

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
2150 Webster Street, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors
Minutes of the 1,890th Meeting
August 26, 2021

A regular meeting of the Board of Directors was held on August 26, 2021, convening at 9:05 a.m. via teleconference, pursuant to Governor Gavin Newsom's Executive Order N-08-21. President Foley presided; Jacqueline R. Edwards, District Secretary.

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

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

Absent: None. Director Allen entered the Meeting later.

President Foley called for Introduction of Special Guests.

Robert Powers, General Manager, introduced Alaric Degrafinried as the new Assistant General Manager, Administration. Assistant General Manager Degrafinried addressed the Board.

President Foley welcomed Assistant General Manager Degrafinried to BART.

Director Raburn introduced Shay Roberson, Member of Community Resources for Independent Living (CRIL). Shay Roberson addressed the Board.

Director Raburn introduced Vinit Shrawagi, Member of the American Institute of Certified Public Accounts (AICPA), and Cindy Simon Rosenthal, Member of the League of Women Voters. Vinit Shrawagi and Cindy Simon Rosenthal addressed the Board.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of July 22, 2021.
2. Extension of Participation in a Regional Means-Based Transit Fare Discount Pilot Program: Clipper® START Pilot Program.
3. Fixed Property Tax Rates Fiscal Year 2021-2022 General Obligation Bonds.
4. District Base Pay Schedule.
5. Employee Recruitment and Relocation Assistance for the Assistant General Manager, Operations.
6. BART Accessibility Task Force (BATF) Membership Appointment.

7. Award of Invitation for Bid No. 9100, New Garbage Truck Procurement.
8. Amendment to Agreement with Salvation Army for Homeless Outreach.
9. Procurement with Cisco Systems, as the Official National Association of State Procurement Officials (NASPO) Provider, for the New Unified Optical Network (UON) Equipment at Lake Merritt.
10. Appointments to BART Safety, Reliability and Traffic Relief Program (Measure RR) Bond Oversight Committee.
11. Award of Agreements for Environmental Consulting Services.
 - i. Agreement No. 6M5159 to C2PM.
 - ii. Agreement No. 6M5164 to AEW Engineering, Inc.

Director Dufty made the following motions as a unit. Director Raburn seconded the motions.

1. That the Minutes of the Meeting of July 22, 2021, be approved.
2. That the Board of Directors approves the recommended Program extension to continue BART's participation in the Clipper® START Regional Means-Based Transit Fare Discount Pilot Program by 18 months.
3. That Resolution No. 5487, In The Matter of Fixing The Rate of Taxes For The San Francisco Bay Area Rapid Transit District for Fiscal Year 2021/22, be adopted.
4. That the Board approves the base pay schedule in effect July 1, 2021.
5. That the General Manager or his designee be authorized to execute a national recruitment agreement with an executive search firm to assist the District with filling the position of Assistant General Manager, Operations in conformance with established District procedures governing the use of executive search services, and to identify suitable candidates both inside and outside of California; and that in addition, the General Manager be authorized to enter into a relocation agreement for this position, if necessary, in accordance with Management Procedure Number 70, New Employee Relocation Expense Reimbursement.
6. That the BART Board has considered the recommendation of the BATF and appoints the nominated candidate, Shay Roberson, for membership to the BATF for a term beginning August 26, 2021 until June 30, 2023, or until the Board makes new appointments and/or reappointments for a new term, whichever occurs later.
7. That the General Manager be authorized to award Invitation for Bid (IFB) No. 9100 for Garbage Truck Procurement to Golden Gate Truck Center for an amount of \$545,428.00 including all taxes, pursuant to notification to be issued by the General Manager, subject to the District's Protest Procedures.

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

8. That the Board authorizes the General Manager to pay the total cost of the agreement with The Salvation Army (TSA) in the amount of \$250,000.00 for Fiscal Year 2022 (FY22) for one Homeless Outreach Team.
9. That the General Manager be authorized to enter into a NASPO ValuePoint contract with Cisco Systems, Inc. for the procurement of Cisco UON network equipment for an amount not to exceed \$1,228,086.95.
10. That the BART Board of Directors appoints the following individuals to the July 1, 2021 to June 30, 2023 term.
 - a. Michael McGill (Chair)
 - b. Catherine Newman (Vice-Chair)
 - c. Marian Breitbart
 - d. Daren Gee
 - e. Sonja Stewart
 - f. Cindy Simon Rosenthal
 - g. Vinit Shrawagi
11. That the General Manager be authorized to award Agreement No. 6M5159, Environmental Consulting Services, to C2PM for a not to exceed amount of \$3,000,000.00 and Agreement No. 6M5164, Environmental Consulting Services, to AEW Engineering, Inc. for a not to exceed amount of \$3,000,000.00 pursuant to notification to be issued by the General Manager and subject to the District's Protest Procedures and Federal Transit Administration (FTA) requirements related to protests.

President Foley called for Public Comment on the Consent Calendar. Aleta Dupree addressed the Board.

Director Allen entered the Meeting.

The motions brought by Director Dufty and seconded by Director Raburn 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.

Director Li, Chairperson of the Administration Committee, brought the matter of Body Worn Camera Surveillance Technology before the Board. Ed Alvarez, Chief of Police, and Kevin Franklin, Deputy Chief of Police, presented the item.

Aleta Dupree and Brian Hofer addressed the Board.

The item was discussed, with the following highlights:

Director Li thanked staff for their work.

Director Raburn commended the Surveillance Use Policy and commented on limiting the term of the proposed contract with Axon Enterprise, Inc. to five years.

Director Raburn moved that the Board adopts the Surveillance Use Policy and Surveillance Impact Report; that the Board authorizes the proposed contract with Axon Enterprise, Inc. for a period of five years; and that page four of the Surveillance Impact Report be revised to change or strike the reference to a ten-year lease contract.

Director Raburn's motion died for lack of a second.

Director Li made the following motions as a unit. Director Dufty seconded the motions.

1. That pursuant to District Ordinance No. 2018-1, the Board of Directors finds that the Surveillance Use Policy for Body Worn Cameras will reasonably safeguard civil liberties and civil rights, and thereby approves the Body Worn Camera Surveillance Use Policy.
2. That the Board of Directors has considered the Surveillance Impact Report for Body Worn Camera enhancements and finds that the benefits to the community of this new technology outweigh the costs, apparent concerns, and/or consequences of the new technology enhancements proposed for adoption at BART.
3. That in view of the above findings made pursuant to District Ordinance No. 2018-1, the General Manager or his designee be authorized to enter into a NASPO ValuePoint contract with Axon Enterprise, Inc. for procurement of the Officer Safety Plan Subscription for an amount not to exceed \$6,719,036.56.

Discussion continued, with the following highlight:

Director McPartland expressed a desire to support the item.

Director Dufty withdrew his second of Director Li's motions, and Director McPartland seconded Director Li's motions, instead.

Discussion continued, with the following highlights:

Director McPartland expressed support for the proposed Officer Safety Plan Subscription procurement and Director Li's motions.

Vice President Saltzman expressed support for Director Li's motions; commended the publication of the Surveillance Impact Report; inquired about renegotiation of the contract with Axon Enterprise, Inc. regarding the contract term length; and commented on the provision of new technology under the contract.

Director Ames expressed appreciation for Director Raburn's comments and support for Director Li's motions; and inquired about exiting the contract with Axon Enterprise, Inc., if necessary, because superior technology is available elsewhere.

Director Allen commented on ensuring that BART retains an exit strategy regarding the contract with Axon Enterprise, Inc., if other technology becomes more favorable, and the importance of continuing to support BART Police Officers in new technology and the training that accompanies new technology to safety; expressed support for Director Li's motions; and requested that staff identify the exit strategy when negotiating the contract if circumstances become unfavorable.

Director Raburn explained why he could not support the motions brought by Director Li.

The motions brought by Director Li and seconded by Director McPartland carried by roll call vote. Ayes: 8 – Directors Allen, Ames, Dufty, Li, McPartland, Saltzman, Simon, and Foley. Noes: 1 – Director Raburn.

Director Simon, Chairperson of the Engineering and Operations Committee, brought the matter of Quarterly Service Performance Review – Fourth Quarter Fiscal Year 2021 before the Board. Shane Edwards, Interim Assistant General Manager, Operations, and Chief Alvarez presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Raburn inquired about improvement in car equipment reliability in the next quarter.

President Foley expressed appreciation for the increase in focused cleaning crews throughout the system; thanked staff for the police presence in the system; expressed disappointment with the reliability of the Fleet of the Future; and requested that staff provide information about how bike thefts are occurring.

Director Allen thanked Interim Assistant General Manager Edwards, General Manager Powers, and staff for their work and inquired about the graph and data regarding BART Police presence.

Director Ames commented on feedback she has received regarding police and fare inspector's presence in stations and in train cars; and inquired about whether staff works with other agencies to address burglaries and thefts and the purpose and benefit of hiring part-time workers.

Vice President Saltzman thanked Director Allen for addressing an error in the presentation, and requested that staff correct the BART Police Presence and ridership slides of the presentation and thoroughly review all the slides for errors.

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. Amanda Cruz, Manager of Government Relations and Legislative Affairs, and Chief Alvarez presented the item.

The item was discussed, with the following highlight:

Vice President Saltzman thanked staff and Chief Alvarez for researching legislation that addresses gun violence.

Vice President Saltzman moved that the Board of Directors supports House of Representatives (H.R.) 3088, Senate (S.) 1558, and Assembly Bill (AB) 1057. Directors Raburn and Simon seconded the motion, but Director Raburn subsequently withdrew his second of the motion and Director Simon's second of the motion remained. The motion brought by Vice President Saltzman and seconded by Director Simon carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, Simon, and Foley. Noes: 0.

Director Raburn brought the matter of Update on Regional Transit Coordination before the Board. Hannah Lindelof, Group Manager, Policy Planning, Strategic and Policy Planning, and Jumana Nabti, Manager of Access Programs, Customer Development and Station Access, presented the item.

Aleta Dupree and Ian Griffiths addressed the Board.

The item was discussed, with the following highlights:

Director Allen expressed excitement about the signage consistency program; thanked Ian Griffiths for inquiring about consistency among all transit agencies; and inquired about staff's outreach efforts to other agencies, the bus bay numbering system at Walnut Creek Station, and the grant application for Walnut Creek Station.

Director Ames commented on flanking stations with bus stops and inquired about the function of the QR code and the prioritization and funding of the Blue Ribbon Task Force (BRTF) goals.

Vice President Saltzman commented on ensuring that the proposed wayfinding signage standards be implemented quickly after adoption.

Director Raburn thanked General Manager Powers for serving on the BRTF and commented on maintaining wayfinding information on a regular basis and coordination within BART.

Director Raburn brought the matter of Update on BART and Valley Transportation Authority, Phase 2 before the Board. Carl Holmes, Assistant General Manager, Design and Construction, presented the item.

The item was discussed, with the following highlight:

Director Raburn inquired about the composition of the 88% design completion.

Aleta Dupree addressed the Board.

Discussion continued, with the following highlights:

Director Allen inquired about BART's role in the selection of design-build contractors, BART's role in the oversight of the construction progress and cost overruns, and BART's financial investment in the project.

Director Ames inquired about whether inflation is included in the \$6.9 million cost estimate; requested that staff clarify the amount of inflation included in the cost estimate at the next joint meeting of BART and the Santa Clara Valley Transportation Authority (SCVTA); and inquired about the SCVTA's inclusion of an innovation clause in the Requests for Proposals (RFPs).

Director Raburn commented on the \$6.9 million cost estimate and completing the design criteria early in order for estimates to be created and reliably followed.

President Foley called for the General Manager's Report. General Manager Powers reported on the Transportation Security Administration's (TSA) extension of the order requiring face mask coverings, face mask compliance, COVID-19 vaccination among BART employees, his Listening Tour, his BART tour with Senator Lena Gonzalez, Chair of the Senate Transportation Committee, Assembly Member Laura Friedman, Chair of the Assembly Committee on Transportation, Directors Raburn, Li, and Simon, and staff, ridership, and the upcoming ribbon-cutting ceremony for one of the new escalators at Powell Street Station; thanked Rodd Lee, Assistant General Manager, External Affairs, and Government Relations and Legislative Affairs Manager Cruz for their

assistance with coordinating the BART tour and Directors Raburn, Li, and Simon for their participation in the BART tour; and recognized Pamela Herhold, Assistant General Manager, Performance and Budget, for her development of the ridership dashboard.

Aleta Dupree addressed the Board.

President Foley commented on increasing the COVID-19 vaccination rate among employees and requested that General Manager Powers continue meeting with labor partners to strengthen the COVID-19 vaccination rate among employees and keep communication open.

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

Director Allen reported that the Audit Committee had met on August 17, 2021.

Vice President Saltzman reported that she had attended a lunch meeting with Assembly Member Laura Friedman and East Bay transportation leaders, an El Cerrito City Council meeting at which BART staff presented on access plans, and the El Cerrito Plaza developer team's presentation to the El Cerrito Democratic Club. Vice President Saltzman also reported that she would attend a virtual meeting with the Richmond Annex Association and a celebration at El Cerrito Del Norte Plaza Station on September 10, 2021.

Director Raburn reported that he had met with Senator Gonzalez, Assembly Member Friedman, Senator Bob Wieckowski, and General Manager Powers at Lake Merritt Station and participated in the BART tour; attended a reception for the Oakland African American Chamber of Commerce (OAACC), a reception for the Alameda Labor Council Unionist of the Year, a Capitol Corridor Joint Powers Authority Ad Hoc Infrastructure meeting, a University of California, Berkeley meeting regarding energy with Vice Chancellor Marc Fisher and General Manager Powers, and a meeting regarding transit-oriented development (TOD) at West Oakland Station with SUDA, NVIDIA, and QB3; and provided BART update presentations to the OAACC and the Rotary Club of Oakland. Director Raburn also reported that the groundbreaking for Casa Sueños at Lake Merritt Station had commenced.

Director Ames reported that she had attended the Audit Committee meeting on August 17, 2021, the California State University, East Bay, Fall Festival, and the South Bay Connect Workshop.

Director Simon reported that she had tabled at the Ashby Flea Market with staff and Friends of Adeline as part of the TOD process for Ashby Station and thanked staff for their attendance at the event; reported that she had she had attended the BART tour with state elected officials and thanked staff for their assistance with the tour; and requested that the Meeting be adjourned in honor of Michael Morgan, musician and Music Director and Conductor of the Oakland Symphony, and Steven Gaines, artist and founder of Zion I.

Director Dufty requested that the Meeting be adjourned in honor of Janice Mirikitani, co-founder of GLIDE and poet laureate of San Francisco, and James (Jim) Hormel, LGBTQ advocate and former United States Ambassador, on behalf of himself and Directors Li and Simon.

Director Allen requested that the Meeting be adjourned in honor of the victims of the bombings in Kabul, Afghanistan.

President Foley requested that the Meeting be adjourned in honor of Gordon Robinson, BART Transportation Administrative Specialist, and that staff provide an update regarding categorization of overtime.

President Foley announced that the Board would enter into closed session under Items 9-A (Public Employee Performance Evaluation), 9-B (Conference with Legal Counsel – Existing Litigation), and 9-C (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.

Joe Kunzler and Shay Roberson addressed the Board.

The Board Meeting recessed at 12:03 p.m.

The Board reconvened in closed session at 12:19 p.m.

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

Absent: None. Director Dufty and Simon entered the Meeting later.

Director Dufty entered the Meeting.

Director Simon entered the Meeting.

Directors Dufty, Foley, and Simon exited the Meeting.

The Board Meeting recessed at 3:09 p.m.

The Board reconvened in open session at 3:10 p.m.

Vice President Saltzman announced that the Board had concluded its closed session under Items 9-A, 9-B, and 9-C and that there were no announcements to be made.

The Meeting adjourned at 3:10 p.m. in honor of Michael Morgan, Steven Gaines, Janice Mirikitani, James (Jim) Hormel, victims of the bombings in Kabul, Afghanistan, and BART employee Gordon Robinson.

Jacqueline R. Edwards
District Secretary