end of the standard measurement period in March 2016 and found that employees had worked more than 1,560 hours for the period. Mr. Pitcher indicated that changes were made for the remainder of the city in 2014. Director Kyras indicated that she became aware of the issue in April 2016 and has been working with the Human Resources and Finance departments since that time to understand the issue and determine how to come into compliance. She indicated that several Director's reports had alerted board members to the issue since that time, indicating that staff was working on the issue and that there could be substantial costs for compliance. She indicated that just recently the financial risks were determined by the Human Resources Department with aid of the ACA attorney.

Trustee Gartin moved to direct staff to gather pricing data points for different options and to identify outside counsel to review whether these options would bring CyRide into compliance with the ACA for further discussion in the next week or two. Trustee Schainker added to the motion to contact other transit systems around the country to determine how they have applied the ACA to their workforces. Mr. Pitcher clarified that there was only one option for the employees that worked 1,560 hours last year. Trustee Schainker indicated that he had already directed staff to offer insurance to this group of employees.

Trustee Gartin withdrew his first motion and made a motion to ask staff to provide the cost of the potential liability exposure; refinement of the option's insurance pricing; the administrative costs of each option (cost of additional staffing); and have each option reviewed by an attorney with transit and ACA experience. Trustee Valentino seconded the motion.

Trustee Madden recommended that staff make assumptions as opposed to the worst case scenario for the pricing analysis.

Motion carried. (Ayes: Six. Nays: None.)

Transit board members were in agreement to add this item to the October 26, 2016 Transit Board meeting.

Trustee Gartin moved to direct staff to reach out to peer transit agencies to gather information helpful to understanding how to comply with the ACA. Trustee Schainker seconded the motion. (Ayes: Six. Nays: None.) Motion carried.

Trustee Haila shared his concern in trying to be fiscally conservative, but yet provide the level of service needed to meet the community's needs. He indicated that some of these options could jeopardize CyRide's ability to provide the service through a loss of drivers and cautioned board members to look at this issue with both a short and long-term focus.

Trustee Valentino shared his thoughts about recording driver hours and the use of technology to assist with this task.

Trustee Haila asked a clarifying question on the offer of insurance to drivers that are scheduled for over 30 hours per week during the school year, but do not have hours over the summer; thereby not meeting the 1,560 hour requirement for insurance. Ms. Kenjar indicated that they must be offered insurance as they do not qualify for a seasonal exclusion and are scheduled for at least 30 hours/week for nine months.

Trustee Valentino asked for further clarification regarding the financial risk - timing of the risk and dollars that could be incurred. Mr. Pitcher indicated that, to his knowledge, no financial penalties have been levied to-date so, this is an unknown at this time and could be several years before the IRS could notify the City of an issue. Trustee Haila asked if the City would be asking the CyRide board to pay this risk, and if so CyRide should be setting aside a funding reserve to address this issue. Mr. Madden shared that, typically, with a new process like the ACA, there is a "good faith" measure that can reduce or eliminate the exposure and this cannot be estimated at this time. Trustee Gartin said to think about establishing a reserve fund until the issue is resolved.

Duane Pitcher said that as long as progress is being made, CyRide would, most likely, not have the financial risk associated with no offer of coverage.

Trustee Madden shared that he was not as worried about the financial risk as he was about the cost to comply, as long as CyRide was on a path to compliance. He further indicated that CyRide needed to balance the economics with service needs and shared that he was unsure whether offering insurance to everyone was sustainable.

Trustee Staudt shared his thoughts that the transit board has not acknowledged the benefit of providing insurance to employees working over 30 hours and CyRide's responsibility to meet the intent of the law. Further, he indicated that he could not support any option that could lead to reduced service levels, indicating that he believes students would support higher fees to eliminate this from happening. Trustee Staudt indicated that if a fee increase was needed for the next year, that this needed to be decided in the next month.

Trustee Valentino supported Trustee Staudt's statements and further indicated that he hoped the System Redesign Study would take into effect these increased ACA costs when determining changes to the system.

Trustee Madden pointed out that the Student Government has a separate CyRide reserve and could utilize these additional funds, as opposed to a higher fee increase.

Trustee Madden indicated that there is a collective bargaining process that will need to be addressed as well. Ms. Kenjar indicated that the ACA requirements would override the contract, but acknowledged the need to begin this conversation shortly.

A general discussion was held regarding the appropriate time to address this issue with other government bodies. It was decided that it would more beneficial to have the information requested in the motion before a larger discussion of the issue ensued. Trustee Gartin thanked staff for their work on this issue.

Trustee Kyras requested that the ACA topic be added to the November 1, 2016 special meeting instead of the October 26, 2016 regular meeting to give staff more time to bring back meaningful information. The transit board agreed to the change in date for the next discussion.

FALL SEMESTER MEETING TIMES AND PLACE:

- October 26, 2016, 8:00 AM
- November 1, 2016, 8:00 AM
- November 30, 2016, 8:00AM

Meeting Adjourned: Trustee Schainker made at motion to adjourn the meeting at 8:34 a.m. Trustee Staudt seconded the motion. Motion carried.

John Haila, President

Joanne Van Dyke, Recording Secretary