

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

Board of Directors
Minutes of the 1,896th Meeting
December 2, 2021

A regular meeting of the Board of Directors was held on December 2, 2021, convening at 9:02 a.m. via teleconference, pursuant to Governor Gavin Newsom's Executive Order N-15-21. 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. President Foley honorably introduced Carol Dutra-Vernaci, Mayor of Union City, and Joan Malloy, City Manager of Union City. City Manager of Union City Malloy brought the matter of Union City BART Station Area Update before the Board and presented the item.

The item was discussed, with the following highlights:

Director Ames thanked Union City for their work; expressed concern about Quarry Lakes Parkway, a Transit Oriented Development (TOD) Center and disappointment with Union City.

Director Dufty expressed gratitude about Union City's plans; and stated this was not the appropriate calendaring of an item.

The following individuals addressed the Board:

Flavio
Mandeep Gill
Roland Lebrun

Discussion continued, with the following highlights:

Vice-President Saltzman thanked Mayor Dutra-Vernaci and City Manager Malloy for their leadership; inquired about surveying the people who live in Union City and whom of those take BART; and mentioned that this project is being funded by the Alameda County Transportation Commission.

Director Raburn thanked Mayor Dutra-Vernaci and City Manager Malloy; stated that this TOD project is exciting and very much needed.

Director Li echoed Vice-President Saltzman, Director Dufty, and Director Raburn's comments; thanked Mayor Dutra-Vernaci and City Manager Malloy for presenting to the BART Board; and mentioned that Union City is in the 10-year prioritization list for AB 2923 implementation and future ideas.

Director Simon thanked Mayor Dutra-Vernaci and City Manager Malloy for their leadership and partnership with BART.

President Foley thanked Mayor Dutra-Vernaci and City Manager Malloy for their update.

Director Raburn respectfully introduced and recognized a special guest, Dana Lang; mentioned that he selected Dana Lang to fill the upcoming vacancy for District 4; stated her professional credentials at the San Francisco International Airport, San Francisco Police Department, and San Francisco Municipal Transportation Agency; and how she served on the Conference of Minority Transportation Officials (COMTO) and California Berkeley African American Initiative.

Director Allen entered the Meeting.

District Secretary Edwards announced that there was a public commenter. Bobby Cheung addressed the Board.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of November 18, 2021.
2. Revision to Succession Resolution.
3. BART Police Citizen Review Board Member Appointment.
4. Award of Agreement No. 6M2081, with Sperry Capital, Inc., for Ad Hoc Financial Advisory Services.
5. Resolution of Local Support for Alameda County Transportation Commission Measure BB Allocation, for the 19th Street/Oakland BART Station Modernization Project.
6. Resolution of Local Support for Alameda County Transportation Commission Measure BB Allocation, for the Fleet of the Future Maintenance Facilities Project.
7. Resolution Fixing the Non - California Public Employees Retirement System (CalPERS) Medical Plan Structure and Rates for Calendar Year 2022.
8. Resolution of Local Support and Application for Congestion Mitigation and Air Quality Improvement Program Funds, for the MacArthur BART Station Mobility HUB Project.
9. Independent Audit Reports for the Fiscal Year Ended June 30, 2021.
 - a) BART Annual Financial Statements
 - b) Independent Auditor's Report on Financial Statement of BART's Retiree Health Benefit Trust
 - c) Independent Auditor's Report on Financial Statement of BART's Survivors Benefit Trust
 - d) Agreed Upon Procedures Report for Evaluation of Board of Directors' Expenses

- e) Independent Auditor's Report on Compliance for Measure B Program and Report on Internal Control over Compliance
- f) Independent Auditor's Report on Compliance for Measure BB Program and Report on Internal Control over Compliance
- g) Independent Auditor's Report on Compliance for Public Transportation Modernization, Improvement and Service Enhancement Account Guidelines (Proposition 1B PTMISEA Funds) and Report on Internal Control over Compliance
- h) Independent Auditor's Report on Compliance with the Transportation Development Act (TDA) and Report on Internal Control over Compliance
 - i. State Transit Assistance Program
 - ii. Low Carbon Transit Operations Program (LCTOP)
 - iii. State of Good Repairs Program (SGR)
- i) National Transit Database Audit Report - Independent Accountant's Report on Applying Agreed-Upon Procedures
- j) National Transit Database Report - Independent Auditor Statement – Financial Data Review
- k) Single Audit Report
 - i. Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards
 - ii. Independent Auditor's Report on Compliance for Each Major Federal Program and Report on Internal Control Over Compliance
- l) Management Letter – SAS114

10. Procurement with Cisco Systems, as the Official National Association of State Procurement Officials (NASPO) Provider, for SmartNet Maintenance Services.

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

President Foley called for Public Comment on the Consent Calendar. Bobby Cheung addressed the Board.

Director Allen requested that Item 2-D, Award of Agreement No. 6M2081, with Sperry Capital, Inc, for Ad Hoc Financial Advisory Services be removed from the Consent Calendar, and that it be discussed separately.

The following individuals addressed the Board:

Aleta Dupree
 Brian Jenkins
 Roland Lebrun

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

1. That the Minutes of the Meeting of November 18, 2021, be approved.
2. That the Board of Directors adopts the attached Resolution.
3. That the Board of Directors ratifies the appointment of Dana Lang – District 4, to the BART Police Citizen Review Board, for a term expiring on June 30, 2023.

5. The BART Board of Directors approves adoption of the attached Resolution "In the Matter of Approval of a Resolution of Local Support for an Alameda County Transportation Commission Measure BB Allocation for the 19th Street/Oakland BART Station Modernization Project". The BART Board of Directors also authorizes the General Manager to execute all required documents for participation in ACTC 2022 CIP program.
6. The BART Board of Directors approves adoption of the attached Resolution of Local Support "In the Matter of Approval of a Resolution of Local Support for an Alameda County Transportation Commission Measure BB Allocation for the Fleet of the Future Maintenance Facilities Project". The BART Board of Directors also authorizes the General Manager to execute all required documents for participation in the ACTC 2022 CIP program.
7. To adopt the attached resolution "In the Matter of Non-CalPERS Medical Plan Structure and Rates for CY 2022".
8. The Board of Directors approves the attached resolution: "In the Matter of Authorizing Actions Necessary to Obtain Congestion Mitigation and Air Quality Resolution of Local Support for an Application for Congestion Mitigation and Air Quality Improvement (cont.) Improvement Program funding from the Metropolitan Transportation Commission for the MacArthur BART Station Mobility HUB Project".
9. Presentation of the results of the Independent Audit Reports for the Fiscal Year Ended June 30, 2021.
10. The General Manager is authorized to enter into a one (1) year NASPO ValuePoint contract with Cisco Systems, Inc., for the procurement of Cisco SmartNet services for an amount of \$2148,386.39, pursuant to notification to be issued by the General Manager.

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

President Foley requested further information about Item 2-D, Award of Agreement No. 6M2081, with Sperry Capital, Inc., for Ad Hoc Financial Advisory Services.

The item was discussed.

President Foley called for Public Comment. Bobby Cheung and Roland Lebrun addressed the Board.

Discussion continued.

Director Dufty made a motion for item 2-D, Award of Agreement No. 6M2081, with Sperry Capital, Inc., for Ad Hoc Financial Advisory Services. Director Raburn seconded the motion.

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.

The following individuals addressed the Board:

Aleta Dupree
Roland Lebrun
Dave Campbell

President Foley stated the matter of Office of the Inspector General's Audit Plan would be postponed.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of BART's 2022 Federal and State Legislative Advocacy Program before the Board. Carl Holmes, Assistant General Manager, Design and Construction, introduced Rodd Lee, Assistant General Manager, External Affairs. Assistant General Manager, External Affairs Lee introduced Amanda Cruz, Manager of Government Relations and Legal Affairs, Emily Bacque Da Silva, Director of Policy with CJ Lake, LLC, Jim Lites, Vice Chair with California Strategies, LLC, and Claire Van Zuiden, Partner with California Strategies, LLC, who presented the item.

The following individuals addressed the Board:

Adina Levin
Aleta Dupree

The item was discussed, with the following highlights:

Director Li thanked Manager of Government Relations and Legal Affairs Cruz, Partner with California Strategies Van Zuiden, Vice Chair with California Strategies Lites, and Alex Lee, Assembly Member from Milpitas; recommended that the year-to-year progress made with the State Advocacy Goals be brought to the Board; and inquired about the two-year allocation of \$12 billion for homelessness.

Director Allen asked staff multiple questions about fare gates and safety; recommended adding an Advocacy Goal to the list; and suggested that staff look for money to fund the Office of the Inspector General for further audit and oversight of spending on infrastructure dollars.

Director Allen made a substitute motion to add a Line-Item No. 9, to include additional funding for the BART Office of Inspector General for the State and Federal Advocacy Goals.

Director McPartland seconded Director Allen's substitute motion.

Discussion continued.

Director Li made a substitute motion, to approve the State and Federal Advocacy Goals as is.

Directors Saltzman and Simon seconded Director Li's substitute motion.

Discussion continued.

Director Dufty asked for a friendly amendment to Director Li's substitute motion to include a separate line for safety and language for fare gates.

Discussion continued.

Roland Lebrun addressed the Board.

Discussion continued.

The substitute motion brought by Director Allen and seconded by Director McPartland carried by a roll call vote. Ayes: 4 – Directors Allen, Ames, Foley, and McPartland. Noes: 5 – Directors Dufty, Li, Raburn, Saltzman, and Simon. The motion failed.

Discussion continued.

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

Director Raburn brought the following matters of Update on BART Headquarters Office Building (2150 Webster St., Oakland, CA), (1) Change Order to Contract No. 6M4706, Differing Site Conditions and Operational Functionality Modifications (C.O. 514) and (2) Authorization to Execute Change Orders for Moving Services, before the Board. Assistant General Manager, Design and Construction Holmes introduced Kate Masinsin, Senior Project Engineer, Abigail Thorne-Lyman, Transit Oriented Development Group Manager, and Sylvia Lamb, Assistant Chief Engineering Officer, who presented the item.

The item was discussed, with the following highlights:

Director Allen thanked staff for the presentation and mentioned that this is an example of the need for an oversight of cost overruns on projects.

Vice-President Saltzman mentioned the concerns about the Board Room and asked the Robert Powers, General Manager, for his commitment to the layout of the Board Room.

Director McPartland requested clarification of the door in the area for securing the Board Room.

The motions brought by Director Saltzman 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.

Director Raburn brought the Silicon Valley BART Extension, Phase II, Project Update, before the Board. Assistant General Manager, Design and Construction Holmes gave opening remarks and introduced Takis Salpeas, Silicon Valley Program Delivery Chief, Santa Clara Valley Transportation Authority (VTA), who presented the item.

The following individuals addressed the Board:

Aleta Dupree
Roland Lebrun
Adina Levin
Aaron Eckhouse
Cliff Bargar

Scott Mace
Laura Tolkoff
Derek Sagehorn
Kevin Burke
Anoeil Odisho
Raayan
Sidharth Kapur
Jordan Grimes
David Ying

The item was discussed, with the following highlights:

Director Ames thanked the public commenters; and inquired about the peer evaluation analysis and the twin and single bore tunnels.

Vice-President Saltzman thanked Silicon Valley Program Delivery Chief Salpeas and public commenters; expressed disappointment about what is needed to reduce costs; inquired about the cost estimate, the single and twin bores, how to get more information, how to move forward collaboratively; and requested this item to be placed on the agenda regularly.

Director Li echoed Vice-President Saltzman's comments; suggested that VTA and FTA join the Meeting and be present in the future; mentioned the importance of public transit; thanked the public advocate commenters for speaking up; requested updates be brought to the Board; and inquired about what VTA's preference for bore is and why single bore is their preference.

Director McPartland expressed support for both Director Ames and Director Li.

Director Allen thanked Directors Saltzman, Ames, and Li for their questions; mentioned the design-build issue, twin bore vs. design build; touched on peer review; and inquired if VTA has a full-time Cost Analyst.

President Foley apologized for the length of the Planning, Public Affairs, Access, and Legislation Committee (PPAAL); suggested a Joint Board Meeting to discuss plans moving forward; and thanked the VTA presenters.

Director Raburn inquired about the Fire Life Safety access and if those elements are woven into the project.

President Foley called for the General Manager's Report. General Manager Powers mentioned the extension of the face mask mandate until March 18, 2022, participation in East Bay Economic Development Alliance (EDA), BART's Holiday Toy Drive, the Vaccination Clinics at BART; and commented on ridership.

The following individuals addressed the Board:

Aleta Dupree
Roland Lebrun

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

Director Ames gave a shout out to Shane Edwards, Interim Assistant General Manager, Engineering and Operations, and his staff for fixing the BART South Hayward benches on the platform.

Director Dufty requested that letters be sent to congratulate/thank Congresswoman Jackie Speier for her partnership with BART and leadership; and acknowledged Assemblymember Jim Frazier.

Director Allen echoed Director Dufty's requests; attended a Walnut Creek Chamber of Commerce Open House, the Contra Costa Transportation Authority (CCTA) Meeting, the East Bay EDA Call, the BART Redistricting Meeting; and mentioned when the Audit Committee meets again.

Director Raburn mentioned that he attended the Bay Area Council Annual Awards, the Diridon Joint Powers Authority Meeting; and requested a cellular coverage report.

President Foley reported on the Redistricting Meeting and upcoming dates; acknowledged David Coleman, Manager of Labor Relations, Amelia Sandoval-Smith, Senior Attorney, BART's Labor Partners: John Arantes, Sal Cruz, Keith Garcia, Jesse Hunt, Olivia Rocha, and Jesse Seagan; and mentioned the BART Sweaters.

President Foley called for Public Comment. Roland Lebrun addressed the Board.

President Foley announced that the Board would enter into Closed Session under Items 10-A (Conference with Labor Negotiators), 10-B (Conference with Legal Counsel – Existing Litigation), and 10-C (Conference with Legal Counsel – Anticipated 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 2:10 p.m.

The Board Reconvened in Closed Session at 2:31 p.m.

Directors present: Directors Allen, Ames, Dufty, Raburn, and Foley.

Absent: Directors Li, McPartland, Saltzman, and Simon.

The Board reconvened in Open Session at 3:09 p.m.

President Foley announced that the Board had concluded its Closed Session under Items 10-A, 10-B, 10-C, and that there were no announcements to be made.

The Meeting adjourned at 3:11 p.m.

Jacqueline R. Edwards
District Secretary