

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

Board of Directors  
Minutes of the 1,882nd Meeting  
March 25, 2021

A regular meeting of the Board of Directors was held on March 25, 2021, convening at 9:00 a.m. via teleconference, pursuant to Governor Gavin Newsom's Executive Order N-29-20 and the California Shelter-in-Place mandate. President Foley presided; Jacqueline R. Edwards, District Secretary.

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

Absent: None. Director Allen entered the Meeting later.

Director Allen entered the Meeting.

President Foley gave instructions on viewing the Meeting, accessing presentation materials online, and Public Comment.

President Foley inquired whether public comments had been submitted prior to the Meeting. Jacqueline R. Edwards, District Secretary, confirmed that no public comments had been submitted prior to the Meeting.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of March 11, 2021.
2. BART Accessibility Task Force (BATF) Membership Appointment.
3. Special Compensation Pay Provisions for Non-Represented Employees.
4. Selection of Underwriting Pool from Which Senior Manager and Co-Managers Will Be Designated for the Issuance and Sale of the District's Bonds.

Director Simon made the following motions as unit. Director McPartland seconded the motions.

1. That the Minutes of the Meeting of March 11, 2021, be approved.
2. That the BART Board accepts the recommendation of the BATF and appoints the nominated candidate, Larry Bunn, for membership to the BATF for a term beginning March 25, 2021 for one year, or until the Board makes new appointments and/or reappointments for a new term, whichever occurs later.
3. That the Board approves the attached special pay provisions for Non-Represented employees effective July 1, 2013. (The Special Pay Provisions are attached and hereby made a part of these Minutes.)

4. That the Controller/Treasurer be authorized to designate the firms listed in the attached Exhibit A, as members of BART's Underwriters Pool from which the Controller/Treasurer be authorized from time to time to select members and enter into agreements with underwriters relating to the issuance of bonds. (Exhibit A is attached and hereby made a part of these Minutes.)

President Foley called for Public Comment on the Consent Calendar.

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

Surlene Grant addressed the Board.

The motions brought by Director Simon and seconded by Director McPartland carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0.

President Foley called for general Public Comment. Aleta Dupree addressed the Board.

President Foley brought the matter of Transit Security Advisory Committee Membership Appointments before the Board. District Secretary Edwards presented the item.

The following individuals addressed the Board:

Janet Abelson  
Yulanda Williams  
Armando Sandoval  
Gary Gee  
Angela Jenkins  
Aleta Dupree  
Joseph Mateu

Directors Dufty, Saltzman, Simon, and Allen commented on Armando Sandoval and/or Janet Abelson.

Director McPartland inquired about potential conflict of interest for Armando Sandoval and Joseph Mateu.

The Board Members announced their selection for the Mental Health representative. All Board Members selected Armando Sandoval as the Mental Health representative.

The Board Members announced their selection for the Youth Advocate representative. All Board Members selected Janet Abelson as the Youth Advocate representative.

Director Raburn moved that Armando Sandoval be appointed as the Mental Health representative and that Janet Abelson be appointed as the Youth Advocate representative on the Transit Security Advisory Committee. Director Saltzman seconded the motion, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0.

Directors Raburn and Dufty commented on Angela Jenkins.

The Board Members announced their selection for the Public-at-Large representative. Directors Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley selected Angela Jenkins and Director Allen selected Gary Gee as the Public-at-Large representative.

Director Raburn moved that Angela Jenkins be appointed as the Public-at-Large representative on the Transit Security Advisory Committee. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0.

Directors Dufty, Raburn, and Ames commented on Yulanda Williams and Directors McPartland and Allen commented on Gary Gee.

Director Ames inquired about appointing an Alternate Public-at-Large representative.

The Board Members announced their selection for the Law Enforcement representative. Directors Ames, Dufty, Li, Raburn, Saltzman, Simon, and Foley selected Yulanda Williams and Directors Allen and McPartland selected Gary Gee as the Law Enforcement representative.

Director Raburn moved that Yulanda Williams be appointed as the Law Enforcement representative on the Transit Security Advisory Committee. Director McPartland seconded the motion, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0.

Director Ames inquired about asking Gary Gee if he would be interested in being appointed as the Alternate Public-At-Large representative.

President Foley inquired about Director Ames' question and appointing an Alternate Committee Member.

President Foley recommended that staff advertise the Alternate Committee Member vacancy on bart.gov and Director Ames expressed agreement with Director Foley's recommendation.

President Foley thanked the candidates for their participation.

President Foley brought the matter of Independent Police Auditor Quarterly Update before the Board. Russell Bloom, Independent Police Auditor, presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Li commented on fare enforcement and submitted several requests regarding the fare enforcement task force.

Director Saltzman supported Director Li's comments; commented on body-worn camera activation; and requested monthly updates from the Independent Police Auditor and periodic reports on body-worn camera activation.

Director Raburn inquired about the revision of the San Francisco Bay Area Rapid Transit District Citizen Oversight Model.

Director Simon inquired about Independent Police Auditor Bloom's outreach strategy for new media and ethnic radio and the duration of the outreach effort.

Director Ames inquired about monitoring BART Police Officers' participation in Integrating Communications, Assessment, and Tactics (ICAT) training, decrease in use of force and de-escalation in relation to fare evasion, and frequency of ICAT training; and requested that Independent Auditor Bloom and Chief Alvarez conduct joint outreach.

Director Allen commented on studying fare evasion/enforcement; requested that data be included in future reports; and inquired about cases investigated by the Office of the Independent Police Auditor in 2020 and Independent Auditor Bloom's recommendations for the appeal process.

President Foley brought the matter of Quarterly Report of the Controller/Treasurer for the Period Ending December 31, 2020 before the Board. Christopher Gan, Interim Controller/Treasurer, presented the item.

Director Ames inquired about use of government relief funding, investment decisions, BART's investment firm, and the maximum spending amount for bonds; and requested a review of the investment policy and a discussion of investments and potential risks.

Director Allen exited the Meeting.

Director Li, Chairperson of the Administration Committee, brought the matter of Resolutions Ratifying the Collective Bargaining Agreements with BART Police Officers' Association and BART Police Managers' Association before the Board.

Director Raburn moved that Resolution No. 5475, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2022-2025 between the District and the BART Police Officers' Association (BPOA); and Resolution No. 5476, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2022-2025 between the District and the BART Police Managers' Association (BPMA), be adopted. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 8 – Directors Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0. Absent: 1 – Director Allen.

Director Li brought the matter of 2020 Customer Satisfaction Survey Results – Next Steps before the Board. David Martindale, Director of Marketing and Research; Maureen Wetter, Principal Research Project Analyst, Customer and Performance Research; Leonardo Pica, Assistant Chief Mechanical Officer, Rolling Stock and Shops; Shane Edwards, Chief Maintenance and Engineering Officer; Roy Aguilera, Chief Transportation Officer; Ed Alvarez, Chief of Police; and Pamela Herhold, Assistant General Manager, Performance and Budget, presented the item.

Director Allen re-entered the Meeting.

Aleta Dupree, Sal Cruz, and John Arantes addressed the Board.

The item was discussed, with the following highlights:

Director Duffy commented on train cleanliness and staffing positions; requested that staff provide information about positions related to increasing service and ridership on a monthly basis; and inquired about staffing at high-impact stations and staffing figures.

Director Saltzman supported Director Duffy's comments; commented on staff's responsiveness to the Customer Satisfaction Survey, refreshing restrooms, and train service; and inquired about adding trains into service.

Director Ames inquired about scrub crews; commented on employing additional scrub crews; and requested that additional scrub crews be deployed.

Director Allen commented on the perception of cleanliness, improving restrooms, BART Police Department train teams, and studying the cause of unclean stations; and inquired about the number of workers in one scrub crew and deployment of scrub crews to the East Bay Area during the COVID-19 pandemic.

Director Simon commented on BART staff's public presence and work, the cause(s) of uncleanliness within the system, and understanding how to mitigate the cause(s) of uncleanliness within the system.

Director Li expressed agreement with investments around cleaning.

Director Li brought the matter of COVID-19 Update before the Board. Jeffrey Lau, Chief Safety Officer, System Safety; Tamar Allen, Assistant General Manager, Operations; Chief Alvarez; Alicia Trost, Chief Communications Officer; and Assistant General Manager Herhold presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director McPartland thanked staff for improving public service announcements (PSAs) on trains.

Director Saltzman requested regular updates until the COVID-19 pandemic is over.

Director Li commented on staff's responsiveness to Board Members' requests and thanked employees for their work.

President Foley announced that the Board would enter into closed session under Item 11-A (Conference with Legal Counsel – Pending Litigation) 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 12:48 p.m.

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The Board reconvened in closed session at 1:02 p.m.

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

Absent: None. Directors Allen and Simon entered the Meeting later.

Directors Allen and Simon entered the Meeting.

The Board Meeting recessed at 1:12 p.m.

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

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

Absent: Director Simon.

President Foley announced that the Board had concluded its closed session under Item 11-A and that there was no announcement to be made.

Director Simon, Chairperson of the Engineering and Operations Committee, had no report.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Federal and State Legislation for Consideration before the Board. Emily Bacque Da Silva, Director of Policy at CJ Lake, LLC, and Amanda Cruz, Manager of Government Relations and Legislative Affairs, Government and Community Relations, presented the item.

Director Simon entered the Meeting.

The item was discussed, with the following highlights:

Director Raburn inquired about circumventing the limitation on allocating funds for large projects that may not be delivered within ten years.

Director Dufty inquired about partnering with other jurisdictions to seek set-aside funds for large-scale transportation projects.

Director Ames commented on the Link21 project and inquired about addressing the freight component of the Link21 project and re-allocating highway funding to public bus rapid transit.

Director Allen exited the Meeting.

Government Relations and Legislative Affairs Manager Cruz gave a presentation on federal legislation.

Director McPartland exited the Meeting.

Director Dufty moved that the Board of Directors support Senate Bill (S.) 303, U.S. House of Representatives Bill (H.R.) 867, and H.R. 1280. President Foley seconded the motion, which carried by unanimous roll call vote. Ayes: 7 – Directors Ames, Dufty, Li, Raburn, Saltzman, Simon, and Foley. Noes: 0. Absent: 2 – Directors Allen and McPartland.

Government Relations and Legislative Affairs Manager Cruz gave a presentation on state legislation.

Director Raburn expressed support for Senate Bill (SB) 2.

Director Raburn moved that the Board of Directors support Assembly Bill (AB) 455, AB 816, AB 917, AB 1401, SB 17, SB 339, and SB 2. Director Dufty seconded the motion.

Director Li inquired about SB 2.

Director Ames inquired about the current process to revoke a peace officer's license to work as a peace officer, police officer associations' concern about SB 2, and the training proposed by SB 2.

Director Simon exited the Meeting.

Director Li expressed support for SB 2 and proposed a friendly amendment to Director Raburn's motion to postpone the vote on AB 917 to a future Board meeting.

Director Raburn accepted Director Li's friendly amendment.

Discussion continued, with the following highlights:

Director Li commented on the recent violence against the Asian American Pacific Islander (AAPI) community, AB 557, and AB 886.

President Foley requested that the vote on SB 2 be continued to a future Board Meeting.

Director Saltzman indicated desire to vote on SB 2 and agreement with postponing AB 917.

Director Ames expressed agreement with President Foley's comments regarding postponing SB 2.

The motion brought by Director Raburn, as amended by Director Li, and seconded by Director Dufty failed by roll call vote. Ayes: 4 – Directors Dufty, Li, Raburn, and Saltzman. Noes: 0. Abstentions: 2 – Directors Ames and Foley. Absent: 3 – Directors Allen, McPartland, and Simon.

Director Saltzman moved that the Board of Directors support AB 455, AB 816, AB 1401, SB 17, and SB 339; and that SB 2 be presented to the Board for consideration at the next Board meeting. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 5 – Directors Dufty, Li, Raburn, Saltzman, and Foley. Noes: 0. Abstentions: 1 – Director Ames. Absent: 3 – Directors Allen, McPartland, and Simon.

Director Raburn brought the matter of Update on BART Headquarters Office Building (2150 Webster St., Oakland, CA) before the Board. Carl Holmes, Assistant General Manager, Design and Construction, presented the item.

Sal Cruz and Leah Turner addressed the Board.

The item was discussed, with the following highlights:

Director Dufty inquired about privacy phone booths and roof access for the new BART headquarters building.

Director Ames commented on the telecommuting policy and rooftop access on the new BART headquarters building.

President Foley requested that staff provide a draft telecommuting policy at the next Board meeting and commented on safely populating the new BART headquarters building.

President Foley announced that Item 8-B, Update on Regional Transit Coordination, would be continued to a future Board meeting.

President Foley called for the General Manager's Report. Robert Powers, General Manager, reported on his participation in meetings with the Bay Area Council and elected officials, ridership, Metropolitan Transportation Commission (MTC) briefings, and working with the Oakland Athletics to provide train service for evening games.

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

Director Raburn submitted the following Roll Call for Introductions (RCI) request:

I'm very interested in ensuring the building of a good working relationship between our Office of Inspector General (OIG) and BART's labor unions, and I know both sides want that also. BART has many resources, including the General Manager, Labor Relations, and Legal department, to name a few that are available to provide support to the OIG to establish mutually agreed-upon procedures for interactions with represented employees. I request the General Manager immediately facilitate this broader engagement followed by a report back from staff to the Board no later than June 10, 2021.

Directors Dufty, Foley, and Li seconded Director Raburn's RCI request.

Director Raburn reported that he had attended Oakland Chinatown events and met with MTC Commissioner Damon Connolly regarding Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act funding distribution.



Director Li commented on violence and hate against the Asian American Pacific Islander (AAPI) community; expressed appreciation for General Manager Powers and Chief Alvarez's assistance with collecting data; and indicated that she would bring a resolution for the Board's condemnation of violence and hate against the AAPI community.

Director Ames recognized Kerry Hillis, Principal Government and Community Relations Representative, for his assistance with arranging meetings with her constituents in Hayward regarding construction projects.

President Foley thanked Richard Fuentes, Manager of Special Projects, Grant Development, for his coordination with the MTC Commissioner meetings and thanked Abby Thorne-Lyman, Group Manager, Transit-Oriented Development, Systems Development, and Kamala Parks, Senior Planner, Station Area Planning, for their presentation to the Concord City Council regarding Transit-Oriented Development (TOD)

The Meeting adjourned at 2:29 p.m.

Jacqueline R. Edwards  
District Secretary

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**Holidays**

The District shall observe the following fixed holidays:

New Year's Day (January 1<sup>st</sup>)  
Martin Luther King Day (3<sup>rd</sup> Monday in January)  
Presidents Day (3<sup>rd</sup> Monday in February)  
Memorial Day (last Monday in May)  
Independence Day (July 4<sup>th</sup>)  
Labor Day (1<sup>st</sup> Monday in September)  
Veterans' Day (November 11<sup>th</sup>)  
Thanksgiving Day (4<sup>th</sup> Thursday in November)  
Christmas Day (December 25<sup>th</sup>)

Except as provided below or otherwise required by law, an employee must be in a paid status to be eligible for holiday compensation. Situations in which employees in an unpaid status are eligible for holiday compensation include:

- 1) during a suspension of fifteen (15) days or less;
- 2) while absent due to an approved industrial disability;
- 3) while on Labor Code 4850 leave (equivalent); and
- 4) during the first continuous thirty-one (31) days in an unpaid status due to a nonindustrial disability.

Should a fixed holiday fall on a Saturday, the holiday will be observed the preceding Friday; if on a Sunday, the holiday shall be observed the following Monday. Should a holiday be observed on an employee's regular day off (RDO) other than on Saturday or Sunday as cited above, or during his/her/their recognized vacation, the employee, at his/her/their option, shall receive either one (1) shift (i.e., 4/10, 9/80 or 5/8 schedule as applicable) of pay at the employee's existing straight-time rate or one (1) shift off with pay consistent with department/section scheduling. Employees on shifts scheduled for 10 or more hours will receive 10 hours. Should an employee be required to work on a holiday, the employee at his/her/their option, may receive either one (1) shift of pay for the holiday at the employee's straight-time rate for that pay period or the employee may "float" the holiday.

**Shift Differential**

Some Non-Represented employees work a schedule other than a normal day shift, Monday through Friday schedule. When fifty percent (50%) or more of an employee's regularly scheduled shift occurs between the hours of 4 p.m. and 12 midnight, a swing shift premium of seven percent (7%) will be paid for all hours worked during the shift. When an employee works on a holiday and receives one and one-half (1.5) times their regular rate of pay, this swing shift premium will be multiplied by 1.5 times as well (i.e., 10.5%).

When fifty percent (50%) or more of an employee's regularly scheduled shift occurs between midnight and 8 a.m., a graveyard shift premium of nine and one-half percent (9.5%) will be paid for all hours worked

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during the shift. When an employee works on a holiday and receives one and one-half (1.5) times their regular rate of pay, this graveyard shift premium will be multiplied by 1.5 times as well (i.e., 14.25%).

The shift time premium will be calculated using the employee's straight-time rate of pay. The shift differential is not considered to be part of an employee's base salary. This benefit is not applicable to employees in Pay Band 9 and above except for Managers of Central Control.

**Temporary Upgrade**

Non-Represented employees from time to time receive temporary assignments in which they are to perform the duties regularly assigned to a higher classification. Such assignments are made in writing by the employee's supervisor or higher level. These temporary assignments are considered career development opportunities and are not eligible for temporary upgrade pay during the first fifteen (15) working days of the employee's assignment. The prior approval of the affected department manager and the manager over classification & compensation is required to extend any temporary assignment to a higher classification beyond 15 workdays. Such approval must be obtained before the fifteenth (15<sup>th</sup>) working day. Employees in an approved temporary upgrade assignment will be compensated at five percent (5%) above their base pay rate after the 15<sup>th</sup> consecutive day of work in the higher classification. Leave taken while assigned to a higher classification will not be compensated at the premium rate. Prior to 7/1/2013, the waiting period was 45 working days.

**Management Incentive**

Due to the unique nature of the duties and responsibilities of executive management employees reporting directly to the General Manager, all executive level classifications reporting directly to the General Manager are eligible to receive Management Incentive Pay of \$4,800 annually and paid equally over the number of pay periods for the year (e.g. 26 equal pay period installments of \$184.61). The current list of classifications eligible are as follows:

Assistant General Manager, Operations  
Assistant General Manager, Design & Construction  
Assistant General Manager, Administration  
Assistant General Manager, Performance & Budget  
Assistant General Manager, Technology  
Assistant General Manager, External Affairs  
Deputy General Manager  
Police Chief  
Managing Director, Capitol Corridor

**Deputy Police Chief Management Incentive**

Due to the unique nature of the job as first level management over Police Lieutenants, the Deputy Police Chief classification is eligible to receive Deputy Police Chief Management Incentive Pay in the amount of 10% of the regular base pay rate.

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**Uniform Allowance**

Non-Represented sworn employees (Police Chief and Deputy Police Chief) shall be provided with uniforms, appropriate to their classification, upon hire. The District will pay these employees annually for the cleaning, upkeep, and maintenance (excluding custom tailoring) of all District-issued uniforms and the purchase of uniform shoes (excluding safety shoes). A payment in the amount of \$1,005 shall be made in the first pay period in October.

The District shall reimburse employees for actual costs incurred for replacement of worn-out or damaged uniforms and damaged shoes. The District shall also reimburse employees for actual costs incurred for replacement of damaged, lost or destroyed equipment if such damage, loss or destruction is the direct consequence of the discharge of the employee's duties or of his/her/their obedience to the directions of the District. The value of all uniforms initially allotted to employees or replaced, excluding items that are solely for personal health and safety (such as protective vests, pistols, bullets and safety shoes), is anticipated to be less than \$2,000 per employee in a year with an anticipated increase of 5% per year.

Employees must obtain prior approval for replacement of worn-out, damaged, lost or destroyed uniforms or items of equipment listed above. After approval is received, employees may purchase the uniform or item of equipment with an approved replacement. Compensation to employees for such replacement shall be accomplished by means of reimbursement upon presentation of a valid receipt.

Employees who are absent from work on leave of absence or non-industrial disability leave for extended periods of time shall receive a reduced uniform allowance in accordance with the following schedule:

<u>Absence</u>	<u>Percentage Reduction</u>
30 days	25%
60 days	50%
90 days	100%

Approved by Board of Directors on: \_\_\_\_\_

## **Exhibit A**

Barclays Capital, Inc.

Blaylock Van, LLC\*

Citigroup Global Markets Inc.

Goldman Sachs & Co. LLC

J.P. Morgan Securities LLC

Morgan Stanley & Co. LLC

Siebert Williams Shank & Co., LLC\*

Stifel, Nicolaus & Company Incorporated

Wells Fargo Securities

### *Notes*

*\*Minority Business Enterprise (MBE)*