SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors
Minutes of the 1,853rd Meeting
December 5, 2019

A regular meeting of the Board of Directors was held on December 5, 2019, convening at 9:01 a.m. in the BART Board Room, 2040 Webster Street, Oakland, California. President Dufty presided; Patricia K. Williams, District Secretary.

Present: Directors Ames, Foley, Li, McPartland, Raburn and Dufty.

Absent: Director Saltzman. Directors Allen and Simon entered the Meeting later.

Consent Calendar items brought before the Board were:

1. Metropolitan Transportation Commission (MTC) Exchange Account Withdrawal for Expansion Rail Cars Procurement.

2. Resolution Fixing the Non California Public Retirement System (CalPERS) Medical Plan Structure and Rates for Calendar Year 2020.

3. Agreement between Capitol Corridor Joint Powers Authority and San Francisco Bay Area Rapid Transit District for Administrative Support.

4. Award of Invitation for Bid No. 9068, 750 kcmil Direct Current (DC) Power Cables.

5. Award of Invitation for Bid No. 9076, Bearing Assembly, Truck Journal.

6. Expansion of National Association of State Procurement Officials Value Point Purchase Program for Parts and Supplies.

Director Raburn made the following motions as a unit. Director McPartland seconded the motions, which carried by unanimous electronic vote. Ayes: 6 – Directors Ames, Foley, Li, McPartland, Raburn, and Dufty. Noes: 0. Absent: 3 – Directors Allen, Saltzman, and Simon.

1. That the withdrawal of up to $18,000,000.00 from the BART Car Replacement Funding Exchange Account to fund the purchase of railcars under the Transbay Corridor Core Capacity Project, be formally approved.

2. That Resolution No. 5430, In the Matter of the Non-CalPERS Medical Plan Plan Structure and Rates For Calendar Year 2020, be adopted.

3. That the General Manager be authorized to execute an Agreement between the Capitol Corridor Joint Powers Authority and the San Francisco Bay Area Rapid Transit District for Administrative Support for a consecutive five-year term through February 19, 2025

under generally the same terms as the current agreement, subject to approval of the General Counsel.

4. That the General Manager be authorized to award Invitation for Bid No. 9068, for 750 kcmil DC Power Cable for Traction Power DC Cable Replacement Projects to PRYSMIAN CABLES & SYSTEMS, North Dighton, MA, for an amount of $666,803.20 (includes all applicable taxes) pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures and the Federal Transit Administration's (FTA) requirements related to protests.

5. That the General Manager be authorized to award Invitation for Bid No. 9076, for the purchase of Bearing Assembly, Truck Journal, to Jamaica Bearing for the Bid price of $516,702 including tax, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures.

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

6. That the General Manager be authorized to utilize the National Association of State Procurement Official's (NASPO) ValuePoint Cooperative Purchasing Organization to make purchases from the Facilities Maintenance and Repair Operations (MRO) and Industrial Supply contract and the Automotive Original Equipment Manufacturer (OEM)/Aftermarket contract, until such time that the State of California ceases these or subsequent contracts, subject to the availability of funding.

Consent Calendar report brought before the Board was:

1. Independent Auditor's Reports on the Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2019.

President Dufty called for Public Comment. No comments were received.

Director Allen entered the Meeting.

Director Simon entered the Meeting.

President Dufty brought the matter of Independent Police Auditor's Report before the Board. Mr. Russell Bloom, Independent Police Auditor, presented the report.

Mr. Bloom introduced Ms. Gia Irlando, Board Member for the National Association for Civilian Oversight of Law Enforcement (NACOLE).

Director Ames requested information on de-escalation training for police officers.

President Dufty asked how training is provided to police officers and about assessments for the additional training.

Director McPartland welcomed Ms. Irlando and asked for clarification of education efforts. Ms. Irlando responded to Director McPartland's question.

President Dufty commented on developing a plan to approach young people as part of an outreach program and on Board Members' involvement in outreach efforts.

Director Raburn expressed support for the awareness survey and appreciation for Mr. Bloom's leadership within NACOLE. He also commented on the NACOLE meeting held at BART and asked Ms. Irlando to discuss mediation practices in Denver, CO. Ms. Irlando responded to Director Raburn's request. Director Raburn expressed appreciation for Ms. Irlando's work with bridging the gap between cops and kids, and he commented on BART Police Department's bake sale fundraiser for the Shop with a Cop program.

Director Simon, Chairperson of the Administration Committee, had no report.

Director Foley, Chairperson of the Engineering and Operations Committee, brought the matter of Award of Contract No. 54RR-270, Richmond Yard Fire Protection, before the Board. Mr. Samuel Hoffman, Principal Mechanical Engineer, Maintenance and Engineering, presented the item.

Director McPartland moved that the General Manager be authorized to award Contract No. 54RR-270 to DMZ Builders for Richmond Yard Fire Protection in the amount of $4,467,950.00, pursuant to notification to be issued by the General Manager and subject to compliance with the District's Protest Procedures. Director Raburn seconded the motion and commented on the Minority Business Enterprise (MBE) and Disadvantaged Business Enterprise (DBE) percentages received on the contract. The motion brought by Director McPartland and seconded by Director Raburn carried by unanimous electronic vote. Ayes – 8: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Simon, and Dufty. Noes – 0. Absent – 1: Director Saltzman.

Director Foley brought the matter of Change Orders to Contract No. 09AU-120, BART Earthquake Safety Program Transbay Tube (TBT) Internal Retrofit before the Board. Mr. Zecharias Amare, Group Manager Capital Projects; Mr. Carl Holmes, Assistant General Manager, Design and Construction; and Ms. Tamar Allen, Assistant General Manager, Operations, presented the item.

Director Raburn asked whether the item had been presented to the Earthquake Safety Program Citizens' Oversight Committee.

Director Allen asked for additional information regarding the $8,000,000.00 cost increase and for clarification of the original contract requirements.

Director McPartland commented on the justification for the Change Order No. 114 Part 01: Impacts from Rule Changes to Contract No. 09AU-120.

John Arantes addressed the Board.

Director Foley asked whether the work has previously been performed by District staff and about the duration of the expected need for this next phase of the project.

Director McPartland commented on the regulations that gave rise to Change Order No. 114 Part 01 and Ms. Tamar Allen clarified Director McPartland's comments.

Sal Cruz addressed the Board.

Director Simon expressed that she would like staff to discuss changes with union leaders prior to public meetings and include information about these discussions in Board presentations.

Sal Cruz addressed the Board.

John Arantes addressed the Board.

Ms. Tamar Allen offered additional comments.

Director McPartland asked whether the Change Order No. 114 Part 01 needed to be approved immediately and whether the staff can respond to the union leaders' concerns after approving the Change Order.

Sal Cruz addressed the Board.

John Arantes addressed the Board.

Director McPartland moved that the General Manager be authorized to execute Change Order No. 036 Part 02: Revisions to TBT Gallery Wall Flange Plates, for an amount not to exceed $3,500,000; and Change Order No. 114 Part 01: Impacts from Rule Changes, for an amount not to exceed $8,000,000, to Contract No. 09AU-120, BART Earthquake Safety Program TBT Internal Retrofit, with Shimmick/CEC Joint Venture. Director Allen seconded the motion.

Director Raburn clarified that the funding source for this project is the Earthquake Safety Bond from 2004. He also commented that there is an oversight body for the Earthquake Safety Bond and that the funds will be spent before the project is completed. Director Raburn expressed that the project requires close scrutiny and that his vote in support of the motion is contingent upon ensuring ongoing outreach to the Earthquake Safety Program Citizens' Oversight Committee and labor units.

President Dufty supported Director Raburn's comment.

Director Ames expressed concern regarding transparency and requested more detailed information about Change Orders.

Director Foley suggested that union locals should be provided with opportunities to ask questions and resolve issues and he requested that staff continue lines of communication.

The motion brought by Director McPartland and seconded by Director Allen carried by unanimous electronic vote. Ayes – 8: Directors Allen, Ames, Foley, Li, McPartland, Raburn, Simon, and Dufty. Noes – 0. Absent – 1: Director Saltzman.

Director Foley brought the matter of Quarterly Service Performance Review – First Quarter Fiscal Year 2020 before the Board. Ms. Tamar Allen and Interim Chief of Police Ed Alvarez presented the item.

Director Simon asked questions about whether organized groups committed the thefts of mobile devices, how police officers are stationed at the end of the line, and the process for calling for police service.

Director Li asked a question regarding insurance liability for bicycle thefts from BikeLink® lockers or rooms and she commented on a rider's experience with obtaining reimbursement from BikeLink for a stolen bicycle.

Director Raburn commented on the train delay data, the wayside train control system data, automatic fare collection (AFC) gate changes, the fencing surrounding the elevator at 12th Street Oakland City Center Station, the additional data regarding homelessness and customer comments related to train cleanliness, and asked for clarification of the data regarding employee injuries on trains.

President Dufty commented on train checks and the availability of social services in local cities and counties and asked staff to discuss the BART Police Department's activities at the Embarcadero and downtown stations and the number of BART Police Officers who participate in issuing a single citation for fare evasion.

Director Simon commented on a video depicting an indigent homeless man, six police officers, and three inspectors.

President Dufty shared a BART employee's recent experience in a station, and suggested he, Director Li, Director Simon, Chief Alvarez, and Ms. Tamar Allen meet with the new District Attorney for the City and County of San Francisco, Mr. Chesa Boudin, to discuss Mr. Boudin's philosophy and BART's challenges. President Dufty also shared that he would be attending an Alameda County Board of Supervisors hearing to discuss the Civil Grand Jury Report and available resources for BART. President Dufty asked for clarification of BART Police Officer retirements.

Director Ames asked questions regarding police actions, the number of police officers who would respond to a "police action," the time of day when calls for service are received, automobile burglaries at the Hayward and South Hayward stations, and how cities are involved in addressing burglaries. Director Ames shared the experience of a bicycle theft victim.

Director Allen commented on the train delay data, the status of recently hired BART Police Officers, and riders' desire for an increase in police presence throughout the BART system.

Director McPartland asked clarifying questions regarding the size of the BART police force; the required number of train rides for each BART Police Officer; and the arrest of the suspect who committed automobile burglaries on the A-Line.

Director Foley requested that reports include information about proactive changes to achieve goals in the next quarter and commented on reduced weekend fare and efforts to encourage ridership on evenings and weekends.

President Dufty commented on the relationship between safety and increased ridership.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of 2020 Federal and State Advocacy Program before the Board, and recognized Ms. Emily Bacque DaSilva with CJ Lake, LLC. Ms. Amanda Cruz, Manager of Government Relations and Legislative Affairs; Mr. Roddrick Lee, Assistant General Manager, External Affairs; and Mr. Robert Powers, General Manager, presented the item.

Ms. Bacque presented information about federal legislative activities and BART's meetings with legislators and the Federal Transit Administration.

Director Li asked clarifying questions about discretionary grant programs that operate under a continuing resolution and funding for Better Utilizing Investment to Leverage Development (BUILD) grant cycles.

Director Ames asked questions about funding for the Core Capacity grant, the strategy to secure the funding, the deadline for BART to receive the funding, and surface transportation funds. Direct Ames requested an analysis of climate-change related improvements that will be addressed by both administrations and commented on climate change.

President Dufty commented on his meetings with legislators regarding the second rail crossing, thanked Mr. Powers for his contributions during the meetings, and recognized CJ Lake, LLC and Ms. Bacque for their work.

Director Raburn expressed support for Ms. Bacque's approach and commented on revisions to the Americans with Disabilities Act (ADA) regarding service animal parameters.

Ms. Cruz presented the District's proposed federal and state advocacy goals.

Director Ames asked clarifying questions regarding the programs for which funding would be pursued and the staffing levels that would be requested for these programs. Director Ames asked for clarification of the Critical Asset Patrol (CAP) team and the availability of funding for the CAP team. Director Ames expressed a desire to identify funding for a more robust package and asked for clarification of the funding source for station hardening and faregates.

Director Li presented an amendment to the prepared motion to add additional language to the second state advocacy goal to support BART's discount fare program, indicating that the discount for the regional means-based program should increase to 50% and BART should obtain funding from state and regional agencies. She also noted that BART should develop discounted fare programs to encourage ridership and ensure that the system is affordable for those who depend on public transportation, and that state legislators should provide additional assistance with various issues.

Director Li moved that the 2020 Federal and State Legislative Advocacy Program as presented by staff, with the addition of enhanced discount fare programs after the second state advocacy goal, be approved. Director Simon seconded the amended motion.

Director Allen commented on the proposed advocacy for planning funds, the amended motion, subsidizing discounts, subsidizing the cost of projects, and fare prices.

Director Raburn commented on Assembly Bill (AB) 2923 implementation and Assemblymember Chiu's assistance with obtaining funding from the Metropolitan Transportation Commission (MTC); the District's obligations and his discussion with the former Mayor of Berkeley regarding Ashby Station; the allocation of funding for special districts; support for item number four of the proposed state advocacy goals; the California Integrated Travel Project; the FASTER Bay Area Act and BART's Safe Routes to BART Program; funding faregates and affordable housing; his experience at the ribbon-cutting event for the development at Millbrae Station; homelessness and providing jobs for homeless individuals; interest in reviewing the bills that BART will sponsor and monitor; adding Santa Clara County to the prohibition order language; and support for Director Li's comments and the amended motion.

The amended motion brought by Director Li and seconded by Director Simon carried by electronic vote. Ayes – 7: Directors Ames, Foley, Li, McPartland, Raburn, Simon, and Dufty. Noes – 1: Director Allen. Absent – 1: Director Saltzman.

Director Raburn brought the matter of BART and Valley Transportation Authority Operations & Maintenance Agreement before the Board. Mr. Carl Holmes, Ms. Bernadette Lambert, Project Manager, Extensions, and Ms. Pamela Herhold, Assistant General Manager, Performance and Budget, presented the item.

The Board applauded staff members who had worked on the Operations & Maintenance Agreement.

Mr. Holmes and Ms. Lambert continued the presentation.

Director Ames commented on the station platform size and requested that staff provide information about ridership issues, including the size of the platform at Diridon Station.

Director Ames moved that the General Manager or his designee be hereby authorized to execute an Operations and Maintenance Agreement between BART and the Santa Clara Valley Transportation Authority (VTA) for the Silicon Valley BART Extension. Director Raburn seconded the motion.

Director Allen asked clarifying questions regarding the cost reimbursement agreement for the Extension, the allocation of fare revenue, operating costs, direct costs, indirect costs, reimbursement for the core system, and the cost recovery formula outlined in the Operations and Maintenance Agreement.

Director McPartland exited the Meeting.

Director Allen asked for clarification of the projected estimate of the costs in the coming year attributed to stations located North of Santa Clara County and commented on the five-year assessment included in the Operations and Maintenance Agreement, the San Francisco International Airport extension, equity, and the previously proposed extension to Livermore.

Director Raburn commented on scheduling an additional BART-VTA joint meeting, the five-year reassessment provision included in the Operations and Maintenance Agreement, and BART staff's involvement in developing the Agreement.

Director Foley asked clarifying questions regarding the stations included in the Agreement and loss of revenue.

Director Ames acknowledged the comments regarding operational and capital costs and expressed support for an additional BART-VTA joint meeting. Director Ames commented on payment and ridership issues, noted that BART will have ongoing dialogue with the VTA and political leaders, and suggested that impacts to the system be measured.

The motion brought by Director Ames and seconded by Director Raburn carried by electronic vote. Ayes – 5: Directors Ames, Li, Raburn, Simon, and Dufty. Noes – 2: Directors Allen and Foley. Absent – 2: Directors McPartland and Saltzman.

Director Raburn brought the matter of Update on Silicon Valley BART Extension, Phase 1 before the Board. Mr. Holmes presented the item.

President Dufty called for the General Manager's Report. Mr. Powers reported on his Listening Tour sessions at the San Francisco International Airport, Millbrae, El Cerrito Del Norte, and Embarcadero stations, upcoming Listening Tour sessions at Fruitvale and West Oakland stations, the ground-breaking event at Millbrae Station, and BART's partnership with The Salvation Army for the seasonal Red Kettle Campaign. Mr. Powers commented on ridership data for November 2019; weekend and evening ridership data for the year; Clipper® card utilization for November 2019; active Roll Call for Introductions (RCI) requests; and BART Police Officer and Community Service Officer staffing.

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

Director Foley reported that he had attended the Sun Terrace Neighborhood Group meeting.

Director Ames reported that she had attended the California Transportation Commission meeting.

Director Raburn reported that he had attended Mr. Mike Healy's presentation about the history of BART to the Oakland Heritage Alliance and the Millbrae Station ground-breaking event.

Director McPartland re-entered the Meeting.

Director Li reported on her experience with public transit in Hong Kong.

Director Li requested a presentation from BART staff in early 2020 regarding "quality of life" citations and contacts. Information should include the total number, location, and times of all types of citations that are considered as quality-of-life violations, as well as, available demographics of the persons cited. Violations should include, but not be limited to, the individual violations under California Penal Code Part 1, Title 15, Chapter 2, Section 640. The purpose of this presentation should be to provide a data-driven account for the way BART resources, particularly law enforcement, are deployed and the benefits to our ridership and system safety. President Dufty seconded the request.

Director Allen commented on a *San Francisco Examiner* article and citation data.

Director Simon reported on her lobbying experience in Washington, D.C. with a delegation of members of the BART Board and staff. Director Simon commented on the research conducted by the Alliance for Girls and an upcoming Town Hall meeting for the Alliance for Girls to provide recommendations and commended BART staff for their interaction with the Alliance for Girls.

Director McPartland reported that he had attended a table top exercise at Embarcadero Station and recognized San Francisco Fire Department Battalion Chief Charles (Charlie) Crane; and he had attended the Millbrae Station ground-breaking event and acknowledged former BART Board Director Joel Keller's attendance at the event.

President Dufty requested the Meeting be adjourned in honor of Harry Overstreet, the owner and founder of Gerson/Overstreet Architects.

President Dufty requested that his fellow Directors donate to the Holiday Toy Drive and he noted that the Board would be presenting the gifts to Mission Neighborhood Centers, Inc. President Dufty recognized Ms. Molly Burke, Principal Government and Community Relations Representative, and Mr. Richard Fuentes, Manager of Special Projects, Grant Development, for their assistance with BART toy drives. President Dufty commented on the story about The Salvation Army that was reported in *The Bay Area Reporter*; the Lesbian, Gay, Bisexual, Transgender, Queer or Questioning (LGBTQ) community; and services for those in need. President Dufty gave remarks about leadership growth within BART, various projects, and his experience as President of the Board of Directors. President Dufty recognized Director McPartland for his military service.

President Dufty called for Public Comment.

Jerry Grace addressed the Board.

The Meeting was adjourned at 12:38 p.m.

Patricia K. Williams
District Secretary