

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

Board of Directors  
Minutes of the 1,877th Meeting  
January 14, 2021

A regular meeting of the Board of Directors was held on January 14, 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; Patricia K. Williams, District Secretary.

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

Absent: None.

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

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of December 10, 2020 (Special), and December 17, 2020 (Regular).
2. Declaration of November 3, 2020, Election Results.
3. BART Police Citizen Review Board Member Appointment.
4. Resolution Fixing the Non-California Public Employees Retirement System (CalPERS) Medical Plan Structure and Rates for Calendar Year 2021.
5. Resolutions Fixing the Employer's Contribution to the California Public Employees Retirement System (CalPERS).
  - a. Public Employees' Medical and Hospital Care Act for Employees Represented by American Federation of State, County and Municipal Employees, Local 3993; Amalgamated Transit Union, Local 1555; Service Employees International Union, Local 1021; and Non-Represented Employees.
  - b. Public Employees' Medical and Hospital Care Act at an Equal Amount for Employees and Annuitants Represented by American Federation of State, County and Municipal Employees, Local 3993; Amalgamated Transit Union, Local 1555; Service Employees International Union, Local 1021; and Non-Represented Employees.
6. Award of Contract No. 20LZ-130A, Train Control Room Battery Replacement, Phase 3.
7. Award of Invitation for Bid No. 9080, Hi-Rail Swing Crane – 180 Degrees.

8. Amendment to Agreement No. 6M3312, with ACR Glazing Contractors, Inc., for On-Call Glass Repair and Replacement Services.
9. Procurement with Cisco Systems, for the Lab Equipment for Clipper 2.0 Network Segmentation Configuration and Testing.

President Foley announced that Item 2-C, BART Police Citizen Review Board Member Appointment, would be continued to a future meeting.

Director Simon exited the Meeting.

Director McPartland made the following motions as unit. Director Saltzman seconded the motions, which carried by unanimous roll call vote. Ayes: 8 – Directors Allen, Ames, Dufty, Li, McPartland, Raburn, Saltzman, and Foley. Noes: 0. Absent: 1 – Director Simon.

1. That the Minutes of the Meetings of December 10, 2020 (Special), and December 17, 2020 (Regular), be approved.
2. That there be entered into the Minutes of the Board the official canvass of the returns for Election Districts 1, 3, 5, 7, and 9 as taken by the Registrars of Voters of Alameda County and Contra Costa County and the Department of Elections for the City and County of San Francisco for the election of November 3, 2020, the elected candidates having received the highest number of votes cast in their respective election districts based on said official canvass; and that the following candidates are hereby declared elected or appointed to the Board of Directors of the San Francisco Bay Area Rapid Transit District:

Debora Allen, District 1  
Rebecca Saltzman, District 3  
John McPartland, District 5  
Lateefah Simon, District 7  
Bevan Dufty, District 9

3. That Resolution No. 5463, In the Matter of the Non-CalPERS Medical Plan Plan Structure and Rates For Calendar Year 2021, be adopted.
4. That the following Resolutions be adopted and that the Board President be authorized to sign the Resolutions on behalf of the Board:
  - a. Resolution No. 5464, Fixing the Employer Contribution under the public Employees' Medical and Hospital Care Act at an Equal Amount for Employees and Annuitants with Respect to a Recognized Employee Organization Group 001 American Federation of State, County and Municipal Employees (AFSCME) Local 3993.
  - b. Resolution No. 5465, Fixing the Employer Contribution under the Public Employees' Medical and Hospital Care Act at an Equal Amount for Employees and Annuitants with Respect to a Recognized Employee Organization Group 004 Amalgamated Transit Union.

- c. Resolution No. 5466, Fixing the Employer Contribution under the Public Employees' Medical and Hospital Care Act at an Equal Amount for Employees and Annuitants with Respect to a Recognized Employee Organization Group 005 Service Employees International Union (SEIU) Local 1021.
  - d. Resolution No. 5467, Fixing the Employer Contribution under the Public Employees' Medical and Hospital Care Act at an Equal Amount for Employees and Annuitants with Respect to a Recognized Employee Organization Group 006 Non-Represented Employees.
  - e. Resolution No. 5468, Fixing the Employer Contribution under Section 22902 of the Public Employees' Medical and Hospital Care Act with Respect to a Recognized Employee Organization Group 001 AFSCME Local 3993.
  - f. Resolution No. 5469, Fixing the Employer Contribution under Section 22902 of the Public Employees' Medical and Hospital Care Act with Respect to a Recognized Employee Organization Group 004 Amalgamated Transit Union.
  - g. Resolution No. 5470, Fixing the Employer Contribution under Section 22902 of the Public Employees' Medical and Hospital Care Act with Respect to a Recognized Employee Organization Group 005 SEIU Local 1021.
  - h. Resolution No. 5471, Fixing the Employer Contribution under Section 22902 of the Public Employees' Medical and Hospital Care Act with Respect to a Recognized Employee Organization Group 006 Non-Represented Employees.
5. That the General Manager be authorized to award Contract No. 20LZ-130A for Train Control Room Battery Replacement to Rosendin Electric, Inc. for an amount of \$4,642,815.00, pursuant to a notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures and Federal Transit Administration's (FTA) requirements related to protests.
  6. That the General Manager be authorized to award Invitation for Bid (IFB) No. 9080 for Hi-Rail Swing Crane – 180 Degrees to Swingmaster Corporation in the amount of \$491,515.75, pursuant to notification to be issued by the General Manager, subject to compliance with the District's Protest Procedures and FTA's requirements related to protests.

(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.)

7. That the General Manager be authorized to execute an amendment to Agreement No. 6M3312 with ACR Glazing Contractors, Inc. to increase the value of the Agreement by \$200,000.00 from \$667,069.00 to \$867,069.00.
8. That the General Manager or his designee be authorized to execute a purchase order with Cisco Systems Inc. to procure lab equipment for Clipper 2.0 network segmentation configuration and testing for an amount not to exceed \$253,000.00.

Director Simon re-entered the Meeting.

President Foley brought the matter of Resolution in Support of Pirone's Prosecution before the Board. Directors Dufty and Simon presented the item.

Abdul Sabur Muhammad addressed the Board.

Director Li gave remarks regarding Roll Call Introductions request RCI 20-836, sharing information with the family of Oscar Grant; thanked BART staff for their meeting with Oscar Grant's family and Directors Simon and Dufty for their leadership on this issue; denounced the decision by Alameda County District Attorney Nancy O'Malley; thanked Oscar Grant's family for their attendance and quest for justice; and aligned herself with the comments by Directors Dufty and Simon.

The following individuals addressed the Board:

Cephus Johnson  
Elaine Brown  
Dr. Mark Alexander  
Wanda Johnson

The item was discussed with the following highlights:

Director Raburn noted his appreciation for the efforts of Directors Simon, Dufty, and Foley and the public speakers, and expressed support for the Resolution.

Director Saltzman thanked Directors Simon and Dufty for their leadership and Oscar Grant's family and the public speakers for their pursuit of justice; expressed support for the Resolution; associated herself with the comments of Board Members who had already spoken; and denounced the decision by District Attorney O'Malley.

Director Allen explained why she could not support the Resolution.

Director Ames explained why she could not support the Resolution.

Director McPartland explained why he could not support the Resolution, for professional and personal reasons.

Director Simon commented on the public's violent reactions to elected officials' decisions.

Director Dufty commented on the General Counsel's assistance with drafting the Resolution and six Board Members' support for the Resolution.

President Foley commented on the importance of the Resolution.

Director Dufty moved that Resolution No. 5472, In the Matter of Calling for the Criminal Prosecution of Former BART Police Officer Anthony Pirone, be adopted. Director Simon seconded the motion, which carried by roll call vote. Ayes: 6 – Directors Dufty, Li, Raburn, Saltzman, Simon, and Foley. Noes: 3 – Directors Allen, Ames, and McPartland.

President Foley called for general Public Comment. Millbrae City Councilmember Gina Papan and Aleta Dupree addressed the Board.

Director Dufty, Chairperson of the Engineering and Operations Committee, brought the matter of Center for Policing Equity Final Report – BART Police Department before the Board.

A video by Dr. Philip Atiba Goff, Co-Founder and Chief Executive Officer of Center for Policing Equity (CPE), was shown.

Chief of Police Ed Alvarez; Deputy Police Chief Angela Averiett; Janie Schutz, Relationship Manager, CPE; and Dr. Lucy Odigie-Turley, Editorial Director, Data Driven Interventions, CPE, presented the item.

Director Dufty commented on CPE recommendations three and six.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Li thanked CPE for their work and commented on the CPE report; thanked General Manager Robert Powers and Chief Alvarez for their response to the CPE report; requested that staff create a robust adoption plan; and suggested reevaluation of fare evasion enforcement.

Director Dufty associated himself with Director Li's recommendations and remarks.

Director McPartland expressed appreciation for CPE's work; expressed agreement with Director Li regarding BART Police Department's (BPD) response to the CPE report; and commented on BPD and the Office of the Independent Police Auditor's oversight of implementation of CPE's recommendations.

Director Raburn expressed support for all the CPE recommendations and commented on recommendation five, continuing outreach efforts, and the origin of policing.

Director Saltzman expressed agreement with Board Members' comments; commented on evaluation of fare evasion enforcement; requested ongoing updates on implementation of CPE's recommendations and staff's efforts; and thanked everyone for their work.

Director Simon expressed agreement with Board Members' comments; expressed enthusiasm for Chief Alvarez and Deputy Chief Averiett's leadership; and thanked CPE for their work.

Director Allen thanked CPE for their work; expressed appreciation and support for CPE's recommendations; commented on identifying the cause of disparities, current data, and expediting replacement of fare gates and station hardening efforts; thanked Deputy Chief Averiett and Chief Alvarez for providing an update on changes implemented since 2017; and inquired about CPE's disparity data analysis and findings.

Director Ames commended the CPE report and recommendations; commented on Tom Bradley, former police officer and Los Angeles Mayor, and building trust between riders and the BPD with CPE's recommendations; thanked the BPD for its engagement and transparency; inquired about

how to explore underlying causes of mistrust; suggested that staff conduct a study session; commented on the Board's agreement regarding modifying or replacing fare gates, her appreciation for the data collected, and encouragement for collecting more data in the future; and suggested that a plan be developed for each recommendation.

President Foley expressed support for CPE's recommendations; thanked CPE for their work, thanked Chief Alvarez and BPD employees for their leadership and embrace of CPE's recommendations; thanked Directors Li and Allen for their comments regarding how the program will help BART and utilizing data to improve; recommended that BART focus on listening sessions; and inquired about train checks in downtown San Francisco and equality.

Director Dufty acknowledged Director Ames' comment regarding the Board's universal support for modification or replacement of fare gates; reported on staff's progress on fare gates; and thanked everyone for their work.

Director Dufty brought the matter of Update to Roll Call for Introductions Item No. RCI 20-832, BART Progressive Policing, before the Board. Director Saltzman; Michael Jones, Deputy General Manager; Chief Alvarez; Deputy Chief Averiett; Rodd Lee, Assistant General Manager, External Affairs; Sangita Kumar, Founder of Be the Change Consulting; and Pamela Herhold, Assistant General Manager, Performance and Budget, presented the item.

Director Dufty commended and thanked Be the Change Consulting (BTCC) for their work and thanked staff, General Manager Powers, and Chief Alvarez for embracing RCI 20-832.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Li commented on and expressed support for the plan and thanked staff and BTCC for their work.

Director McPartland expressed agreement with Director Li's comments and support for the plan; recognized BPD for their work; and recommended that BART Police Officers hold positions in the ambassador/health professional teams for one year.

Director Raburn commented on reallocating resources; expressed support for improved fare gates; and inquired about uniforms for Crisis Intervention Specialists and BART Police Officers.

Director Saltzman commented on staff providing the Board periodic updates on the plan and communicating the progress of the plan to the public; and expressed enthusiasm for the plan.

Director Allen commented on and/or inquired about the funding strategy for the plan, BART's budget deficit, and crisis intervention training for BART Police Officers, concern about the plan, education and experience requirements for the Crisis Intervention Specialists and their supervisor, enforcement action by Police Officers on the crisis intervention teams, protocols for handling issues addressed crisis by intervention teams on trains, metrics for success of the plan, and services provided by Crisis Intervention Specialists.

Director Simon commented on the data-focused approach of the plan; expressed enthusiasm for the plan; and thanked staff for their work.

Director Ames requested that the metrics of measuring the plan's success be presented to the Board and commented on collecting data, assistance from county partners, and her and station agents' desire for BART Police Officers to be present at stations.

Director Dufty expressed support for the plan and commented on the benefits of the plan, the public's desire for integration of non-sworn personnel in the BPD, and seeking assistance from county officials.

President Foley thanked BTCC for their work and Board Members for their comments; expressed support for the plan; commented on concern about the use of BART's facilities for homeless support; suggested that crisis intervention teams conduct train checks; recommended that information about police officer deployment be provided; and inquired about how the plan will help reduce violent crime on BART and right-sizing the amount of sworn officers.

Director Dufty brought the matter of Change Order to Contract No. 09EK-130A, Oakland Emergency Generator (OEG) System, with DMZ Builders, for Extension of Time (C.O. No. 69) before the Board.

Director Li moved that the General Manager be authorized to execute Change Order No. 69 in an amount not to exceed \$761,100.00, with a time extension to the Contract Duration of up to three hundred (300) calendar days to Contract No. 09EK-130A, Oakland Emergency Generator (OEG) System Project with DMZ Builders. 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.

President Foley announced that the order of agenda items would be changed and that the Board would enter into closed session under Item 10-B (Conference with Labor Negotiators) of the Regular Meeting agenda, and that the Board would reconvene in open session upon conclusion of the closed session.

Director Raburn remarked on potential issues in the hiring of external auditors.

Director Raburn moved to continue Items 6-A, Establish the Audit Committee and Approve Audit Committee Charter, and 6-B, Approve Charter for the Office of Inspector General, to a future meeting.

Director Saltzman suggested that the issue of continuing Items 6-A and 6-B be discussed after closed session.

The Board Meeting recessed at 12:46 p.m.

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

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

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

Director Ames entered the Meeting.

Director Simon entered the Meeting.

The Board Meeting recessed at 1:26 p.m.

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The Board reconvened in open session at 1:32 p.m.

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

Absent: None. Director Simon entered the Meeting later.

President Foley announced that the Board had concluded its closed session under Item 10-B and that there was no announcement to be made.

Director Raburn explained his reasoning for continuing Items 6-A and 6-B and commented on labor unions' upcoming meetings with Harriet Richardson, Inspector General.

Director Saltzman requested that Item 6-A be presented.

Director McPartland, Chairperson of the Administration Committee, brought the matter of Establish the Audit Committee and Approve Audit Committee Charter before the Board. Dennis Markham, Director of Performance and Audit, presented the item.

Director Allen moved that the Board establish the BART Audit Committee and adopt the Audit Committee Charter for the San Francisco Bay Area Rapid Transit District. Director Saltzman seconded the motion.

The item was discussed, with the following highlights:

Directors Raburn and McPartland and staff discussed the auditor hiring process.

Director Saltzman commented on the Audit Ad Hoc Committee's review and support of the proposed charter and the auditor hiring process; and expressed support for the proposed charter.

Director McPartland commented on his experience on promotional and hiring panels.

Director Allen commented on the auditor hiring process and the Audit Ad Hoc Committee's discussion of the issue; and expressed support for the proposed charter.

Director Ames commented on the auditor hiring process; commended the Audit Ad Hoc Committee, Inspector General Richardson, and staff for their work; and expressed support for the motion.

Director Li expressed support for the proposed charter.



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

Director McPartland brought the matter of Approve Charter for the Office of Inspector General before the Board.

Director Allen moved that the Board approve the Charter for the Office of the Inspector General. Director Saltzman seconded the motion.

Director Allen indicated that she needed to attend another meeting and requested that the record reflect her vote in favor of the motion she brought, as is.

The vote on the motion brought by Director Allen and seconded by Director Saltzman was suspended.

Director Allen exited the Meeting.

Inspector General Richardson presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Directors Raburn, McPartland, and Inspector General Richardson discussed including a provision regarding BART's Employee Code of Conduct in the Charter and the role of the Office of the Inspector General (OIG).

Director Raburn asked whether Inspector General Richardson and the Audit Ad Hoc Committee members would agree to include the BART Employee Code of Conduct in the Charter.

Director Li inquired about including a provision requiring compliance with the BART Employee Code of Conduct in the Charter.

Director Saltzman expressed support for the proposed charter.

Director Ames commended the OIG and the Audit Ad Hoc Committee for their work; inquired about the OIG's risk assessment and staff's review of reports before their publication; and expressed support for the proposed charter.

Director Dufty inquired about the Inspector General's upcoming discussions with labor unions and the General Counsel's Office and commented on communicating with employees.

Director Li inquired about the Inspector General's discussion of the OIG Charter with unions.

Director Li made a substitute motion to continue the item to a future meeting. Director Raburn seconded the substitute motion.

Director Simon entered the Meeting.

Director Saltzman called the question on the substitute motion.

Discussion continued, with the following highlights:

Director McPartland inquired whether the proposed charter identifies a timeline for publishing and distributing final reports and asked for clarification of external peer reviews.

President Foley expressed that he would not support the proposed charter at this time and inquired whether employees are notified when the Inspector General requests that their confidential personnel records be provided for review.

Director McPartland inquired about the legality of the Inspector General's access to confidential personnel records.

President Foley inquired whether the proposed charter includes a notification process and requested that the OIG Charter include language regarding access to union representation.

Jesse Hunt and John Arantes addressed the Board.

Director Allen re-entered the Meeting.

Director McPartland announced that the item would be continued to a future meeting and thanked Inspector General Richardson for her work on the Charter.

Director McPartland brought the matter of Actuarial Report on Changes to Pensions (Money Purchase Pension Plan and Deferred Compensation Plan) Related to District Retirement Incentive Program (DRIP) Consideration by the District before the Board. Diane Iwata, Manager of HRIS and Benefits, presented the item.

Director Raburn inquired about the potential number of retirees, the maximum cost of the DRIP, and the likelihood of exceeding the expected cost of the DRIP.

Director McPartland brought the matter of Budget Update before the Board. Assistant General Manager Herhold; Michael Eiseman, Director of Financial Planning; and Christopher Simi, Director of Budgets, presented the item.

Director Simon exited the Meeting.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Li commented on the Fiscal Year 2021 budget, budget deficits in Fiscal Years 2022 and 2023, federal financial relief, and budget reductions; and thanked Assistant General Manager Herhold, Financial Planning Director Eiseman, and staff for their work.

Director Raburn inquired about the rail car deferment timeline and the effect of the DRIP on the progress on capital projects; and commented on adoption of the Fiscal Year 2021 budget and Fiscal Years 2022 and 2023.

Director Saltzman commented on federal financial relief, the budget deficit in Fiscal Year 2022, restoration of the rail car allocation, and the pension trust; and requested that staff present information about allocations in the Fiscal Year 2022 budget to the Board in the next couple months.

Director Allen commented on the Fiscal Year 2021 budget, federal subsidies, and evaluating continuation of under-utilized services, reallocation of positions, and elimination of positions beyond the DRIP.

Director Ames commented on the adoption of the Fiscal Year 2021 budget, projected ridership levels, factors affecting ridership, concern about the economy and BART's viability, and evaluating and responding to the worst-case scenario for ridership and revenue loss.

Director Dufty thanked finance staff for their briefing and associated himself with Director Li's comments regarding the Board's decision against furloughs and building ridership.

Director McPartland inquired about the funding source for rail cars.

President Foley thanked Assistant General Manager Herhold, Financial Planning Director Eiseman, and Budgets Director Simi for their staff's briefing; commented on ridership, planning, federal financial relief, factors affecting planning; and requested that staff evaluate whether there are opportunities to leverage capital work.

Director Saltzman, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, had no report.

President Foley called for the General Manager's Report. General Manager Powers reported on ridership, Clipper® utilization, working with regional partners to obtain relief funding, and staff's upcoming presentation about COVID-19.

President Foley requested that General Manager Powers provide employees with the COVID-19 vaccination plan details.

President Foley brought the matter of Response to Roll Call for Introductions Item No. RCI 19-827, Labor Peace Agreement for Hotel Policy for Board Consideration, before the Board. Sean Brooks, Director of Real Estate and Property Development (RE&PD), presented the item.

The item was discussed, with the following highlights:

Director Raburn commented on labor agreements for hotels in Oakland; inquired about how a hotels pays dividends to BART and the public in comparison to residential and commercial properties and receiving a portion of hotel tax; and suggested that the Transit-Oriented Development (TOD) policy be amended to address hotels.

Director Saltzman expressed support for developing a hotel labor agreement policy.

Director Ames commented on considering hotels as part of the TOD outlook and negotiating for more profit from hotels; thanked President Foley for bringing the item forward; and expressed support for developing a hotel labor agreement policy.

President Foley inquired about signed exclusive negotiating agreements for potential hotel sites, other than Millbrae Station.

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

Director Li requested that the Meeting be adjourned in honor of Ken Jones, LGBTQ community leader and Vietnam War veteran.

Director McPartland requested that the Meeting be adjourned in honor of Desert Storm.

Director Saltzman requested that the Meeting be adjourned in honor of Margarito Ramos Guillen, pastry chef, and Tom Guarino, community champion and Public Affairs Representative for Pacific Gas and Electric Company.

Director Allen thanked Director Saltzman for her tribute to Tom Guarino and gave her own remarks regarding Tom Guarino.

Director Ames thanked Board Members for recognizing those who have passed away due to COVID-19.

Director Dufty thanked General Manager Powers; Val Menotti, Chief Planning and Development Officer; and RE&PD Director Brooks for their work to reach a favorable conclusion to the negotiations with the City of Millbrae regarding land transfer; and thanked RE&PD Director Brooks for his assistance with resolving issues related to the COVID-19 testing at 24<sup>th</sup> Street Mission Station.

President Foley thanked Jim Allison, Manager of Media Relations, for his assistance with his transition into his role as President.

President Foley announced that the Item 10-A, Public Employee Performance Evaluation, would be continued a future meeting.

The Meeting adjourned at 4:04 p.m. in honor of Ken Jones, Desert Storm, Margarito Ramos Guillen, and Tom Guarino.

Patricia K. Williams  
District Secretary