

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

Board of Directors
Minutes of the 1,874th Meeting
December 3, 2020

A regular meeting of the Board of Directors was held on December 3, 2020, convening at 9:01 a.m. via teleconference, pursuant to Governor Gavin Newsom's Executive Order N-29-20 and the California Shelter-in-Place mandate. President Simon presided; Patricia K. Williams, District Secretary.

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

Absent: None.

President Simon gave instructions on viewing the Meeting and accessing presentation materials online, the virtual meeting, Public Comment, and Board Members' remarks.

President Simon announced that the order of the agenda items would be changed.

Consent Calendar report brought before the Board was:

1. Fiscal Year 2021 First Quarter Financial Report.

Directors Saltzman and Allen requested that staff present the Fiscal Year 2021 First Quarter Financial Report. Pamela Herhold, Assistant General Manager, Performance and Budget, presented the report.

Director Ames commented on and/or inquired about future budget sessions and evaluating a base-case budget scenario with 30% ridership, ridership revenue, wages, and benefits; and requested that budget information extend beyond Fiscal Year 2021 (FY 21).

Director Li requested that the Report be removed from the Consent Calendar in the future and included in budget updates on the Administration Committee agenda until at least the end of FY 21.

Director Allen commented on budget subsidy items and not including the Report on the Consent Calendar, and requested that the full-year projected budget outlook be added to the Report in the future.

Director Raburn commented on State Transit Assistance (STA) funding; requested that STA funding comparison data be added to the Report; and expressed support for Director Li's suggestion to include the Report in Board Meeting agendas for discussion on a regular basis.

President Simon called for Public Comment on the Consent Calendar. Cindy Metjen addressed the Board.

President Simon called for general Public Comment. The following individuals addressed the Board:

Allen Lane
Dublin City Manager Linda Smith
Joel Kohn
Aleta Dupree
Jordan Lehman
Sam Deutsch
Carter Lavin

President Simon announced that emailed comments were sent to Board Members and will be included in the permanent record.

President Simon announced that the Board would enter closed session under Items 9-A (Conference with Labor Negotiators); 9-C (Public Employee Employment/Appointment); and 9-D (Conference with Negotiators) 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 9:45 a.m.

The Board reconvened in closed session at 9:53 a.m.

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

Absent: None.

The Board Meeting recessed at 11:20 a.m.

The Board reconvened in open session at 11:30 a.m.

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

Absent: Director Dufty entered the Meeting later.

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

Director Raburn, Vice Chairperson of the Engineering and Operations Committee, brought the following matters before the Board: (1) Resolution Ratifying the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees, Local 3993; (2) Resolution Ratifying

the Collective Bargaining Agreement with the Amalgamated Transit Union, Division 1555; and (3) Resolution Ratifying the Collective Bargaining Agreement with the Service Employees International Union, Local 1021. Robert Powers, General Manager, and Shana Dines, Director of Labor Relations, presented the items.

Director Dufty entered the Meeting.

The following individuals addressed the Board:

Jesse Hunt
Senator Steve Glazer
Sal Cruz
Olivia Rocha
John Arantes

The items were discussed, with the following highlights:

Vice President Foley expressed appreciation for staff's work and support for the agreements; commented on the budgetary stability offered by the agreements and the ability to reopen negotiations; thanked employees for their work; and recognized union leaders and partners for their collaboration.

Director Li expressed support for the agreements and gratitude for employees' work; commented on BART's labor negotiations, the timing of the agreements, layoffs, and Senator Glazer's comments; and thanked General Manager Powers, Tamar Allen, Assistant General Manager Operations, Labor Relations Director Dines, staff, and labor union partners for their collaboration.

Director McPartland thanked staff and union leadership for their work and union members for supporting the agreements; commented on BART's challenges, collaboration among the unions, union members, and staff, the impact of layoffs, and sustaining BART; and expressed support for the agreements.

Director Raburn thanked General Manager Powers for his leadership; commented on employees' concerns about safety and the future, eliminating uncertainties at this time, and focusing on recovery; and expressed support for the agreements.

Director Saltzman thanked employees, union leadership, and BART management for their work and collaboration; commented on wage increases and the ability to reopen the agreements to identify further savings to prevent layoffs; thanked employees for their work and supporting the agreements; and expressed support for the agreements.

President Simon expressed support for the agreements; commented on the work of BART staff leadership and union leaders, employees and labor leaders' efforts this year, and the seven-step budget plan; and thanked all for their work.

Director Allen commented on BART's labor negotiations, operational uncertainty, the projected budget deficit, receiving regular updates on projected deficits for three years and including this

information as part of any decision to extend labor contracts for three years, federal funding, the District Retirement Incentive Program (DRIP), the timing of the agreements, increased benefit costs, reducing the cost of running BART, the eBART labor contract, reworking the labor contracts during the next seven months, the reopening provision in the agreements, and reevaluation of BART's structure; and expressed opposition to extension of the agreements.

Director Ames commented on the timing of ratifying the agreements, layoffs and a multi-year budget, workshops to review two-to-three year forecasts with a two-to-three year budget plan, her opposition to the budget approved by the Board in July, developing a three-year budget, working with union partners, continuing labor negotiations to avoid layoffs, telecommuting, and tying the reopener provision to declining ridership; requested postponement of the ratification of the agreements, continued labor negotiations, and more informed decisions on the budget and future of the system; and expressed opposition to the agreements.

Director Dufty thanked Jesse Hunt for his comments; commented on employees working during the COVID-19 pandemic and anticipated federal support; commended staff and General Manager Powers; and expressed support for the agreements.

Jason Bezis and Joe Kunzler addressed the Board.

President Simon made the following motions as a unit. Director Saltzman seconded the motions.

1. That Resolution No. 5460, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2021-2024 between the District and the American Federation of State, County and Municipal Employees, Local 3993 (AFSCME), be adopted.
2. That Resolution No. 5461, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2021-2024 between the District and the Amalgamated Transit Union, Local 1555 (ATU), be adopted.
3. That Resolution No. 5462, In the Matter of Ratifying the Agreement to Extend the Collective Bargaining Agreement and Create a Successor Agreement for 2021-2024 between the District and the Service Employees International Union, Local 1021 (SEIU), be adopted.

Director Ames made a substitution motion to postpone ratification of the Agreements to Extend the Collective Bargaining Agreements and Create Successor Agreements for 2021-2024 between the District and (1) the American Federation of State, County and Municipal Employees, Local 3993 (AFSCME); (2) the Amalgamated Transit Union, Local 1555 (ATU); and (3) the Service Employees International Union, Local 1021 (SEIU), until the Board has further discussion on a three-year budget forecast. Director Allen seconded the substitute motion, which failed by roll call vote. Ayes: 2 – Directors Allen and Ames. Noes: 7 – Directors Dufty, Foley, Li, McPartland, Raburn, Saltzman, and Simon.

The original motions brought as a unit by President Simon and seconded by Director Saltzman carried by roll call vote. Ayes: 7 – Directors Dufty, Foley, Li, McPartland, Raburn, Saltzman, and Simon. Noes: 2 – Directors Allen and Ames.

The Board Meeting recessed at 12:39 p.m.

The Board reconvened in open session at 12:45 p.m.

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

Absent: Director Dufty entered the Meeting later.

Director McPartland, Chairperson of the Administration Committee, brought the matter of Independent Auditor's Reports on the Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2020 before the Board. Christopher Gan, Assistant Controller, presented the item.

The item was discussed, with the following highlights:

Director Raburn expressed that he was impressed with the audit; commented on the increase in the medical trust and capital assets; commended the auditors for their work; and thanked Assistant General Manager Herhold, Rosemarie Poblete, Controller/Treasurer, Assistant Controller Gan, and staff for their work.

Director Saltzman expressed agreement with Director Raburn's comments and indicated that the Audit Ad Hoc Committee had reviewed the audit reports and that the Committee will review audit reports before the Board reviews them in the future.

Director Allen thanked Assistant Controller Gan, Controller/Treasurer Poblete, and staff for their work.

Director Ames requested that the Audit Ad Hoc Committee review the retiree health benefit trust financial statement and suggested that the Board review BART's investment policy.

Vice President Foley thanked staff for their work.

President Simon commended Controller/Treasurer Poblete's department for their work and thanked Controller/Treasurer Poblete for her leadership and transparency.

Director McPartland commended and thanked Controller/Treasurer Poblete and her staff for their work.

Director McPartland brought the matter of Independent Auditor's Reports on Compliance for the State Transportation Development Act, Public Transportation Modernization, Improvement and Service Enhancement Account (PTMISEA) State Proposition 1B, Alameda County Transportation Commission (ACTC) Measure B and Measure BB, and Board of Directors' Expenses, for the Fiscal Year Ended June 30, 2020 before the Board. Assistant Controller Gan presented the item.

Director Raburn brought the matter of Change Order to Contract No. 09DJ-160, Transbay Tube Cathodic Protection Anode Sled and Cable Replacement Project, with Manson Construction Co., for Extension of Time (C.O. No. 9) before the Board. Maansii Sheth, Cathodic Project Manager, Power and Mechanical Engineering, presented the item.

Director Dufty entered the Meeting.

Director McPartland commented on the visibility of the bay waters and dangerous nature of the contract work and thanked the contractors for their work.

Director McPartland moved that the General Manager be authorized to execute Change Order No. 9 for Contract number 09DJ-160, TBT Cathodic Protection Anode Sled and Cable Replacement, in the estimated amount of not to exceed \$459,635.00. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, Li, McPartland, Raburn, Saltzman, and Simon. Noes: 0.

Director Raburn brought the matter of Update on Fare Gates before the Board. Mitra Moheb, Manager of Engineering Programs, Strategic Engineering; Assistant General Manager Herhold; and Sylvia Lamb, Assistant Chief Engineering Officer, Maintenance and Engineering, presented the item.

Director Raburn thanked General Manager Powers and staff for their work and commented on seeking funding.

Aleta Dupree and Jason Bezis addressed the Board.

The item was discussed, with the following highlights:

Director Dufty commended Assistant General Manager Allen and staff for their approach to build internal expertise and capacity and commented on the Board's unanimous support for new fare gates.

Director Ames commented on funding for the new fare gates, completing the project sooner, ridership confidence, and contactless payment; and expressed appreciation for staff's innovation and the Board's full support for prioritizing the new fare gates last year.

Director Allen thanked Assistant General Manager Allen and Project Manager Moheb for their work; commented on prioritizing the project, the importance of the project, and recovery of the cost of the project; and inquired about reduction in elevator use after enclosure.

Director Li inquired about the funding and phasing of the project; commented on the impact of the COVID-19 pandemic on local budgets, limited available funding, and open payments; and requested that staff provide an update on the next generation of Clipper® in 2021 and that staff conduct outreach with the disability community before the Request for Proposal (RFP) is issued. Director Saltzman expressed concern about funding for the project; commented on seeking new capital funding for the project and retaining funds for station projects; and requested that staff seek outside funding for the project.

Director McPartland thanked Director Allen for her work to advance the project.

Director Raburn suggested that Board Members work with counties to obtain funding and reach out to other transportation funding entities; commented on the changes to Coliseum Station since September 25th and the new fare gate at Fruitvale Station; and commended staff for their work.

Director Saltzman, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of 2021 Federal and State Legislative Advocacy Program before the Board. Amanda Cruz, Manager of Government Relations and Legislative Affairs, Government and Community Relations, presented the item.

Emily Bacque addressed the Board.

The item was discussed, with the following highlights:

President Simon commented on advocacy for transit and thanked Emily Bacque for her work.

Director Ames thanked Emily Bacque for her assistance with securing the capital investment grant and inquired about the action plan after funding is secured.

Director Allen exited the Meeting.

Director Saltzman thanked Emily Bacque for her work.

Jim Lites addressed the Board.

Jason Bezis addressed the Board.

Discussion continued, with the following highlights:

Director Raburn commented on BART's positive position regarding cap and trade funds and shifting from highways to public transit, and inquired about who will chair the California State Assembly Committee on Transportation.

Director Ames expressed appreciation for Director Raburn's comments regarding the investment in highways; commented on removing funding from the highway system, climate change, and redirecting funding toward public transit; inquired about how to reallocate funding to public transit; and suggested that BART and the Metropolitan Transportation Commission (MTC) issue a joint letter to lobby against funding more highways than public transit.

Director Saltzman thanked staff and Jim Lites for their work to arrange meetings with state legislators and advocacy groups.

Director Raburn moved that the Board approve the 2021 Federal and State Legislative Advocacy Program as presented by staff. Director Dufty seconded the motion, which carried by unanimous roll call vote. Ayes: 8 – Directors Ames, Dufty, Foley, Li, McPartland, Raburn, Saltzman, and Simon. Noes: 0. Absent: 1 – Director Allen.

Director Saltzman brought the matter of Update on BART and Valley Transportation Authority, Phase 2, before the Board. Manan Garg, Chief Transit System Development Officer, Design and Construction, presented the item.

Jason Bezis addressed the Board.

The item was discussed, with the following highlights:

Director Ames commented on and/or inquired about her request for a constructability analysis to evaluate cut and cover versus boring, whether the Santa Clara Valley Transportation Authority (SCVTA) is considering an incentive for design-build to evaluate cut and cover, taxpayers' review of information before the project moves forward, the design-build process, evaluating the pros and cons of cut and cover versus tunneling, and the streetscape improvements for the downtown stations.

Director Raburn inquired about increasing the number of exits for the two downtown stations.

Director Li suggested that the project schedule include information about BART and the Board's role in the project for the public's information, and requested that the new stations be held to the BART Station Access Plan guidelines, to the extent possible.

Director McPartland expressed concern about safety related to the stacked single-bore configuration, and commented on a discussion with a fire protection engineer in the National Fire Protection Association and the unsettled status of the stacked single-bore configuration.

President Simon called for the General Manager's report.

President Simon exited the Meeting and Vice President Foley assumed the gavel.

General Manager Powers reported that WTS International presented BART with the Rosa Parks Diversity Leadership Award and that Ellen Smith, former BART employee, was awarded the WTS Lifetime Achievement Award; and thanked Director Raburn for attending the WTS International annual holiday awards and gala.

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

Director Raburn thanked General Manager Powers for participating in the WTS International annual holiday awards and gala and commended General Manger Powers and Ellen Smith for their presentations at the event; and commented on the Government Alliance on Race and Equity's (GARE) graduation ceremony, BART staff's participation in GARE training sessions, and including the Racial Equity Action Plan in BART's Strategic Framework.

Director Duffy acknowledged Tim Chan, Group Manager, Station Planning, Station Area Planning; Nicole Franklin, Principal Property Development Officer, Real Estate and Property Development; and Molly Burke, Principal Government and Community Relations Representative, for their work to arrange neighborhood meetings at Balboa Park Station regarding the plaza public space activation and reported on his and Director Li's attendance at the meetings.

Director Ames thanked Assistant General Manager Allen and Chief Maintenance and Engineering Officer Shane Edwards' team for their work on the lighting at Union City Station.

Vice President Foley thanked Rodd Lee, Assistant General Manager, External Affairs, and Government and Community Relations Manager Cruz for their assistance with the Board's legislative check-ins and their work.

Vice President Foley announced that the Board would enter closed session under Items 9-E (Conference with Real Property Negotiators) and 9-B (Public Employee Performance Evaluation) 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 2:33 p.m.

The Board reconvened in closed session at 2:48 p.m.

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

Absent: Director Allen. Director Saltzman entered the Meeting later.

Director Saltzman entered the Meeting.

The Board Meeting recessed at 4:00 p.m.

The Board reconvened in open session at 4:03 p.m.

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

Absent: Director Allen.

President Simon announced that the Board had concluded its closed session and there were no announcements to be made.

President Simon requested that the Meeting be adjourned in honor of Lamar Williams, San Francisco African American community and youth community leader.

The Meeting adjourned at 4:09 p.m. in honor of Lamar Williams.

Patricia K. Williams
District Secretary