

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

**OPERATIONS & SAFETY COMMITTEE**

June 13, 2017

1:00 p.m.

COMMITTEE MEMBERS: Directors Keller (Chairperson), Simon (Vice Chairperson), McPartland, and Saltzman

Chairperson Keller has called a meeting of the Operations and Safety Committee at 1:00 p.m. on Tuesday, June 13, 2017. This meeting shall consist of a simultaneous teleconference call at the following locations:

BART Board Room Kaiser Center 20 <sup>th</sup> Street Mall – Third Floor 344 – 20 <sup>th</sup> Street Oakland, CA 94612	Hilton Baltimore 401 W Pratt Street Baltimore, MD 21201
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Members of the public may address the committee regarding any matter on this agenda. Please complete a “Request to Address the Board” form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the committee. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

**AGENDA**

1. Call to Order.
  - a. Roll Call.
2. (CONTINUED from March 14, 2017, Operations & Safety Committee Meeting)  
Safe Transit Policy.\* For discussion.
3. Ordinance Prohibiting Solicitation of Patrons within a Radius of Thirty Feet from the Front of BART Ticket Vending Machines.\* For discussion.
4. Public Comment.
5. New Business. (An opportunity for Committee Members to introduce potential matters for a future committee agenda.)

Patricia K. Williams  
Assistant District Secretary

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to these meetings, as there may be people in attendance susceptible to environmental illnesses.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at 510-464-6083 for information.

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors **DATE:** June 6, 2017  
**FROM:** General Manager  
**SUBJECT:** Safe Transit Resolution draft language for the Operations and Safety Committee meeting on June 13, 2017

I have attached a draft of the Safe Transit Resolution authored by Director Lateefah Simon that will be reviewed by members of the BART Operations and Safety Committee during its meeting on June 13, 2017.

  
Grace Crunican

Attachment

cc: Board Appointed Officers  
Deputy General Manager

## SAFE TRANSIT RESOLUTION - DRAFT

A resolution declaring the San Francisco Bay Area Rapid Transit District's commitment to be a safe, secure, inviting, equitable, inclusive transit system for the community and affirming our dedication to the values of dignity, respect, and inclusivity regardless of ethnic or national origin, gender, gender identity, race, religious affiliation, sexual orientation or immigration status.

**WHEREAS**, The strength and vitality of our riding community and our employees come from our rich diversity of cultures, experiences, and faiths, and we celebrate that diversity; and

**WHEREAS**, The San Francisco Bay Area Rapid Transit District values the contributions of all our employees and customers to the economic development, vibrancy, and health of the District and region; and

**WHEREAS**, The San Francisco Bay Area Rapid Transit District will continue to protect the rights and dignity of all persons without prejudice or bias against ethnic or national origin, gender, gender identity, race, religious affiliation, sexual orientation, or immigration status; and

**WHEREAS**, The San Francisco Bay Area Rapid Transit District recognizes and upholds the rights of individuals to be treated fairly and to live their lives with dignity, free from discrimination or targeting because of their faith, race, national origin, or immigration status; and

**WHEREAS**, The San Francisco Bay Area Rapid Transit District is committed to ensuring all employees and users of our transportation system are able to move safely and conveniently in our parking lots, stations, trains, buildings, and facilities; and

**WHEREAS**, The San Francisco Bay Area Rapid Transit District's methods will continue to stress cooperation with riders based on trust rather than fear and to emphasize prevention of crime; and

**WHEREAS**, It is not the practice of the San Francisco Bay Area Rapid Transit District to inquire as to one's citizenship status for the purpose of enforcing federal immigration laws; and

**WHEREAS**, The San Francisco Bay Area Rapid Transit District does not have the authority nor the desire to stop or arrest individuals based on one's perceived immigration status; and

**WHEREAS**, The San Francisco Bay Area Rapid Transit District Board of Directors, as elected representatives of the people, and its management, have a special responsibility not to stay silent in the face of hate and discrimination against any of our customers, employees or contractors, and we choose to be a leader in protecting human rights, equity, public safety and social well-being; and

**WHEREAS**, The San Francisco Bay Area Rapid Transit District recognizes the Constitution of the United States and the Constitution of the State of California enshrine the fundamental

inalienable rights of Americans including the freedom of religion, freedom of speech, right to assembly, right to privacy, and equal protection under the law for all persons, regardless of religious affiliation, race, national or ethnic origin, gender, gender identity, sexual orientation, or immigration status;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS AS FOLLOWS:**

Section 1. The Board of Directors reaffirms its commitment to make the San Francisco Bay Area Rapid Transit District an inviting, equitable, and safe community for everyone who uses our system or works for the District.

Section 2. The Board of Directors reaffirms its commitment to stand together with the people of the Bay Area in opposing hate, violence, and acts of intolerance committed against our riding community and employees.

Section 3. The Board of Directors reaffirms its commitment to continue our work to reach out to and connect with our community and our employees to ensure that system is accessible, inviting, and open to all individuals.

Section 4. In its authority to set policy for the San Francisco Bay Area Rapid Transit District to most effectively use its resources to ensure safe and quality transportation for all riders, the Board of Directors issues the following policy directive:

Section 4.1 No Funds or Resources Used to Enforce Federal Immigration Law: No employee of the San Francisco Bay Area Rapid Transit District shall use any District funds or resources to assist in the enforcement of federal immigration law or to gather or disseminate information regarding release status of individuals or any other such personal information unless such assistance is required by federal or state statute, regulation, or court decision. The prohibition set forth in this resolution shall include, but shall not be limited to:

4.1.a. Assisting or cooperating, in one's official capacity, with any investigation, detention, or arrest procedures, public or clandestine, conducted by the federal agency charged with enforcement of the federal immigration law and relating to alleged violations of federal immigration law, except as required by federal or state law or court order.

4.1.b. Requesting information for the sole purpose of obtaining immigration status or any other such personal information of riders, employees, or other individuals that BART employees interact with that is designed solely to determine immigration status, except as required by federal or state law or court order.

4.1.c. Conditioning the provision of services or benefits by the San Francisco Bay Area Rapid Transit District upon immigration status, except as required by federal or state statute or regulation, or court decision.

4.1.d. Disseminating information regarding the release status, date, and time of any individual in BART Police custody, except as required by federal or state law or court order.

4.1.e. Including on any application, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by the San Francisco Bay Area Rapid Transit District any question regarding immigration status other than those required by federal or state statute, regulation, or court decision. Any such questions existing or being used by San Francisco Bay Area Rapid Transit District at the time this resolution is adopted shall be deleted within 60 days of the adoption of this resolution.

4.1.f. Providing access to individuals in BART Police custody for the purposes of immigration enforcement, except as required by federal or state law or court order.

4.1.g. Using threatening language regarding assisting the federal agency charged with enforcement of the federal immigration law in detaining or deporting employees, riders, or other members of the public who the San Francisco Bay Area Rapid Transit District interacts with or encounters.

4.1.h. Requesting more or different documents than are required under federal law for the purpose of establishing employment eligibility or for making decisions regarding non-citizen applicants for San Francisco Bay Area Rapid Transit District ridership programs.

4.1.i. Conditioning the provision of employee training and development benefits and services, provided by the San Francisco Bay Area Rapid Transit District upon immigration status, religion, race, ethnicity, national origin, gender or gender identity, except as required by federal or state law or court order.

4.1.j Using the federal E-Verify program or cooperate with any external I-9 inspections to verify that any type of worker for the San Francisco Bay Area Rapid Transit District or District subcontractors, are authorized to work in the United States, except when required by federal or state law or court order.

Section 4.2 Training: Relevant BART employees shall be trained on this policy.

Section 4.4. Communication of this Policy to all Employees: This resolution shall be communicated to all BART employees. Upon completion of the department specific and job class specific protocols and procedures, those protocols and procedures shall be sent to appropriate staff.

Section 4.5. No Rights Granted Through this Policy: This resolution does not confer any additional rights upon any party nor does it grant the authority to any individual to take legal action upon BART or any BART employee for violation of this policy.

Section 5. The Board of Directors reaffirms its commitment to Title 8, Section 1373 of the United States Code.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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MEMORANDUM

**TO:** Operations & Safety Board of Directors **DATE:** June 9, 2017  
**FROM:** General Manager *Powers*  
**SUBJECT:** Proposed Ordinance Prohibiting Solicitation of Patrons within a Radius of Thirty Feet from the Front of BART Ticket Vending Machines

Attached for the Committee's consideration is a draft ordinance developed in conjunction with Director Raburn that would prohibit solicitation of patrons within a thirty foot radius of a BART ticket vending machine.

If you have any comments, please contact Paul Oversier at 510-464-6710.

Thank you.

*Robert M. Powers*

cc: Board Appointed Officers  
Deputy General Manager

ORDINANCE NO. 2017-2

AN ORDINANCE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT PROHIBITING SOLICITATION OF PATRONS WITHIN A RADIUS OF THIRTY (30) FEET FROM THE FRONT OF BART TICKET VENDING MACHINES .

WHEREAS, the San Francisco Bay Area Rapid Transit District has a substantial interest in promoting the ease and comfort of its patrons in utilizing BART as a means of transportation; and

WHEREAS, the San Francisco Bay Area Rapid Transit District desires to make its services available to the widest ridership possible and to do so while facilitating the greatest degree of ease, and comfort possible; and

WHEREAS, using BART has become more difficult by various activities that commonly take place in front of ticket vending machines at BART Stations which sometimes lead to thefts; and

WHEREAS, many patrons access their wallets and billfolds directly in front of the ticket machines while waiting in line to purchase BART tickets; and

WHEREAS, the District desires to provide an area where people may handle their wallets and billfolds without being confronted by solicitors; and

WHEREAS, the San Francisco Bay Area Rapid Transit District has a rational basis in protecting its patrons from being solicited in a vulnerable situation as described above; and

WHEREAS, Public Utilities Code Section 28793 authorizes the Board to pass ordinances; and

WHEREAS, Public Utilities Code Section 28763 authorizes the Board to do any and all things necessary to carry out the purposes of the District; and

WHEREAS, the Board has determined that the adoption of this ordinance is necessary to preserve the comfort and well-being of BART riders;

NOW THEREFORE, be it enacted by the Board of Directors of the San Francisco Bay Area Rapid Transit District: (Public Utilities Code Section 29795)

SECTION I. Chapter 13 of the San Francisco Bay Area Rapid Transit District Ordinance Code is hereby adopted and made a law of the District as follows:

Section 13.10 Findings and declaration.

The San Francisco Bay Area Rapid Transit District Board of Directors does find that:

The activities of some persons in BART Stations threaten the comfort and well-being of people coming onto BART property. The BART Board by this enactment seeks to provide an area where patrons



may access their wallets and billfolds free from solicitation while also balancing the need to protect the free speech rights of individuals and groups, permitting appropriate and safe expressive activities, providing an engaging environment for performers in appropriate places, and providing for the basic needs of indigent and vulnerable populations.

Permitting solicitation in areas where people are pulling out and opening their wallets and billfolds creates an environment of anxiety and vulnerability to theft that can dissuade patrons from utilizing the BART system.

#### Section 13.20 Definitions.

The following words and phrases, whenever used within this ordinance and this chapter, shall be construed as defined in this section:

1 "Soliciting" shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. Soliciting shall include using the spoken, written, or printed word, bodily gestures, signs, or other means with the purpose of obtaining an immediate donation or transfer of money or other things of value or soliciting the sale of goods or services.

2. "Ticket Machine" shall mean a device capable of dispensing government issued fare media to a customer in exchange for cash or other means of payment.

#### Section 13.30 Prohibited Acts.

No person shall engage in soliciting within a radius of thirty (30) feet immediately in front of a BART Ticket Machine.

#### Section 13.40 Limitation of Remedies.

In enacting and implementing this ordinance, the San Francisco Bay Area Rapid Transit District is only undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

#### Section 13.50 Preemption.

Nothing in this ordinance shall be interpreted or applied so as to create any power, duty or obligation in conflict with, or preempted by, any Federal or State law. Even if not preempted by Federal or State law, the provisions of this Chapter shall not apply if the Federal or State law is more restrictive toward the practices, activities and/or uses banned herein. If the Board of Directors determines that a provision included herein has become preempted by Federal or State law, that preempted provision shall be automatically rescinded from this Chapter. Such rescission shall not affect the validity of the remaining portions of this Chapter.

#### Section 13.60 Penalties.

Any person found to be in violation of any provision of this ordinance or Chapter shall be guilty of an infraction, and may be punishable by:

- (a) A fine, not exceeding one hundred dollars (\$100.00), for the first violation;
- (b) A fine, not exceeding two hundred dollars (\$200.00), for a second violation of this ordinance or Chapter within one year;
- (c) A fine, not exceeding five hundred (\$500.00), for each additional violation of this ordinance or Chapter within five (5) years.

Section 13.70 Statutory Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.

Section 13.80 Liberal Construction.

It is the intention of the Board of Directors that this Chapter shall be liberally construed to accomplish its remedial objectives and to be compatible with Federal and State enactments.

SECTION II. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION III. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Directors voting for or against the same, in a newspaper of general circulation published in the Counties of the District. (Public Utilities Code Sections 28794)

In regular session of the Board of Directors of the San Francisco Bay Area Rapid Transit District introduced on the \_\_\_ day of June, 2017, and finally passed and adopted this \_\_\_ day of June, 2017, on regular roll call of the members of said Board by the following vote:

Directors:

Allen: Keller: Saltzman: Raburn: McPartland: Blalock: Simon: Josefowitz: Dufty:

Ayes: Noes: Absent: Abstain:

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED.

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President, Board of Directors

(Public Utilities Code Section 28796)

ATTEST:

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Kenneth A. Duron

District Secretary

(Public Utilities Code Section 28796)