

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors
Minutes of the 1,847th Meeting
August 22, 2019

A regular meeting of the Board of Directors was held August 22, 2019, convening at 9:04 a.m. in the BART Board Room, 2040 Webster Street, Oakland, California. President Dufty presided; Patricia K. Williams, District Secretary.

Directors present: Directors Foley, Li, McPartland, Raburn, Saltzman, Simon and Dufty.

Absent: Director Ames. Director Allen entered the meeting later.

President Dufty called for Introduction of Special Guests. Acting BART Police Chief Ed Alvarez gave an overview of the BART Police Department's actions and practices to become a member of the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA). Acting Chief Alvarez introduced Mr. Mark Mosier, Regional Program Manager for CALEA. Mr. Mosier presented General Manager Robert Powers; Acting BART Chief of Police Ed Alvarez; Lt. Kevin Franklin; and Mr. Matt Cromer, Manager of Accreditation, with the May 2019 CALEA Advanced Law Enforcement Accreditation Award. Mr. Mosier acknowledged the years of preparation to achieve accreditation and recognized Mr. Cromer and previous Chiefs of Police Rainey and Rojas.

President Dufty announced that according to State statutes, a publicly noticed hearing is required prior to the Board of Directors approving a new fee and that a hearing would now be held for a proposed fee that will be charged to developers who submit to BART unsolicited proposals for property development on BART-owned land and that this hearing is the venue for the public to comment on the proposed fee.

Mr. Sean Brooks, Director of Real Estate and Property Development; and Ms. Kimberly Koempel, Principal Planner presented the item.

There being no public comment, the Public Hearing was closed.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of July 25, 2019 (Regular).
2. Fixed Property Tax Rates Fiscal Year 2019-2020 General Obligation Bonds.
3. Invitation For Bid No. 9065, AC Traction Motor Encoder Assembly.

Director Raburn made the following motions as a unit. Director Li seconded the motions, which carried by unanimous electronic vote. Ayes – 7: Directors Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0. Absent- 2: Directors Allen and Ames.

1. That the Minutes of the Meeting of July 25, 2019, be approved.

2. Adoption of Resolution No. 5414, In the Matter of Fixing The Rate of Taxes for San Francisco Bay Area Rapid Transit District for Fiscal Year 2019/20.
3. That the General Manager be authorized to award Invitation For Bid No. 9065, for the purchase of Encoder Assemblies for Vehicle Traction Motors, to ITP Rail Associates, Inc. for the bid price of \$1,188,592.50 including tax, pursuant to notification to be issued by the General Manager.

(The foregoing motion is made on the basis of analysis by the staff and certification by the Controller/Treasurer that funds are available for this purpose.)

President Dufty called for Public Comment.

The following individuals addressed the Board:

Gerald Cauthen
Jennifer Rodrigues
Paul Cummings

Director Allen entered the meeting.

Public Comment continued:

Brian Bracknet
Abre' Conner

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

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Re-Authorization of the Exclusive Negotiating Agreement for Transit Oriented Development, with Brookfield Residential, for the North Concord/Martinez BART Station Project before the Board. Mr. Carl Holmes, Assistant General Manager, Design and Construction; Mr. Sean Brooks; Ms. Abigail Thorne-Lyman, Manager of Transit Oriented Development; and Mr. Joseph Basuino, Principal Property Development Officer, presented the item. The item was discussed.

The following individuals addressed the Board:

Tim Limscomb
Iman Novin
Joe Guerra
Craig Bettencourt

Discussion continued.

Director Foley moved that the General Manager or his designee be authorized to negotiate an Exclusive Negotiating Agreement with the development team led by Brookfield Residential for a term of 24 months, with an option to extend the Exclusive Negotiating Agreement (ENA) period an additional 12 months if key milestones are substantially met, such ENA to be brought back to the Board for approval. Director McPartland seconded the motion, which carried by unanimous

electronic vote. Ayes – 8: Directors Allen, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0. Absent- 1: Director Ames.

Director Raburn brought the matter of BART's Transit-Oriented Development Policy Amendment and New Review Fee: Unsolicited Proposals for Property Development, before the Board. Mr. Holmes; Mr. Brooks; and Ms. Koempel presented the item. The item was discussed. Director Saltzman made the following motions as a unit.

1. That the Board amend the Transit Oriented Development Policy by adding the following new Section 4 under Strategy A:

Develop a procedure that will allow BART to respond to unsolicited proposals for property development on BART-owned land. Although BART does not encourage unsolicited proposals, they can be a valuable means for BART to partner with local communities and/or the development community to produce innovative or unique developments that deliver benefits in excess of what is typically provided by the market.

2. Adoption of Resolution No. 5415, In the matter of adopting a new fee for the review of Unsolicited Proposals for property development.
3. That the General Manager or his designee be authorized to enter into agreements with parties that submit Unsolicited Proposals requiring that they reimburse the District for all expenses, including staff and consultant costs, associated with the review of those unsolicited proposals.

Director Simon seconded the motion, which carried by unanimous electronic vote.

Ayes – 8: Directors Allen, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0. Absent- : Director Ames.

Director McPartland exited the meeting.

Director Raburn brought the matter of Federal and State Legislation for Consideration before the Board. Mr. Roddrick Lee, Interim Assistant General Manager, External Affairs; and Ms. Amanda Cruz, Program Manager I, Government and Community Relations, presented the item. The item was discussed.

Director Saltzman moved that the Board of Directors support the following bills:

FEDERAL

House of Representatives:	H.R. 1313	Transit Security Grant Program Flexibility Act
	H.R.2864	Rebuild America Act of 2019
	H.R.3437	Saving Transit Art Resources Act

STATE

Assembly Bill:	AB 67	Homeless Integrated Data Warehouse
Senate Bill:	SB277	Road Maintenance and Rehabilitation Program: Local Partnership Program

President Dufty seconded the motion, which passed by electronic vote. Ayes – 6: Directors Foley, Li, Raburn, Saltzman, Simon, and Dufty. Noes – 0. Absent- 2: Directors Ames and McPartland. Abstain – 1: Director Allen.

Director McPartland re-entered the meeting.

Director Raburn brought the matter of Irvington BART Station to Warm Springs Extension Project Modifications before the Board. Mr. Holmes; Mr. Paul Medved, Group Manager, Extensions; and Ms. Susan Poliwka, Senior Planner, presented the item. The item was discussed. President Dufty read into record Director Elizabeth Ames' statement regarding the item. Director Saltzman moved that the Board adopt Resolution No. 5416, In The Matter of Adopting the Irvington Station Modifications to the Warm Springs Extension Project. Director Raburn seconded the motion which carried by unanimous electronic vote. Ayes – 8: Directors Allen, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0. Absent- 1: Director Ames.

Director Raburn brought the matter of Update on the Proposed Implementation of FASTER Bay Area before the Board. Mr. Holmes; Mr. Val Menotti, Chief Planning and Development Officer; Ms. Sadie Graham, Project Manager, Systems Development; Mr. Jason Baker, Silicon Valley Leadership Group; and Mr. Stuart Cohen with FASTER Bay Area, presented the item. The item was discussed.

Director Li exited the meeting.

Director Simon, Chairperson of the Administration Committee, moved that the General Manager be authorized to award Agreement No. 6M4625, with KPMG, LLP, in the amount not to exceed \$5,830,601 for implementation of a Project Portfolio Management System, subject to compliance with the contract's insurance provisions and pursuant to notification by the General Manager; and that the General Manager be further authorized to exercise two (2) one-year Maintenance Options included in the price. President Dufty seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Foley, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0. Absent- 2: Directors Ames and Li.

Director Li re-entered the meeting.

Director Simon brought the matter of Responses to the 2018-2019 Alameda County Grand Jury Final Report, "Crime and Quality of Life: Impact on BART Ridership" before the Board. Ms. Pamela Herhold, Assistant General Manager, Performance and Budget, presented the item. The item was discussed. Director Raburn moved that the Board approve the Responses from the BART Board of Directors to the 2018-2019 Alameda County Grand Jury Final Report, "Crime and Quality of Life: Impact on BART Ridership" and directs staff that those responses be transmitted to the 2018-2019 Alameda County Grand Jury. President Dufty seconded the motion which carried by unanimous electronic vote. Ayes – 8: Directors Allen, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0. Absent- 1: Director Ames.

Director Simon brought the matter of Actuarial Report on Changes to Pension before the Board. Ms. Diane Iwata, Manager of HRIS and Benefits, presented the item.

Director Foley, Chairperson of the Engineering and Operations Committee, brought the matter of Change Order to Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project, with Clark Construction Group, LLC., before the Board. Ms. Tamar Allen, Assistant General Manager, Operations; Mr. Holmes; Ms. Tracy Johnson, Chief Transit System Development Officer; and Mr. Wahid Amiri, Project Manager, Extensions, presented the item. The item was discussed. Director Saltzman moved that the General Manager be authorized to execute the various Change Orders in an aggregate amount not to exceed \$6,200,000 to Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project:

- i. Upgrade the Planned 10KW UPS to 40KVA (C.O. No. 33).
- ii. Revise Overhead Power and Communication Conduits and Layout (C.O. No. 39).
- iii. Procure Additional Fire Alarms Devices, from 73 to 229 (C.O. No. 54).
- iv. 5 Month Delay Compensation (C.O. No. 55).
- v. Accelerate Phase 1 of Water Intrusion Mitigation Project (C.O. No. 82).
- vii. Construct a New PG&E Service Meter for New Fire Pump (C.O. No. 91).

Directors Dufty and Simon seconded the motion. Discussion continued. Director Allen requested an amendment to include a change order to retrofit accessible fare gates and to see a diagram projected. The item was continued until later in the meeting.

Director Foley brought the matter of the Quarterly Performance Report, Fourth Quarter Fiscal Year 2019 Service Performance Review before the Board. Ms. Tamar Allen and Mr. Ed Alvarez presented the item. The item was discussed.

Jerry Grace addressed the Board.

Director Foley returned to Change Order to Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project, with Clark Construction Group, LLC. Ms. Tamar Allen presented additional information. Directors Saltzman, Dufty and Simon accepted Director Allen's amendment. Director Saltzman moved that the General Manager be authorized to execute the various Change Orders in an aggregate amount not to exceed \$6,500,000 to Contract No. 05HA-100, El Cerrito Del Norte Station Modernization Project:

- i. Upgrade the Planned 10KW UPS to 40KVA (C.O. No. 33).
- ii. Revise Overhead Power and Communication Conduits and Layout (C.O. No. 39).
- iii. Procure Additional Fire Alarms Devices, from 73 to 229 (C.O. No. 54).
- iv. 5 Month Delay Compensation (C.O. No. 55).
- v. Accelerate Phase 1 of Water Intrusion Mitigation Project (C.O. No. 82).
- vi. Retrofit Two Accessible Fare Gates (C.O. No. 90).
- vii. Construct a New PG&E Service Meter for New Fire Pump (C.O. No. 91).

Directors Dufty and Simon seconded the motion which carried by unanimous electronic vote.

Ayes – 8: Directors Allen, Foley, Li, McPartland, Raburn, Saltzman, Simon, and Dufty. Noes – 0. Absent- 1: Director Ames.

Director Raburn exited the meeting.

President Dufty moved adoption of Resolution No. 5417, In the matter of an amendment to the Money Pension Plan Contribution for General Manager. Director Foley seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Allen, Foley, Li, McPartland, Saltzman, Simon, and Dufty. Noes – 0. Absent- 2: Directors Ames and Raburn.

Director Raburn re-entered the meeting.

President Dufty called for Board Member Reports, Roll Call for Introductions, and In Memoriam.

Director Allen requested that the topic of a new BART ordinance prohibiting solicitation of money or “panhandling” from BART riders at any place within the paid areas be brought to a Board meeting by the end of October for consideration by the Board. Staff will work with Directors to research applicable information related to the topic. Directors Foley and McPartland supported the request.

Director Foley stated the reason he supported the RCI submitted by Director Allen is so that the Directors can have an honest and open conversation on how to move forward in a Board meeting, not on social media, in the press or other digital media.

Director Saltzman reported she attended an outreach for El Cerrito Plaza for planned Transit Oriented Development.

President Dufty requested that the meeting be adjourned in honor of Albert Jacquez noting that Mr. Jacquez’ wife of 31 years, Lynn Jacquez has been BART’s senior advisor working with C.J. Lake, LLC.

Director Simon reported she had attended a young elected officials conference in Miami with Director Li. She reported she had attended All In San Francisco and Oakland Planning Development meetings.

Director Li reported she had attended the young elected officials conference in Miami where she had participated on panel for the Future of Transportation and a Chinatown group meeting to focus on transportation issues.

Director Raburn reported he had attended the Santa Clara Valley Transportation Authority Partnership Special Committee, a summer field trip with elementary students to Children’s Fairyland, a Clipper station outreach event, the re-opening of the Transbay Transit Center, the Art & Soul Festival, and a Regional Climate Emergency Strategy Session.

President Dufty announced that the Board would enter into closed session under Item 12-A (Conference with Legal Counsel); Item 12-B (Conference with Legal Counsel) and Item 12-C (Conference with Real Property Negotiators) of the Regular Meeting agenda, and that the Board would reconvene in open session.

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

The Board reconvened in closed session at 1:15 p.m.

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

Absent: Director Ames.

Director Saltzman exited the meeting.

The Board Meeting recessed at 2:33 p.m.

The Board reconvened in open session at 2:34 p.m.

Directors present: Directors Allen, Foley, Li, McPartland, Raburn, Simon, and Dufty.

Absent: Directors Ames and Saltzman.

President Dufty announced that there were no announcements to be made from the closed session.

President Dufty called for the Independent Police Auditor's Report.

Mr. Russell Bloom, Independent Police Auditor, presented the Quarterly Report of the Independent Police Auditor.

Mr. Bloom gave a report on the revised Citizen Oversight Model Implementation Report.

Director Foley exited the meeting.

President Dufty returned to the Quarterly Performance Report. Ms. Tamar Allen responded to Directors' questions.

President Dufty called for the General Manager's Report.

General Manager Robert Powers reported on Clipper Only pilot programs and steps he had taken and activities and meetings he had participated in. Ms. Tamar Allen reported on the C35 closure and the work performed.

The Meeting was adjourned at 2:59 p.m. in honor of Albert Jacquez.

Patricia K. Williams
District Secretary