

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

Board of Directors  
Minutes of the 1,625<sup>th</sup> Meeting  
May 26, 2011

A regular meeting of the Board of Directors was held May 26, 2011, convening at 9:06 a.m. in the Board Room, 344 20<sup>th</sup> Street, Oakland, California. President Franklin presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, and Franklin.

Absent: None. Directors Radulovich and Sweet entered the Meeting later.

President Franklin announced that under the provisions of the Rules of the Board of Directors of the San Francisco Bay Area Rapid Transit District now was the time set to hold a public hearing on the Fiscal Year 2012 Budget, that staff would give a brief presentation, and that the meeting would then be opened for comments from the public.

Mr. Robert Umbreit, Department Manager of Operating Budget and Analysis, and Mr. Gregg Marrama, Department Manager of Capital Development, presented the item.

There being no public comment, the public hearing was closed at 9:26 a.m.

President Franklin announced that the order of agenda items would be changed, and brought the matter of Roll Call for Introductions before the Board.

President Franklin proposed consideration on a future agenda that meetings of non-standing committees of the Board and ad hoc committees be publicly noticed and agendized, and requested a report on the roles and rules of such committees.

Director Sweet proposed the meetings of non-standing committees of the Board and ad hoc committees be publicly noticed and reported on.

Director Radulovich entered the Meeting.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of April 14, 2011 (Regular), and May 12, 2011.
2. Fiscal Year 2012 Proposition 4 Appropriations Limit.
3. Award of Invitation for Bid No. 8888, Furnishing of Fiber Cable.

Consent Calendar motions, as follow, were moved as a unit by Director Blalock. Director Fang seconded the motions, which carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Radulovich, Sweet, and Franklin. Noes – 0.

1. That the Minutes of the Meetings of April 14, 2011 (Regular), and May 12, 2011, be approved.
2. Adoption of Resolution No. 5161, In the Matter of the Establishment of the Fiscal Year 2012 Appropriations Limit.
3. That the General Manager be authorized to award Invitation for Bid No. 8888, for the purchase of fiber optic cable, to Procom Supply LLC, for the Bid price of \$208,866.00, including sales tax, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures and Department of Homeland Security's requirements related to protest procedures.

Director Blalock, Chairperson of the Administration Committee, brought the matter of Fiscal Year 2012 Budget before the Board. Mr. Carter Mau, Executive Manager, Planning and Budget, presented the item. The item was discussed.

Director Blalock brought the matter of Fiscal Year 2012 Budget: Capital Program Update, before the Board. Mr. Marrama presented the item.

Ms. Penny Hodges addressed the Board.

The Capital Program Update was discussed.

Director Blalock announced that the Business Advancement Program Phase II Update would be continued to a future Meeting.

Director Fang, Chairperson of the Engineering and Operations Committee, announced that the order of items on the agenda would be rearranged, and brought the matter of Sole Source Procurement with Pro Force Law Enforcement for the Purchase of TASERs for the BART Police Department before the Board. Chief of Police Kenton Rainey presented the item. Discussion followed.

Mr. Jerry Grace addressed the Board.

Director Sweet moved that the Board find, in accordance with Public Contract Code Section 20227, that Pro Force Law Enforcement is the single source for procurement of TASERs, and that the procurement is for the purpose of duplicating or replacing equipment or material in use at the District; and that the General Manager be authorized to enter into direct negotiations with Pro Force Law Enforcement and to execute a contract with Pro Force Law Enforcement to provide 130 TASERs and a 4-year warranty, for a total price not to exceed \$140,755.43. Director McPartland seconded the motion, which carried by unanimous electronic vote by the required two-thirds majority. Ayes – 9: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Radulovich, Sweet, and Franklin. Noes – 0.

Director Fang brought the matters of Change Order to Contract No. 15IB-110, 480 Volt Switchgear Replacement Project, with Steiny and Company, Inc., to Add an Allowance for the Replacement of Secondary Distribution Panels (C.O. No. 29), and Change Order to Contract No. 15IB-120, 480 Volt Switchgear Replacement Project – Phase 2, with Blocka Construction,

Inc., to Add Richmond and Concord Maintenance Shops (C.O. No. 12), before the Board. Mr. Jean-Luc Dupont, Group Manager, Systems Capital Programs, presented the items. The items were discussed.

Director Blalock made the following motions as a unit. President Franklin seconded the motions, which carried by unanimous electronic vote. Ayes – 9: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Radulovich, Sweet, and Franklin. Noes – 0.

1. That the General Manager be authorized to execute Change Order No. 29, Add an Allowance for the Replacement of Secondary Distribution Panels, in the amount of \$1,200,000.00, for Contract No. 15IB-110, for the 480 Volt Switchgear Replacement Project.
2. That the General Manager be authorized to execute Change Order No. 12, Add Richmond and Concord Maintenance Shops, in the amount of \$1,460,200.00, for Contract No. 15IB-120, for the 480 Volt Switchgear Replacement Project, Phase 2.

Director Fang brought the matter of Award of Contract No. 15PP-110A, BART Earthquake Safety Program Station Structures – C Line, before the Board. Mr. Thomas Horton, Manager of Earthquake Safety Programs, presented the item. Director Raburn moved that the General Manager be authorized to award Contract No. 15PP-110A, Earthquake Safety Program, Station Structures – C Line, to Proven Management, Inc., for the Bid amount of \$13,773,800.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures. Director Murray seconded the motion. The item was discussed.

Mr. Alan Varela, from Proven Management, addressed the Board.

The following individuals addressed the Board.

Ms. Charene Sandidge

Ms. Sandra Hernandez

Mr. Eddie Dillard

Director McPartland requested that the item be continued pending further information.

President Franklin announced that the Board would enter into closed session under Item 10-C (Conference with Real Property Negotiator) of the Regular Meeting agenda, and that the Board would reconvene in open session at the conclusion of the closed session.

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

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The Board reconvened in closed session at 11:13 a.m.

Directors present: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Sweet, and Franklin.

Absent: Director Radulovich.

The Board Meeting recessed at 12:04 p.m.

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The Board reconvened in open session at 12:07 p.m.

Directors present: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Sweet, and Franklin.

Absent: Director Radulovich.

Director Fang brought the matter of Proposed Hayward Maintenance Complex Project before the Board. Ms. Ellen Smith, Planning Division Manager, and Mr. Ric Rattray, eBART Project Manager, Transit System Development, presented the item. The item was discussed. Director Blalock moved adoption of Resolution No. 5162, In the Matter of Adopting the Hayward Maintenance Complex Project, and Related Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan. Directors Murray and Sweet seconded the motion, which carried by unanimous electronic vote. Ayes – 8: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Sweet, and Franklin. Noes – 0. Absent – 1: Director Radulovich.

Director Fang returned to the matter of Award of Contract No. 15PP-110A, BART Earthquake Safety Program Station Structures – C Line, which had been continued at the request of Director McPartland. Mr. Horton continued with the presentation of the item. The motion previously made by Director Raburn to award Contract No. 15PP-110A, Earthquake Safety Program, Station Structures – C Line, to Proven Management, Inc., carried by unanimous electronic vote. Ayes – 8: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Sweet, and Franklin. Noes – 0. Absent – 1: Director Radulovich.

President Franklin brought the matter of Review of the Agenda for the Capitol Corridor Joint Powers Board Meeting of June 8, 2011, before the Board. Mr. David Kutrosky, Managing Director, Capitol Corridor, presented the item.

Mr. Jerry Grace addressed the Board.

President Franklin called for the General Manager's Report. Interim General Manager Sherwood G. Wakeman reported that Good Morning America had completed a report on passenger seat cleanliness and that BART seats had performed quite well.

President Franklin brought Roll Call for Introductions before the Board.

Director Sweet requested that the District's matchmaking sessions supporting contracting be made mandatory for potential bidders, and that they be conducted concurrent with pre-bid meetings.

Director Sweet proposed that the Board of Directors adopt a resolution affirming commitment to equal rights as declared in the District's Equal Employment Opportunity statement.

President Franklin called for General Discussion and Public Comment.

Mr. Clarence Hunt addressed the Board.

Director Sweet reported on a fare evasion incident she had observed at the McArthur Station.

Director Keller requested refresher training for the Board of Directors regarding the Ralph M. Brown Act, to be conducted by an outside resource.

President Franklin announced that in closed session the Board had voted to direct the General Manager or his designee to enter into negotiations with Justin Development to attempt to reach terms and conditions for an Exclusive Negotiating Agreement for property at the Millbrae BART Station, which terms and conditions to be brought back to the Board for its consideration at a later date. Conditions were put on this direction, including that any agreement shall include a project labor agreement and that an acceptable revenue share with the City of Millbrae be achieved. The vote was as follows: Ayes – 6: Directors Blalock, Fang, McPartland, Raburn, Sweet, and Franklin. Noes – 2: Directors Keller and Murray. Absent – 1: Director Radulovich.

Mr. Jeffrey Ordway, Manager, Property Development, gave a brief presentation on the item. The presentation was discussed.

Director Keller requested a report for discussion on a future agenda regarding the Millbrae Station development proposals, study, and background.

Director Sweet exited the Meeting.

President Franklin asked if there were any other public comments. There being none, President Franklin announced that the Board would enter into closed session under Item 10-A (Public Employment) and Item 10-B (Conference with Negotiators) of the regular Meeting agenda, and that the Board would adjourn upon conclusion of the closed session.

The Board Meeting recessed at 12:59 p.m.

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The Board reconvened in closed session at 1:08 p.m.

Directors present: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, and Franklin.

Absent: Directors Radulovich and Sweet.

Director Blalock exited the Meeting.

The Board Meeting was adjourned at 1:17 p.m.

Kenneth A. Duron  
District Secretary