

San Francisco Bay Area Rapid Transit District

2150 Webster Street, P. O. Box 12688, Oakland, CA 94612-2688



BOARD OF DIRECTORS MINUTES OF THE 1,940TH MEETING THURSDAY, SEPTEMBER 14, 2023

Members of the Board of Directors
Janice Li, President (District 8)
Mark Foley, Vice President (District 2)
Debra Allen (District 1)
Rebecca Saltzman (District 3)
Robert Raburn (District 4)
John McPartland (District 5)
Elizabeth Ames (District 6)
Lateefah Simon (District 7)
Bevan Dufty (District 9)

Adopted: December 21, 2023

MEETING DESCRIPTION

A Regular Meeting of the Board of Directors was held on September 14, 2023, convening at 1:00 p.m. in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California. President Li presided, April B. A. Quintanilla, District Secretary.

1. CALL TO ORDER

President Li called the Meeting to order at 1:00 p.m.

A. Roll Call.

Directors Present in Oakland: Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, and Li.

Directors Present via Teleconference: None.

Absent: Director Simon.

B. Pledge of Allegiance. Director McPartland led the Pledge of Allegiance.

C. Introduction of Special Guests. No special guests were introduced.

2. CLOSED SESSION

A. (CONTINUED from August 24, 2023 Board Meeting)

CONFERENCE WITH LABOR NEGOTIATORS

Designated Representatives: Robert Powers, General Manager; Michael Jones, Deputy General Manager; and David Coleman, Director of Labor Relations

Employee Organizations: Amalgamated Transit Union, Local 1555; American Federation of State, County and Municipal Employees, Local 3993; BART Police Officers' Association; BART Police Managers' Association; Service Employees International Union, Local 1021, BART Chapter; Service Employees International Union, Local 1021, BART Professional Chapter; and Unrepresented Employees (Positions: All)

Government Code Section: 54957.6

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(1) Property: 415 20th Street, Oakland, CA 94612

District Negotiators: Abigail Thorne-Lyman, Director of Real Estate and Property Development, and Val Menotti, Chief Planning and Development Officer

Negotiating Parties: 415 20th Street LLC (Hines) and San Francisco Bay Area Rapid Transit District/Jones Lang Lasalle.

Under Negotiation: Price and Terms

Government Code Section: 54956.8

(2) Property: 1919 Webster Street, Oakland, CA 94612

District Negotiators: Abigail Thorne-Lyman, Director of Real Estate and Property Development, and Val Menotti, Chief Planning and Development Officer

Negotiating Parties: 1919 Webster Owner LLC (Ellis Partners) and San Francisco Bay Area Rapid Transit District/Jones Lang Lasalle.

Under Negotiation: Price and Terms

Government Code Section: 54956.8

(3) Property: 2000 Broadway, Oakland, CA 94612

District Negotiators: Abigail Thorne-Lyman, Director of Real Estate and Property Development, and Val Menotti, Chief Planning and Development Officer

Negotiating Parties: Kaiser Foundation Health Plan Inc. and San Francisco Bay Area Rapid Transit District/Jones Lang Lasalle.

Under Negotiation: Price and Terms

Government Code Section: 54956.8

C. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION

(1) Name of Case: Gabriel Chavez, et al v. BART

Case No.: 22-cv-06119

Government Code Section: 54956.9(a)

(2) Name of Case: Jeremiah Cooper, et al v. BART

Case No.: 22-cv-09193

Government Code Section: 54956.9(a)

(3) Name of Case: Bradford Mitchell v. BART

Case No.: 22-cv-07720

Government Code Section: 54956.9(a)

(4) Name of Case: Jeanette Lovan v. BART

Case No.: 23CV036534

Government Code Section: 54956.9(a)

D. PUBLIC EMPLOYEE EMPLOYMENT/APPOINTMENT

Title: Interim General Counsel

Government Code Section: 54957(b)(1)

E. CONFERENCE WITH LABOR NEGOTIATORS

Designated Representatives: President Janice Li, Director Rebecca Saltzman, and Vice President Mark Foley

Title: Interim General Counsel

Government Code Section 54957.6

President Li brought the item before the Board.

Public Comment

Aleta Dupree addressed the Board.

President Li indicated that the Board would enter into Closed Session under Items 2-A (Conference with Labor Negotiators), 2-B (Conference with Real Property Negotiators), 2-C (Conference with Legal Counsel – Existing Litigation), 2-D (Public Employee Employment/Appointment), and 2-E (Conference with Labor Negotiators) of the Regular Meeting agenda, and that the Board would reconvene in Open Session upon conclusion of the Closed Session.

The Board Meeting recessed at 1:06 p.m.

The Board reconvened in Closed Session at 1:10 p.m.

Directors Present in Oakland: Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, and Li.

Directors Present via Teleconference: None.

Absent: Director Simon.

The Board Meeting recessed at approximately 3:57 p.m.

3. OPEN SESSION

The Board reconvened in Open Session at 3:59 p.m.

Directors Present in Oakland: Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, and Li.

Directors Present via Teleconference: None.

Absent: Director Simon.

A. Announcements from Closed Session, if any.

President Li indicated that the Board had concluded its Closed Session under Items 2-A, 2-B, 2-C, 2-D, and 2-E and that a motion to appoint Jeana Zelan Peterson as Interim General Counsel, effective October 12, 2023, was approved by unanimous vote (8-0), with Director Simon absent.

President Li congratulated Jeana Zelan Peterson, Associate General Counsel, on her interim appointment upon the retirement of Matthew Burrows, General Counsel.

B. Compensation and Benefits for Interim General Counsel.

President Li brought the item before the Board.

Director Dufty moved that the base salary of Jeana Zelan Peterson while serving as Interim General Counsel should be at the annual rate of \$295,000.00 and that during this appointment her benefits will continue to be those applicable to non-represented managers, generally.

Director McPartland second the motion.

Public Comment

Aleta Dupree addressed the Board.

Action

Upon motion by Director Dufty and second by Director McPartland, the Board authorized, by unanimous roll call vote, the base salary of Jeana Zelan Peterson while serving as Interim General Counsel at the annual rate of \$295,000.00 and the continuation of her benefits as those applicable to non-represented managers, generally, during this appointment.

Vote Summary:

Moved / Seconded: Director Dufty / Director McPartland

Aye: Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, and Li.

No: 0.

Abstain: 0.

Absent: Director Simon.

Result: 8-0, motion carried by unanimous roll call vote.

4. REPORT OF THE BOARD PRESIDENT

President Li brought the Report of the Board President before the Board. President Li reported that the mid-year budget workshop was scheduled for October 26, 2023, with a 10 a.m. start time and that the November 16th meeting was going to be the last 2 p.m. start-time meeting of the year. President Li also reported on representing BART at the Metropolitan Transportation Commission (MTC) Regional Network Management Committee meeting on September 8th to discuss Next Generation Clipper® Cards and noted that the Committee meetings were moving to a monthly basis and that Next Generation Clipper® will enable direct payment with any credit card by tapping directly on the card reader.

Public Comment

The following individuals addressed the Board:

Jerry Grace
Glenn Overton
Aleta Dupree

5. BOARD COMMITTEE REPORTS

Director Saltzman, Vice Chairperson of the Financial Structure Ad Hoc Committee, reported that BART's Financial Structure Ad Hoc Committee had met earlier that same day. Director Saltzman indicated that a recommendation would come to the Committee at their next meeting and that a Board recommendation was expected in November.

Director Raburn reported that the East Bay Paratransit Service Review Advisory Committee was reformulated as the East Bay Paratransit Access Committee and that the Committee had met on September 5th.

Public Comment

No comments were received.

6. CONSENT CALENDAR

President Li brought the following Consent Calendar items before the Board.

- A. Approval of Minutes of the Meeting of March 27, 2023 (Special).
- B. Authorization to Award the Order to Purchase for Resale of HO Scale Electric Model BART Train Cars to Rapido Trains, Inc.
- C. Review of Directors' Use of District Property for Fiscal Year 2023.
- D. Award of Agreement No. 6M3659A with San Francisco Elevators, LLC, for Emergency Elevator Repair Services.
- E. Procurement with W.W. Grainger, Inc., as the Official National Association of State Procurement Officials (NASPO) Provider, for Light Fixtures for the North Berkeley Access Improvements Project.

Director Dufty moved that all Consent Calendar items be approved by one motion.

Director Saltzman seconded the motion.

Public Comment

No comments were received.

Action

Upon motion by Director Dufty and second by Director Saltzman, the Board took the following actions by unanimous roll call vote:

1. The Minutes of the Meeting of March 27, 2023 (Special) were approved. (8-0)
2. The General Manager was authorized to award the order to purchase for resale of HO scale electric model BART train cars to Rapido Trains, Inc. of Markham, Ontario, Canada, including pre-orders, for a sum not to exceed \$149,000.00 (inclusive of sales tax), pursuant to notification to be issued by the General Manager. (8-0)
3. The Review of Directors' Use of District Property for Fiscal Year 2023 was accepted. (8-0)
4. The General Manager was authorized to award Agreement No. 6M3659A to San Francisco Elevator Services, LLC to provide Emergency Elevator Repair Services in an amount not to exceed \$1,154,250.00 for a base term of three (3) years, pursuant to notification to be issued by the General Manager and subject to compliance with the District's Protest Procedures. The General Manager was also authorized to exercise up to two (2) one-year options for Agreement No. 6M3659A for \$416,600.00 and \$439,000.00, for a maximum term of five (5) years per Agreement. (8-0)
5. The General Manager was authorized to utilize the National Association of State Procurement Officials (NASPO) ValuePoint Cooperative Purchasing Organization to purchase light fixtures for the North Berkeley Access Improvements project from Grainger for an amount not to exceed \$458,828.00. (8-0)

Vote Summary:

Moved / Seconded: Director Dufty / Director Saltzman

Aye: Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, and Li.

No: 0.

Abstain: 0.

Absent: Director Simon.

Result: 8-0, motion carried by unanimous roll call vote.

7. GENERAL MANAGER'S REPORT

- A. Report of Activities, including Updates of Operational, Administrative, and Roll Call for Introductions Items.

Robert Powers, General Manager, reported on ridership; monitoring and addressing crowding on trains with the new train schedules; adding train line colors to the train displays to help riders identify their routes; BART's Career Fair Day with Alstom; BART's first Employee Career Fair; participating in a live question-and-answer session on BART from 16th Street Mission Station to San Francisco International Airport; the last scheduled legacy train ride; BART's participation in the Oakland Pride event; BART running beyond normal operating hours for upcoming concerts to enable concertgoers to take public transit; and initiation of phase two of the "Not One More Girl" campaign to reduce sexual harassment in the system.

Public Comment

Jerry Grace and Aleta Dupree addressed the Board.

Discussion

The item was discussed, with the following highlight:

Director Saltzman commented on participating in some of the events discussed by General Manager Powers and expressed support for the new train schedule and pride in the direction BART is taking.

8. PUBLIC COMMENT

President Li called for general Public Comment, an opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.

The following individuals addressed the Board:

Glenn Overton
Rob Levitt
Patrick Messac
Aleta Dupree

9. ADMINISTRATION ITEMS **Director Dufty, Chairperson**

Director Dufty, Chairperson of the Administration Committee, had no report and no items were presented.

10. ENGINEERING AND OPERATIONS ITEMS **Director Foley, Chairperson**

A. Next Generation Fare Gates Update.

Vice President Foley, Chairperson of the Engineering and Operations Committee, brought the item before the Board.

Sylvia Lamb, Assistant General Manager, Infrastructure Delivery; Wahid Amari, Project Manager; and Michael Wong, Project Manager, presented the item.

Public Comment

The following individuals addressed the Board:

Jerry Grace
Glenn Overton
Aleta Dupree
Laura Hill

Discussion

The item was discussed, with the following highlights:

Director Dufty recommended that the Next Generation Fare Gates update be distributed to the station agents as they are BART's ambassadors and are most likely to share this news with customers.

Director Allen expressed excitement about the project being elevated to the top of BART's priorities and desire to see this project be completed by the end of 2024. Director Allen also expressed support for using metal as opposed to polycarbonate panels for the fare gates and encouraged staff to find ways to retain as many contractors on this project as possible.

Director Ames congratulated staff on all their efforts and BART for making this project a priority. Director Ames also noted that these fare gates will make a big difference to the rider experience.

Director Saltzman expressed a desire to ensure that the material used for the fare gate panels is transparent so that people can see what is on the other side. Director Saltzman indicated that the stations that have been modernized have demonstrated that there will be unexpected problems as work is being completed that may impact the timeline of implementation.

Director Raburn inquired about the labor for the installation of the Next Generation Fare Gates.

President Li expressed enthusiasm for the West Oakland station pilot; requested regular updates; and suggested that in-station signage about these upgrades be installed.

Director McPartland thanked staff for their work.

Vice President Foley inquired about the involvement of the BART Accessibility Task Force around the new fare gates and requested that all three proposed models of fare gates be installed for in-person inspection. Vice President Foley also thanked staff for their work.

Action

No Board action was taken, as the item was presented for information only.

11. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS

Director Saltzman, Chairperson

A. System Development Policy Update.

Director Saltzman, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the item before the Board.

Public Comment

No comments were received.

Discussion

The item was discussed, with the following highlights:

President Li commented on questions at the question-and-answer session with General Manager Powers regarding expansion for BART which the System Development Policy would address. President Li expressed hope that the policy can be written in a way that is more easily understandable for the public and local officials.

Director Ames inquired how BART could integrate a new project and Directors' feedback into the Policy.

Director Saltzman inquired about publicly promoting the proposed Policy before it is presented to the Board for action.

Action

No Board action was taken, as the item was presented for information only.

12. BOARD MATTERS

A. Vaccination Policy Update and Discussion.

President Li brought the item before the Board.

President Li presented the item, noting the history behind the Vaccination Policy and the reasons for its adoption at the start of the COVID-19 Pandemic. President Li also indicated that all emergency proclamations had ended, vaccines are readily available to those who want them, and other transit agencies had lifted their mandates.

President Li moved that the Amended Statement of Policy, regarding the Coronavirus Pandemic – (COVID-19), be adopted.

Director Dufty seconded the motion.

Vice President Foley thanked staff for their work and for accommodating the vaccine mandate that the Board implemented at the start of the COVID-19 Pandemic.

Public Comment

Shane Reiss and Aleta Dupree addressed the Board.

Discussion

The item was discussed, with the following highlights:

Director Allen commented on her reasons for opposing the Policy when it was originally presented and indicated that it has long been past the time to repeal the Policy, as it caused a lot of BART employees to leave both voluntarily and involuntarily. Director Allen also expressed support for repealing the vaccine mandate.

Director Saltzman noted some challenges in hiring, especially for the Police Department with the Policy in place and indicated that the vaccine mandate saved lives, but we learned that it did not limit the spread of the disease. Director Saltzman also commented that time and science have changed so it would be appropriate to move forward repealing the vaccine mandate and expressed a desire for BART to continue vaccine education.

Action

Upon motion by President Li and second by Director Dufty, the Amended Statement of Policy, regarding the Coronavirus Pandemic – (COVID-19), was adopted by unanimous roll call vote.

Vote Summary:

Moved / Seconded: President Li / Director Dufty

Aye: Directors Allen, Ames, Dufty, Foley, McPartland, Raburn, Saltzman, and Li.

No: 0.

Abstain: 0.

Absent: Director Simon.

Result: 8-0, motion carried by unanimous roll call vote.

- B. Board Member Reports
- C. Roll Call for Introductions.
- D. In Memoriam.

President Li called for Items 12-B, Board Member Reports; 12-C, Roll Call for Introductions; and 12-D, In Memoriam.

Director Dufty reported on attending a celebration at 24th Street Mission Station for the unveiling and refurbishing of a mural.

Director Saltzman reported on attending a community meeting on the design of the North Berkley BART transit-oriented development (TOD), with great turnout. Director Saltzman also thanked Abby Thorne Lyman, Director Real Estate and Property Development, for her work as she accepted another position at a different agency.

Director Ames reported on the involvement of herself, the Ohlone Audubon Society, the U.S. Fish and Wildlife Service, and the CA Department of Fish and Wildlife in the matter of bald eagles roosting next to a BART bridge in Fremont. Director Ames also expressed hope that there could be a solution that benefits both the eagles and BART with the upcoming tree removal project.

Director Raburn reported that he had participated in a welcome-back event for students at California State University, East Bay, and provided a BART update to a group of Environment and Geography 310 students at the University.

13. ADJOURNMENT

The Meeting adjourned at 5:58 p.m.

April B. A. Quintanilla
District Secretary