

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

Board of Directors
Minutes of the 1,912th Meeting
July 28, 2022

A regular meeting of the Board of Directors was held on July 28, 2022, convening at 4:02 p.m., via teleconference, pursuant to all necessary findings having been made by the Board of Directors of the San Francisco Bay Area Rapid Transit District (for itself as well as all subordinate legislative bodies) to continue remote public meetings in the manner contemplated under urgency legislation Assembly Bill No. 361. President Saltzman presided; April B. A. Quintanilla, Acting District Secretary.

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

Absent: None. Directors Dufty, McPartland, and Simon entered the Meeting later.

President Saltzman gave instructions regarding Public Comment.

President Saltzman gave opening remarks and brought Item 2-A, Resolution to Continue Virtual Meetings During the Pandemic, before the Board.

Director Raburn moved that Resolution No. 5521, In the Matter of Re-Authorizing the District's legislative and subordinate legislative bodies to utilize the provisions enacted by Assembly Bill (AB) 361 to meet remotely with teleconferenced meetings during a re-proclaimed emergency as authorized by law in accordance with Government Code Section 54953(e) and other applicable provisions of the Ralph M. Brown Act for an additional period of thirty (30) days from the adoption of this Resolution, be adopted. Director Simon seconded the motion.

Director Simon entered the Meeting.

President Saltzman called for general Public Comment.

Joe Kunzler addressed the Board.

The motion brought by Director Raburn and seconded by Director Simon carried by unanimous roll call vote. Ayes: 7 – Directors Allen, Ames, Foley, Li, Raburn, Simon and Saltzman. Noes: 0. Absent: 2 – Directors Dufty and McPartland.

President Saltzman announced that the open session items would not begin until at least 5:00 p.m. and that the Board would enter into closed session under Items 3-A (Public Employee Performance Evaluation) and 3-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.

President Saltzman called for Public Comment on closed session. No comments were received.

The Board Meeting recessed at approximately 4:08 p.m.

The Board reconvened in closed session at approximately 4:09 p.m.

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

Absent: None. Directors Dufty and McPartland entered the Meeting later.

Director Dufty entered the Meeting.

Director McPartland entered the Meeting.

The Board Meeting recessed at approximately 4:40 p.m.

The Board reconvened in open session at approximately 4:42 p.m.

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

Absent: None.

President Saltzman announced that the Board had concluded its closed session under Items 3-A and 3-B and that there were no announcements to be made.

President Saltzman brought the Report of the Board President before the Board and commented that the Board will not return to in-person Board meetings until people feel comfortable doing so and that an announcement would be made when the Board plans to return to in-person meetings.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of May 26, 2022, June 9, 2022, and June 23, 2022.
2. Employee Relocation Assistance for the District Secretary.
3. Procurement of Internet, Telecommunications Services, and Information Technology Products from AT&T through the California Network and Telecommunications (CALNET) Program.
4. Agreement with Cubic Transportation Systems, Inc. for Continuation of Europay Mastercard Visa.
5. Reject All Bids for Invitation for Bid No. 9111, For the Procurement of Skid Mounted Ventilation Unit.

6. Award of Agreement No. 6M4739 with Associated Right of Way Services, Inc. and Smith & Associates, Inc., for Real Property Appraisal Services.
7. Award of Agreement No. 6M4778 with Associated Right of Way Services, Inc., Monument ROW, Inc., and Overland, Pacific and Cutler, LLC, for Real Property Comprehensive Acquisition, Relocation, and Title Services.
8. Quitclaim of Subsurface Easement at Groom Street in Hayward, CA.

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

1. That the Minutes of the Meetings of May 26, 2022, June 9, 2022, and June 23, 2022, be approved.
2. That the General Manager be authorized to enter into a relocation assistance agreement for the position of District Secretary in accordance with Management Procedure Number 70, New Employee Relocation Expense Reimbursement.
3. That the General Manager be authorized to purchase Internet, telecommunications services, and Information Technology products (“Services”) from AT&T through the State of California Department of Technology’s California Network and Telecommunications (CALNET) Program; and that the General Manager or his designee be authorized to execute a Services agreement with AT&T for Information Technology products, telecommunications, and internet services for an amount not to exceed \$7,720,000.00.
4. That the Board of Directors authorizes the General Manager to negotiate and execute a new professional services agreement with Cubic Transportation Systems, Inc. to complete the modification of Ticket Vending and Add Fare Machine Software to accept Europay Mastercard Visa (EMV) cards and encrypt cardholder data and to obtain and test related new software, in an amount not to exceed \$656,000.00.
5. That all Bids for Invitation for Bid (IFB) No. 9111 for the procurement of two (2) skid mounted ventilation units are rejected and that the General Manager be authorized to re-advertise the solicitation.
6. That the General Manager or his designee be authorized to execute the following agreements to provide On-Call Real Property Appraisal Services, for an amount not to exceed \$300,000.00, per agreement pursuant to notification to be issued by the General Manager and subject to the District’s Protest Procedures:
 - a. Associated Right of Way Services, Inc.
 - b. Smith & Associates, Inc.
7. That the General Manager or his designee be authorized to execute the following agreements to provide Real Property Comprehensive Acquisition, Relocation and Title Services, for an amount not to exceed \$200,000.00, per agreement pursuant to notification to be issued by the General Manager and subject to the District’s Protest Procedures:
 - a. Associated Right of Way Services, Inc.
 - b. Monument ROW, Inc.

c. Overland, Pacific and Cutler, LLC.

8. That the Board of Directors authorizes the General Manager or his designee to enter into a Purchase and Sale Agreement for \$2,500.00 with the Whitakers and to execute a quitclaim deed for the purpose of extinguishing the underground water and electrical utility easement on BART Parcel O-837X.

President Saltzman called for Public Comment on the Consent Calendar. No comments were received.

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

President Saltzman called for the General Manager's Report. Robert Powers, General Manager, reported that BART was awarded a \$49 million dollar grant for Transit-Oriented Development Station Access for improvements at the Lake Merritt, West Oakland and El Cerrito Plaza BART stations; commented that BART also received \$126 million in Federal Transportation Administration, Federal Formula Funds for BART's Fleet of the Future procurement; thanked Director Raburn for attending and supporting an event at Lake Merritt Station featuring 97 Affordable Housing Units for seniors; thanked President Saltzman for her support and leadership in attending an open house at the El Cerrito BART Station regarding BART's plans for Transit Oriented Development at the station; and commented on the soft opening of the Rooftop Terrace on the roof of the BART Headquarters building, the District's internship program, ridership, the distribution of over 300 BART tickets to patrons for service disruptions, and a train derailment incident.

The following individuals addressed the Board:

Aleta Dupree
Lilly Lopez
Joe Kunzler

The item was discussed with the following highlights:

Director Allen commented on the train derailment incident.

Director McPartland commented on the train derailment incident and related heat and complimented staff on how expeditiously injured patrons were evacuated and taken to the hospital.

Director Simon commented on the resignation of BART Police Deputy Chief Angela Averiett and her new role as Chief of Police for another public agency.

President Saltzman thanked Shane Edwards, Assistant General Manager, Operations, for his report on the recent train derailment incident and General Manager Powers for his report on the in-station outreach at El Cerrito Plaza Station.

President Saltzman brought the matter of Resolution to Reinstitute the Inclusion of a Mask Requirement in the Customer Code of Conduct before the Board.

Director Dufty commented that BART should stay the course and ensure that riders are safe and feel welcome in our system; and noted the amendments he discussed with President Saltzman related to the mask mandate and revisiting the item on September 22nd to allow the Board more time to decide how to handle this issue.

Director Dufty moved that Resolution No. 5522, In the Matter of Reinstating within the BART Customer Code of Conduct facial masking requirements within the paid areas of the transit system, as amended to change the Board Meeting date for consideration of extending the mask mandate to September 22, 2022, be adopted. President Saltzman seconded the motion.

Director Simon expressed support for the item.

The following individuals addressed the Board:

Joe Kunzler
Kaitlin Sundling
Sarah
Reija Small
Jenn
Casey
Alice
Aleta Dupree
Michael Lyon
Nayeli Maxson
Jordan Davis
Beth Penny
Elizabeth Z.
Warren Cushman
Alisa Matsaw
Mark Chekal
Unknown Caller
Harlo Flippenger
Unknown Caller
DJ Alex Reyes

Director Simon exited the Meeting.

The item was discussed with the following highlight:

Vice President Li thanked Director Dufty for his comments on the mask requirement, public speakers for their comments, and Senior Disability Action for meeting with her, President Saltzman, and BART staff to share their experience with seniors and immune-compromised individuals that rely on BART; and expressed support for the item.

Vice President Li seconded the motion brought by Director Dufty.

Discussion continued, with the following highlights:

Director Foley commented on the Contra Costa Health Department's current guidelines and the obligation to protect employees, riders, and the public; and expressed that he does not want Station Agents, Train Operators, or System Service Workers being asked to enforce the mask mandate, as this is a task for BART Police Department using education, free masks and if necessary, citations and ejections.

Director Raburn asked inquired whether staff had heard from any of the county health agencies; commented that as a Director he ensures that BART is running 10-car trains which allows passengers to socially distance and that the trains have good air filtration and circulation; and expressed concern that BART had not heard back from the county health agencies regarding mandating masks indoors and indicated that he would not vote for a mask mandate until that happens.

Director Allen commented on some of the language of the Resolution; inquired about how many people had been cited and or ejected in the two years since enacting the mask mandate and the efficacy around the use of masks; and indicated that she did not support the mandate.

Director McPartland commented on the caller who identified the microns that masks protect against; provided some statistical data and information about aerosolizing the virus; and expressed support for the mask mandate.

President Saltzman thanked the public and the Directors for their comments; commented on mask compliance; and requested that a potential extension of the mask mandate be included in the agenda for the September 22, 2022, Board Meeting.

The motion brought by Director Dufty and seconded by President Saltzman and Vice President Li carried by roll call vote. Ayes: 6 – Directors Ames, Dufty, Foley, Li, McPartland, and Saltzman. Noes: 2 – Directors Allen and Raburn. Absent: 1 – Director Simon.

President Saltzman called for general Public Comment.

The following individuals addressed the Board:

Unknown Caller
Joe Kunzler
Aleta Dupree
Unknown Caller
Jenn
Elizabeth Z.

President Saltzman brought the matter of Resolutions Ratifying the Agreements to Extend the Collective Bargaining Agreements (CBAs) and Create Successor Agreements before the Board. Pamela Herhold, Assistant General Manager, Performance and Budget, and David Coleman, Interim Director of Labor Relations presented the item.

The following individuals addressed the Board:

Sal Cruz
Jesse Hunt
John Arantes
Shane Reiss
Nick Mavrakis

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

1. That Resolution No. 5523, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2021-2025 between the District and the American Federation of State, County and Municipal Employees, Local 3993 (AFSCME), be adopted.
2. That Resolution No. 5524, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2021-2025 between the District and the Amalgamated Transit Union, Local 1555 (ATU), be adopted.
3. That Resolution No. 5525, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2021-2025 between the District and the Service Employees International Union, Local 1021 (SEIU), be adopted.
4. That Resolution No. 5526, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2018-2026 between the District and the BART Police Officers Association (BPOA), be adopted.
5. That Resolution No. 5527, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2018-2026 between the District and the BART Police Managers Association (BPMA), be adopted.

The item was discussed, with the following highlights:

Director Raburn thanked staff for their efforts with the raise increase for employees.

Director Ames commented on providing employees with livable wage jobs, the transit riders, faregates, clean stations, BART's dependence on State and Federal emergency funds, the approved 2-year budget, sales tax revenue, the recession, and the need to raise taxes in 2025; and requested that staff provide a financial plan.

Director Foley thanked the General Manager, staff, and union leadership for reaching an agreement to provide a wage increase for employees amidst a District-wide recruitment and retention issue; commented that the agreements did not reflect a raise but rather a response to inflation and an attempt to remain competitive.

Director Dufty thanked the General Manager for negotiating with the Labor Partners and Assistant General Manager Herhold for being a great financial steward, acknowledging how difficult it has been to navigate through the budget process.

Director Allen expressed empathy for employees who have not had raises; commented on retention and attraction and including excessive overtime and operational inefficiencies in the negotiations; and expressed that she did not support the item.

President Saltzman echoed most of the comments of the Board; thanked General Manager Powers and staff for negotiating with the Labor Partners; and commented that the negotiations were a solid process most vital to BART employees.

Vice President Li expressed strong support for the Board; commented that she had heard from Labor Partners that the agreements would help address some of the recruitment and retention issues and that BART needs a long-term financial plan; and expressed support for the item.

Director McPartland referenced previous negotiations from 2013; commented that the agreements were not a solution but the best compromise for now as it would be disruptive if BART lost more employees.

Director Simon entered the Meeting.

Discussion continued, with the following highlight:

Director Simon expressed support for the item.

The motions brought by Director Dufty and seconded by Vice President Li carried by roll call vote. Ayes: 7 – Directors Dufty, Foley, Li, McPartland, Raburn, Simon, and Saltzman. Noes: 1 – Director Allen. Abstentions: 1 – Director Ames. Absent: 0.

Director Simon exited the Meeting.

Director Dufty, Chairperson of the Engineering and Operations Committee, brought the following matters before the Board: (1) Sole Source Procurement with Shimmick/California Engineering Contractors (CEC) Joint Venture (JV) for Maintenance Vehicle Consist; and (2) Change Order to Contract No. 40FA-110, Procurement of Transit Vehicles, with Alstom Group North America, for Design Engineering for Communications Based Train Control Vehicle Interface (C.O. 52).

Aleta Dupree addressed the Board.

President Saltzman made the following motions as a unit. Director Raburn seconded the motions, which carried by unanimous roll call vote (the motion regarding the Sole Source Procurement with Shimmick/CEC JV carried by the required two-thirds vote). Ayes: 7 – Directors Ames, Dufty, Foley, Li, McPartland, Raburn, and Saltzman. Noes: 0. Abstentions: 1 – Director Allen. Absent: 1 – Director Simon.

1. That pursuant to California Public Contract Code Section 20227, the Board of Directors finds that Shimmick/CEC JV is the single source for the purchase of the Maintenance Vehicle Consist (MVC) described herein; and that the Board authorizes the General Manger to negotiate and execute a contract with Shimmick/CEC JV for the purchase of the MVC for an amount not to exceed \$9,200,000.00 (including applicable taxes).

2. That the General Manager be authorized to execute a revised Change Order No. 52 for Design Engineering for Communications Based Train Control (CBTC) Vehicle Interface for Contract No. 40FA-110 to Alstom Group North America for an amount not to exceed \$6,500,000.00, an increase of \$5,050,000.00 from the prior authorized amount.

Director Dufty brought the matter of BART Progressive Policing Update before the Board. Ed Alvarez, Chief of Police; Nick Mavrakis, Police Lieutenant; and Armando Sandoval, Supervisor of Crisis Intervention & Outreach Programs, presented the item.

Aleta Dupree and Vallery Laney addressed the Board.

The item was discussed with the following highlights:

Director Allen thanked Chief Alvarez and staff for the presentation; queried staff with a few questions related to the presentation, specifically regarding metrics related to measurements of success; and commented on monitoring whether individuals obtain permanent services.

Director Dufty thanked both Chief Alvarez and Crisis Intervention & Outreach Programs Supervisor Sandoval for the presentation and for answering a few related questions; and commented on the success of the Bureau.

Vice President Li thanked BART leadership, Chief Alvarez, and the BART Police Department for the Progressive Policing efforts; commented on the Not One More Girl Initiative; echoed Director Allen's comments; and expressed support for the BART Police Department developing a data-driven action plan with regular updates to the BART Board.

Director Raburn commented on the data presented and suggested rotating the Progressive Policing Bureau's teams to include coverage on the weekends.

Director Ames thanked staff for the presentation; recognized Stephine Barnes, BART Police Crisis Intervention Specialist, commending her on a great job as a former Station Agent; and inquired about the training of frontline staff and tracking individuals who need assistance.

President Saltzman thanked staff for the presentation; agreed more data would be better with measurements and the impact the efforts are having; and commented on the fare checks at Embarcadero Station.

Director Foley thanked Chief Alvarez and BART Police staff for the presentation; commented that he would like to see regular updates in the future; thanked BART Police Union leadership; echoed the comments made by Vice President Li and Director Allen; and commented on end-of-line support at closing service.

Director Dufty commented on the leadership of the General Manager and Chief of Police.

Director Foley, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Assembly Bill 2923 Transit-Oriented Development Conformance Findings before the Board. Val Menotti, Chief Development Officer; Abigail Thorne-Lyman, Director of Real Estate and Property Development; and Kamala Harris, Senior Planner, presented the item.

Avalon Schultz and Greg Wolff addressed the Board.

The item was discussed with the following highlights:

President Saltzman thanked staff for the work done with this item; commented on the impact of the Bill on BART ridership and reducing greenhouse gas emissions.

Director Ames expressed concern about job centers at BART stations; commented on a few reports which indicated that BART could create increased ridership and sales tax revenue, and jobs if businesses were located within 1,000 feet would increase a transit station; and inquired about the potential for job centers at the Hayward and Warm Springs Stations.

Director Raburn thanked Avalon Schultz and Greg Wolff for their comments.

Director Foley brought the matter of 2021 Annual Report – Sustainability before the Board. Michael Cox, Principal Performance Analyst, presented the item.

Aleta Dupree addressed the Board.

The item was discussed, with the following highlights:

Director Raburn thanked Aleta Dupree for her comments; commented on BART's renewable energy accomplishment in 2020; and commended the report and progress of sustainability efforts.

Director Allen commended staff for their work and report.

Director Foley commented on discussing the electrification of eBART with staff.

President Saltzman expressed agreement with electrifying eBART; inquired about the process to determine the cost of electrifying eBART; and commended staff for their work.

Vice President Li commented on BART's use of over 50% state-defined renewable energy; requested that next year's report outline how to achieve 100% renewable energy; and commended staff's work.

President Saltzman called for Board Member Reports, Roll Call for Introductions, and In Memoriam Requests.

Director Raburn commented on the final permit approval for affordable housing at Lake Merritt Station; reported that he had attended the Art & Soul Festival; and recognized Aisha Brown, Principal Government and Community Relations Representative, and Kevin Floyd, Transit Information Clerk, for staffing the BART booth at the Art & Soul Festival.

Director Allen suggested that Committee reports be included in Board Meetings.

Vice President Li reported that she had attended and participated in a panel discussion regarding Senate Bill 1161, along with other community leaders.

Director Ames reported that she had attended a meeting regarding the Hayward Maintenance Complex, Phase 2, Environmental Impact, and the Bay Area Council Goods Movement Subcommittee.

Director Foley thanked Interim Treasurer-Controller Christopher Gan and staff for their efforts with assisting BART to obtain a grade A score on general obligation bonds; thanked Michaela Morales, Executive Assistant, for her assistance with American Public Transit Association (APTA) Rail Conference coordination; thanked Sadie Graham, Director of Link21, for her assistance with the Brentwood City Council regarding the Brentwood Innovation Center; and thanked Javed Khan, Senior Manager of Engineering Programs for assisting with passing out tickets at the Antioch BART Station; and noted that semi-annual Form 460 filings are due August 1, 2022.

President Saltzman reported that there was nothing to report regarding the Personnel Review Special Committee Meeting on August 3, 2022, and requested that the Meeting be adjourned in honor of Shirley Douglas.

The Meeting adjourned at 9:37 p.m. in honor of Shirley Douglas.

April B. A. Quintanilla
Acting District Secretary