

San Francisco Bay Area Rapid Transit District

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



BOARD OF DIRECTORS DRAFT MINUTES OF THE 1,925TH MEETING THURSDAY, JANUARY 26, 2023

Members of the Board of Directors

Janice Li, President (District 8)

Mark Foley, Vice President (District 2)

Debora 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)

MEETING DESCRIPTION

A Regular Meeting of the Board of Directors was held on January 26, 2023, convening at 9:00 a.m., via teleconference and in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California, pursuant to all necessary findings having been made by the Board of Directors of the San Francisco Bay Area Rapid Transit District (for itself as well as all subordinate legislative bodies) to continue remote public meetings in the manner contemplated under urgency legislation Assembly Bill No. 361. President Li presided, April B. A. Quintanilla, District Secretary.

1. CALL TO ORDER

President Li called the Meeting to order at 9:00 a.m.

A. Roll Call.

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

Directors Present via Teleconference: None.

Absent: None.

B. Pledge of Allegiance. Vice President Foley led the Pledge of Allegiance.

C. Introduction of Special Guests. There were no special guests introduced.

2. REPORT OF THE BOARD PRESIDENT

President Li presented the Report of the Board President, noting that after conferring with the General Manager, District Secretary, and stakeholders to finalize the Board meeting schedule, there would be changes to the meetings to enhance public participation and accessibility. President Li announced that there would be afternoon meetings beginning at 2:00 p.m. and that if a Closed Session is scheduled, the meetings would begin at 1:00 p.m.

Public Comment

The following individuals addressed the Board:

Alejandra Vila
Aleta Dupree
Damion Scott

3. BOARD COMMITTEE REPORTS

President Li announced that there were no reports under Item 3, Board Committee Reports.

4. **BOARD MATTERS**

- A. Consideration of Action in Response to Director McPartland's Alleged Violation of Board of Directors Code of Conduct Related to Comments Made at the January 12, 2023, Regular Board Meeting.
- i. Public Censure.
 - ii. Removal of the Board Member from One or More Committees.

President Li brought the item before the Board.

Director McPartland addressed the Board, staff, and the public and apologized for what he described as offensive and racially insensitive language during the January 12, 2023, Board Meeting. Director McPartland expressed that his intent was to be thoughtful and complimentary, but in so doing, he unconsciously used a phrase that he now realized is rooted in the hateful history of enslaved labor.

President Li acknowledged Director McPartland's comments and expressed appreciation for his apology. President Li reaffirmed the Board's commitment to the conscientious, effective, and efficient management of the District.

President Li moved approval of the Board's public censure of Director McPartland for violating section I and section VIII of the BART Board of Directors Code of Conduct for his use of racist language at the January 12, 2023, Board Meeting and removal of Director McPartland from all Board Committees he is currently assigned to.

Director Dufty seconded the motion.

President Li expressed intent to agendize an item to review the Board of Directors Code of Conduct at the next Personnel Review Special Committee meeting to consider changes and modifications that could help prevent or better address such a situation from occurring again.

Public Comment

The following individuals addressed the Board:

Javierée Pruitt Hill
Aleta Dupree
Alejandra Villa

Discussion

The item was discussed, with the following highlights:

Director Dufty commented on his responsibility related to the incident and noted that he had apologized to staff.

Director Simon apologized to staff and commented on the Board's accountability and the importance of standing consistently with staff and colleagues when Board Members engage in inappropriate and offensive conduct.

Director Ames described the incident as a healing moment and indicated that, as leaders, the Board Members are obligated to acknowledge the offender and the offended, come together as a Board, and move forward together.

Director Saltzman observed that the incident is a reminder that the Board is responsible for how meetings are conducted and indicated that individuals are responsible for addressing their biases.

Director Raburn noted that Director McPartland's remarks merit consequences and indicated that Director McPartland had no malicious intent.

Director Raburn made a substitute motion to approve the Board's public censure of Director McPartland for violating section I and section VIII of the BART Board of Directors Code of Conduct for his use of racist language at the January 12, 2023, Board Meeting and removal of Director McPartland from all committee assignments until April 2023.

Director Ames seconded the substitute motion.

Public Comment

Wilhelmenia Wilson and Davina Brown addressed the Board.

Discussion

Discussion continued, with the following highlights:

Director Allen commented on Director McPartland's character as a conscientious elected leader and dedication to his community and expressed concern about relieving him of his responsibilities.

Vice President Foley commented on Director McPartland's apology and apologized to staff, the public, and colleagues.

Director Saltzman expressed concern about the substitute motion because changing Board Members who serve on External Committees in the middle of the year is detrimental to continuity.

President Li expressed a desire to engage with staff concerning process, rather than an inflexible course of action.

Action

The substitute motion by Director Raburn, seconded by Director Ames, to approve the Board's public censure of Director McPartland for violating section I and section VIII of the BART Board of Directors Code of Conduct for his use of racist language at the January 12, 2023, Board Meeting and removal of Director McPartland from all committee assignments until April 2023, failed by roll call vote.

Vote Summary:

Moved / Seconded: Director Raburn / Director Ames

Aye: Directors Allen, Ames, and Raburn.

No: Directors Dufty, Foley, Saltzman, Simon, and Li.

Abstain: Director McPartland.

Result: 3-5-1, motion failed by roll call vote.

Action

The following actions were approved by roll call vote, upon motion by President Li and second by Director Dufty.

- A. The Board hereby censured Director John McPartland for violating section I and section VIII of the BART Board of Directors Code of Conduct for his use of racist language at the January 12, 2023, Board Meeting; and
- B. The Board hereby removed Director McPartland from all Board Committees he is currently assigned to.

Vote Summary:

Moved / Seconded: President Li / Director Dufty

Aye: Directors Dufty, Foley, Raburn, Saltzman, Simon, and Li.

No: Directors Allen and Ames.

Abstain: Director McPartland.

Result: 6-2-1, motion carried by roll call vote.

5. CONSENT CALENDAR

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

- A. Approval of Minutes of the Meeting of November 17, 2022.
- B. Declaration of November 8, 2022, Election Results.
- C. District Base Pay Schedule.
- D. Renewal of Software License with Salesforce, Inc. for Cloud-Based Customer Relationship Management and Digital Marketing Automation.
- E. Procurement with Carahsoft Technology Corporation, as the Official National Association of State Procurement Officials (NASPO) Provider, for Enterprise Log Management.
- F. Procurement with CDW Government LLC, as the Official National Association of State Procurement Officials (NASPO) Provider, for Antivirus Detection and Security Tools.
- G. Award of Invitation for Bid No. 9101A, Ultrasonic Rail Flaw Inspection Vehicle.
- H. Award of Invitation for Bid No. 9125, Crew Truck with Stake Bed.

Action

Director Simon moved to approve all Consent Calendar items by one motion. Director Dufty seconded the motion, which carried by unanimous roll call vote and resulted in the actions outlined below.

Vote Summary:

Moved / Seconded: Director Simon / Director Dufty

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

No: 0.

Abstain: 0.

Result: 9-0, motion carried by unanimous roll call vote.

- A. The Minutes of the Meeting of November 17, 2022, were approved. *(Vote: 9-0)*
- B. Entry into the Minutes of the Board the official canvass of the returns for Election Districts 2, 4, 5, and 8 as certified by the Alameda County Registrar of Voters, the Contra Costa County Registrar of Voters, and the City and County of San Francisco Department of Elections for the election of November 8, 2022, the elected candidates, having received the highest number of votes cast in their respective Election Districts based on said official canvass, are hereby declared elected or appointed to the Board of Directors of the San Francisco Bay Area Rapid Transit District:

Mark Foley, District 2

Robert Raburn, District 4

Elizabeth (Liz) Ames, District 6

Janice Li, District 8.

(Vote: 9-0)

- C. Approval of the base pay schedule in effect January 1, 2023. *(Vote: 9-0)*
- D. The General Manager was authorized to execute a Purchase Order to obtain a software subscription with Salesforce, Inc., for cloud-based Customer Resource Management (CRM) and Digital Marketing Automation (DMA) software licensing, in an amount not to exceed \$1,304,740.85 over four (4) years. *(Vote: 9-0)*
- E. The General Manager was authorized to purchase Splunk Software extended license subscriptions and expanded security services and tools from Carahsoft, for an amount not to exceed \$1,677,238.32.
- F. The General Manager was authorized to purchase licenses from CDW Government LLC (CDW-G) to extend for Sophos software support and add Managed Detection and Response (MDR) services, and Incident Response (IR) for an amount not to exceed \$1,094,837.84.
- G. The General Manager was authorized to award Invitation for Bid (IFB) No. 9101A Ultrasonic Rail Flaw Inspection Vehicle, to DPR Ultrasonic Technologies of Danbury, Connecticut for the Bid Price of \$439,531.47 (including 10.25% sales tax), pursuant to notification to be issued by the General Manager, and subject to compliance with the District's Protest Procedures and Federal Transit Administration (FTA) procedures related to protests.

(The foregoing action was taken on the basis of analysis by the staff and certification by the Controller-Treasurer that funds are available for this purpose.)

- H. The General Manager was authorized to award IFB No. 9125 for one (1) Crew Truck with a Stake bed and a Hi-Rail system, to Custom Truck One Source for an amount not-to-exceed \$225,146.96 (including 10.25% sales tax), pursuant to notification to be issued by the General Manager, and subject to compliance with the District's Protest Procedures and FTA procedures related to protests.

(The foregoing action was taken on the basis of analysis by the staff and certification by the Controller-Treasurer that funds are available for this purpose.)

Public Comment

No comments were received.

6. GENERAL MANAGER'S REPORT

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

Robert Powers, General Manager, provided an overview of several community projects, including the 19th St. Oakland Station modernization ribbon-cutting event held on Saturday, January 21, 2023, and attended by elected Federal, State, City, District officials, and stakeholders.

General Manager Powers also provided updates on BART's outreach, advocacy, funding, ridership, partnerships, and modernization programs.

Shane Edwards, Assistant General Manager, Operations, provided updates on BART's operations and service data.

General Counsel Burrows reported that the California Supreme Court recently rejected a lawsuit challenging the validity of Regional Measure 3 (RM 3).

Public Comment

Aleta Dupree addressed the Board.

Discussion

The item was discussed, with the following highlights:

Vice President Foley expressed disappointment regarding the deployment of eight-car trains during peak commute hours because cancellation of service can undermine the entire commute.

Director Raburn requested a briefing on the impact of the Supreme Court decision on RM 3 prior to the following week's meetings with legislators in Sacramento.

Director Allen echoed the sentiments of constituents in Central Contra Costa County, indicating that service issues neither help attract riders, nor keep them.

Director Dufty commented on visiting San Bruno Station with Assistant General Manager Edward and noted that meeting with the San Bruno City Council was a positive experience.

7. **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 address the Board:

Chris Iglesias
Aleta Dupree
Alejandra Vila
Randolph Bell
Davina Brown
Ayonna Davis
Wilhelmenia Wilson
Miesha Williams
Tommie
Shanice Bell
Veronica Makongo
Leesa Williams
Andre
Jasmine (Dream) Brags
Andrea Hudson
Antoinette
Tashayla Walker
Sid
Farida Savai
Anglyn Sasser
Tracy Peterson
Kayla Hightower
Jedidiah Burton
Pepper Hoskins
Donald Milligan
Christina Jones
Will Smith
Faviola

President Li announced that the order of agenda items would be changed.

12. **CLOSED SESSION**

A. Conference with Legal Counsel – Existing Litigation

Name of Case: Andrew Pisano and Kaitlyn Pisano v. San Francisco Bay Area Rapid Transit District; Philip M. Valenzuela, Jr. et al.

Case No.: RG-19-041496

Government Code Section: 54956.9(a)

President Li announced that the Board would enter into Closed Session under Item 12-A (Conference with Legal Counsel – Existing Litigation) of the Regular Meeting agenda, and that the Board would reconvene in Open Session upon conclusion of the Closed Session.

Public Comment

No comments were received.

The Board Meeting recessed at approximately 11:47 a.m.

The Board reconvened in Closed Session at 11:53 a.m.

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

Directors Present via Teleconference: None.

Absent: None.

The Board Meeting recessed at 12:05 p.m.

13. OPEN SESSION

The Board reconvened in Open Session at 12:13 p.m.

Directors Present in Oakland: Directors Dufty, Foley, McPartland, Saltzman, Simon, and Li.

Directors Present via Teleconference: None.

Absent: None. Directors Allen, Ames, and Raburn entered the Meeting later.

A. Announcement from Closed Session, if any.

President Li announced that the Board had concluded its Closed Session under Item 12-A and that there was no announcement to be made.

8. ADMINISTRATION ITEMS
Director Dufty, Chairperson

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

9. **ENGINEERING AND OPERATIONS ITEMS**

Director Foley, Chairperson

Vice President Foley, Chairperson of the Engineering and Operations Committee, had no report, and no items were presented.

10. **PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS**

Director Saltzman, Chairperson

A. Addressing the Transit Operating Shortfall - Fiscal Action Plan, Advocacy Strategy, and Timeline.

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

Val Menotti, Chief Planning and Development Officer; Pamela Herhold, Assistant General Manager, Performance and Budget; and Rodd Lee, Assistant General Manager, External Affairs, presented the item.

Directors Allen, Ames, and Raburn entered the Meeting.

Public Comment

The following individuals addressed the Board:

Aleta Dupree
Michael Gliksohn
Stephanie Beechem
Adina Levin
Anthony
Carter Lavin
Cyrus Hall

Discussion

The item was discussed, with the following highlights:

President Li commented on a potential BART Tax Measure and proposed having an enabling legislation for 2026 to mitigate BART's projected fiscal cliff.

Director Raburn inquired about the Office of Civil Rights' ability to produce a Civil Rights *Title VI* data analysis to help guide the Board.

Director Allen indicated that because five counties use BART services, a potential Tax Measure should span at least five, rather than three counties.

Director Ames sought staff clarification of BART's strategy to address ridership growth and improve the riders' experience.

Director Dufty underlined General Manager Powers' accomplishments and success in working collaboratively with the Blue-Ribbon Committee on Recovery (also known as the Metropolitan

Transportation Commission's Blue-Ribbon Transit Recovery Task Force) and requested an update on the evolving structure and cohesion among operators as well as the ongoing strategy, and partnerships related to BART's operations.

General Manager Powers provided a vision of BART's future and addressed the framework established as a voice for the region, comprised of elected Federal, County, and District leaders, State legislators, and policymakers. General Manager Powers also elaborated on BART's partnerships, operational and integration needs, the recognition of common challenges, advocacy, and weekly support meetings.

Director Dufty underscored the importance of the Board's leadership, if BART is to be successful, particularly in Sacramento, and acknowledged General Manager Powers' representation of strong leadership as a catalyst for the realignment of common interests in the region that has effectively responded to difficult situations resulting from the COVID-19 Pandemic.

Vice President Foley indicated that the status of workers returning to work in person in the Bay Area is the new normal pattern because riders who used BART five days weekly prior to the COVID-19 Pandemic now use BART two days weekly, resulting in a 16% drop in revenue. Vice President Foley noted that BART must explore alternatives if the proposed Tax Measure path does not lead in the right direction.

Director Saltzman emphasized the need to communicate BART's vision for the BART Safety, Reliability and Traffic Relief Program (Measure RR) and continue to present both the positive outcome if BART receives funding and the negative outcome if BART does not receive funding.

Director Simon exited the Meeting.

Action

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

B. East Bay Paratransit Consortium Overview of Procurements.

Director Saltzman brought the item before the Board.

Laura Timothy, Manager of Access and Accessible Services, presented the item.

Public Comment

No comments were received.

Discussion

The item was discussed, with the following highlights:

Director Allen expressed satisfaction with finding new, faster, more efficient ways of transporting riders with disabilities.

Director Ames requested clarification of BART's efforts to explore the non-profit organization model and ideas, such as expanding services and exploring contracting opportunities with both private and non-profit organizations.

Access and Accessible Services Manager Timothy noted that Bart's new broker agreement offers quality management and flexibility that incentivizes more innovative strategies and cost-saving measures.

Director Raburn requested clarification of the status of the pilot fare integration.

Access and Accessible Services Manager Timothy noted that BART was in the process of surveying current fare payment application users to identify needs and future updates.

Action

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

C. Electric Vehicle Charging Update - Approach to Customer Infrastructure.

Director Saltzman brought the item before the Board.

Monica Meagher, Group Manager, Sustainability Program, presented the item.

Public Comment

Aleta Dupre addressed the Board.

Discussion

President Li recommended that staff explore various options for charging stations and consider arranging for BART staff to install and maintain BART's own charging units.

Director Raburn sought to clarify how residents at the Coliseum Connections will access the parking lot during the non-parking fee periods.

Director Saltzman exited the Meeting.

Group Manager Meagher responded that the parking lot would be accessible to residents on nights and weekends.

Action

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

11. **BOARD MATTERS**

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

President Li called for Items 11-A, Board Member Reports; 11-B, Roll Call for Introductions; and 11-C, In Memoriam.

President Li noted that the In Memoriam request for Janet Abelson, former El Cerrito Mayor and Council, would be moved to the next Board Meeting and indicated that the District Secretary would provide updates on the District Secretary's Office (DSO) newsletter and preparation of Board Meeting Minutes. President Li commented that modern technology and accessibility of bart.gov livestream and videos on-demand on YouTube allows for less reliance on written minutes and expressed sensitivity to the DSO's staffing situation and their effort to catch up and make the work more sustainable.

District Secretary Quintanilla provided an update on DSO staff and the preparation and submission of Board Meeting Minutes, noting that Board Meeting Minutes would include abbreviated narrative sections.

Director McPartland submitted an In Memoriam request for Bill Elliott, Lieutenant, Oakland Fire Department.

Director Raburn expressed gratitude to Board Members and staff for attending the dedication of the 19th St. Oakland modernization ribbon-cutting event.

President Li noted that Monday, January 22, 2023, was Lunar New Year and wished a special happy new year, health, and prosperity to BART staff and Board Members. President Li also encourage BART staff and Board Members to sign up for the Lunar New Year parade.

President Li submitted an In Memoriam request for the victims of the Monterey Park and Halfmoon Bay mass shooting incidents.

ADJOURNMENT

The Meeting adjourned at 2:05 p.m. in honor of Lieutenant Bill Elliott and the victims of the Monterey Park and Halfmoon Bay mass shooting incidents.

April B. A. Quintanilla
District Secretary