

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

Board of Directors
Minutes of the 1,627th Meeting
June 23, 2011

A regular meeting of the Board of Directors was held June 23, 2011, convening at 9:03 a.m. in the Board Room, 344 20th 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.

Director Blalock welcomed and introduced his wife, Gail Blalock, Fremont Vice Mayor Suzanne Chan, Fremont City Councilmember Bill Harrison, and Fremont Public Works Director Jim Pierson.

Consent Calendar item brought before the Board was:

1. Approval of Minutes of the Meeting of June 9, 2011.

Director Murray moved that the Minutes of the Meeting of June 9, 2011, be approved. Director Raburn seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, and Franklin. Noes – 0. Absent – 2: Directors Radulovich and Sweet.

Director Fang, Chairperson of the Engineering and Operations Committee, brought the matter of Award of Contract No. 02EE-120, Design-Build of Line, Track, Station, and Systems for the Warm Springs Extension, before the Board. Mr. Charles Stark, Executive Manager, Transit System Development, Ms. Christine Quinn, Acting Deputy Executive Manager, Transit Development, and Mr. James Gravesande, Group Manager, Warm Springs Extension Program, presented the item.

Director Radulovich entered the Meeting.

Director Sweet entered the Meeting.

Director Blalock moved that, upon certification by the Controller/Treasurer that funds are available for this Contract, the General Manager be authorized to award Contract No. 02EE-120 to Warm Springs Constructors for Design-Build of the Line, Track, Station, and Systems for the Warm Springs Extension, for the not-to-exceed price of \$299,050,000.00, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures. Director Sweet seconded the motion.

The following individuals addressed the Board.

Mr. Charlie Walker

Ms. Yolanda Jones

The item was discussed.

The motion carried by unanimous roll call vote. Ayes – 9: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Radulovich, Sweet, and Franklin. Noes – 0.

Director Fang brought the matter of Comprehensive Agreement between the San Francisco Bay Area Rapid Transit District, the City of Fremont, and the Redevelopment Agency of the City of Fremont for the Design and Construction of the Irvington BART Station, before the Board.

Director Keller exited the Meeting.

Ms. Quinn presented the item.

Director Keller entered the Meeting.

The item was discussed. Mr. Jim Pierson addressed the Board.

Director Blalock made the following motions as a unit.

1. That the General Manager be authorized to execute the Comprehensive Agreement among the San Francisco Bay Area Rapid Transit District, the City of Fremont, and the Redevelopment Agency of the City of Fremont , for the design and construction of the Irvington Station.
2. Adoption of Resolution No. 5164, In the Matter of Approval of a Resolution of Compliance with California Community Redevelopment Law, Health and Safety Code Section 33445(a)(2), in Connection with Funding for the Irvington BART Station.

Director Raburn moved to table the item. The motion failed for lack of a second.

Discussion on the item continued. Director Radulovich moved to amend the original motion to include the following language:

In the event that costs for design and construction of the station exceed the total estimate of \$120,000,000.00, or funds become unavailable, BART will complete work on the portion of the Irvington Station for which funds are available and the City and Agency will fund all costs incurred by BART up to that amount; and any additional work to complete the Irvington Station would be contingent upon the City and Agency securing additional funds.

Director Blalock accepted the amendment, and Director Radulovich seconded the amended motion. The motion carried by roll call vote. Ayes – 8: Directors Blalock, Fang, Keller, McPartland, Murray, Radulovich, Sweet, and Franklin. Noes – 1: Director Raburn.

President Franklin announced that the order of the agenda items would be changed, and that the Board would recess and reconvene in closed session under Item 10-A (Public Employee Employment) and Item 10-B (Conference with Negotiators) of the Regular Meeting agenda, and that the Board would reconvene in open session upon recess of the closed session.

The Board Meeting recessed at 10:32 a.m.

The Board reconvened in closed session at 10:35 a.m.

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

Absent: None. Directors Blalock and Raburn entered the Meeting later.

Directors Blalock and Raburn entered the Meeting.

The Board Meeting recessed at 11:00.m.

The Board reconvened in open session at 11:01 a.m.

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

Absent: None.

Director Blalock, Chairperson of the Administration Committee, brought the matter of Business Advancement Program: Phase II Update and Agreements with Various Individuals and Firms for Information Technology Consulting Support – Business Advancement Program Transitional Services, before the Board. Ms. Elaine Kurtz, Acting Assistant General Manager, Administration, Mr. Ravi Misra, Department Manager, Information Technology, and Mr. Randall Franklin, BAP Program Manager, presented the item. Discussion followed.

President Franklin moved that the General Manager or his designee be authorized to execute professional services agreements with individuals and firms, as specified in Attachment A, for a period of up to one year, beginning on July 1, 2011, and ending on or before June 30, 2012, for an aggregate amount not to exceed \$3,160,000.00. Director Murray seconded the motion.

Discussion continued. Director Fang moved that the motion be amended to include direction to the General Manager to conduct an assessment/audit of BAP's progress. The maker and seconder of the motion accepted the amendment, and the motion carried by electronic vote.

Ayes – 7: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, and Franklin.

Noes – 2: Directors Radulovich and Sweet.

Director Blalock noted that there were public speakers on the Business Advancement Program. Director Radulovich moved that the vote be rescinded to allow the public to comment before the vote. President Franklin seconded the motion to rescind the vote, which carried by unanimous roll call vote. Ayes – 9: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Radulovich, Sweet, and Franklin. Noes – 0.

The following individuals addressed the Board.

Mr. Deslar Patten
Mr. John Arantes
Ms. Jean Hamilton
Ms. Antonette Bryant

President Franklin moved that the General Manager or his designee be authorized to execute professional services agreements with individuals and firms, as specified in Attachment A, for a period of up to one year, beginning on July 1, 2011, and ending on or before June 30, 2012, for an aggregate amount not to exceed \$3,160,000.00, and that the General Manager be directed to conduct an assessment of the cost to conduct an audit of BAP's progress. (Attachment A is attached hereto and thereby made a part of these Minutes.) Director Murray seconded the motion, which carried by electronic vote. Ayes – 7: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, and Franklin. Noes – 2: Directors Radulovich and Sweet.

Director Blalock announced that the matter of Proposed Late Night Service Adjustments – Public Outreach Results, would be continued to a future meeting, and brought the matter of First Amendment to Agreement with the San Francisco Municipal Transportation Agency for the Senior and Disable Fast Pass Pilot Program before the Board. Mr. Carter Mau, Executive Manager of Planning and Budgets, and Ms. Pamela Herhold, Financial Planning, presented the item. The item was discussed. Director Fang that the General Manager be authorized to execute the First Amendment to the Senior and Disabled Fast Pass ® Program Agreement with the San Francisco Municipal Transportation Agency. Director Sweet seconded the motion, which carried by electronic vote by the required two-thirds majority. Ayes – 9: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Radulovich, Sweet, and Franklin. Noes – 0.

Director Murray, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, had no report.

President Franklin called for the General Manager's report. Interim General Manager Sherwood G. Wakeman gave a report on the Implementation of Clipper ® Card on BART. Discussion followed.

President Franklin recommended that the discussion on BART New Rail Vehicle Project be continued to a future meeting.

President Franklin brought the matter of Revision to Organization of Committees and Special Appointments before the Board. The item was discussed.

Director Fang made the following motions as a unit.

1. That all meetings of the Board of Directors, Standing Committees, and Special Committees be open to the public, unless they qualify for exemption from open meeting rules, and adhere to the Ralph M. Brown Act.
2. That the number of Special Committees be reduced from 22 to 2, and that all ad hoc and-or special committees be subsumed into the Standing Committees except for the BART Police Department Review Special Committee and the Redistricting Special Committee, and that Board ratify the revised structure of Committee and Special Appointment and the

revised 2011 Committee and Special Appointments as shown on Attachment B.

3. That Standing and Special Committee meetings will be video recorded; that meeting minutes will not be prepared, as committees are advisory only; that committee meetings will be held on an “as needed” basis; however, they will normally be held in the Board room on the first Thursday of the month, unless otherwise directed by the Chair; and that reports of Special Committees be given by committee members at the following Board Meeting.
4. That the Board ratify the amendments to the following Board Rules, as shown on Attachment C:
Board Rule 3-1.3, Place of Meeting
Board Rule 3-2.1, Regular Meetings
Board Rule 3-2.4, Emergency Meetings in Emergency Situations
Board Rule 3-3.1(b), Special Committees
Board Rule 3-3.2, Membership
Board Rule 3-3.5, Nature and Responsibilities of Committees
Board Rule 3-3.6, Functions of the Standing Committees
Board Rule 3-4.1, Agendas
Board Rule 3-6.2, Board Communications – Brown Act Compliance
Board Rule 4-1.2(b), Personnel
Board Rule 5-3.2(a)(6), Rules for Travel and Personal Expense
5. That the revised meeting process be brought back to the Board in six months for evaluation.
6. That staff be directed to research and report to the Board on the resources required to conduct meetings both in the evenings and at alternate locations within the District, and that staff be directed to prepare a short written statement setting forth the purpose of each Special Committee approved by the Board.

President Franklin seconded the motion, which carried by electronic vote. Ayes – 8: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Radulovich, and Franklin. Noes – 0. Abstain – 1: Director Sweet.

President Franklin called for Board Member Reports.

Director Raburn reported that on June 20, 2011, he, Director Blalock, and President Franklin had attended an Inter East Bay Transit Sustainability Program Committee meeting, noting that this was an ad hoc committee formed by the Metropolitan Transportation Commission.

Director Fang reported that he had travelled to New York to attend a meeting on public-private partnerships.

President Franklin reported that he had made a presentation regarding new rail car procurement at all the shops, and that he had received communication from the State regarding the District’s request for fund matching.

Director Fang exited the Meeting.

Director Keller reported that he had attended the American Public Transportation Association Annual Meeting in Boston and had participated in the Metropolitan Rail Discussion Group.

President Franklin brought Roll Call for Introductions before the Board.

Director Raburn requested a review of the installation of lockable remote station agent controlled swing gates at stations to deter fare evasion.

Director Raburn requested the public review of types of vending in stations with contractor Transmart.

Director Raburn requested the pursuit of the acquisition of Union Pacific Railroad right-of-way at the Coliseum/Oakland Airport station to improve access.

Director Raburn recommended the prioritization of the proposed station area development at the Lake Merritt Station.

Director Raburn recommended the District work with the Metropolitan Transportation Commission to designate the Lake Merritt Station area a Priority Development Area.

Director Raburn requested AirBART service improvements to include installation of bike racks and acceptance of Clipper ® Cards.

Director Murray requested a report on the Lake Merritt Station plaza design features that may inadvertently encourage loitering and public nuisance.

Director Blalock requested a presentation of a proposal for a small business bonding assistance program on a future agenda.

President Franklin requested the evaluation of a customer advisory providing notice of escalator/elevator out of service condition and advising that District service/repair is ongoing.

Director McPartland requested responses to Business Advancement Program questions presented during the BAP Phase II presentation earlier in the Meeting.

Director Radulovich requested an update on the topic of providing Clipper ® Card acceptance on AirBART.

President Franklin called for General Discussion and Public Comment and for Public Comment on Item 10-A (Public Employee Employment), Item 10-B (Conference with Negotiators), and 10-C (Conference with Real Property Negotiator). No comments were received.

President Franklin announced that the Board would recess and reconvene in closed session under Items 10-A, 10-B, and 10-C of the regular meeting agenda, and that the Board would reconvene in open session upon recess of the closed session.

The Board Meeting recessed at 2:24 p.m.

The Board reconvened in closed session at 2:32 p.m.

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

Absent: Directors Blalock, Fang, Radulovich, and Sweet.

The Board Meeting recessed at 3:01 p.m.

The Board reconvened in open session at 3:04 p.m.

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

Absent: Directors Blalock, Fang, Radulovich, and Sweet.

President Franklin brought the matter of South Hayward Development Project before the Board.

Director Keller moved that the Board find that, for the sale of the BART property at the South Hayward BART Station, there are no significant environmental effects which have not been mitigated to insignificance and no further environmental review is required. Director Raburn seconded the motion, which carried by unanimous electronic vote. Ayes – 5: Directors Keller, McPartland, Murray, Raburn, and Franklin. Noes – 0. Absent – 4: Directors Blalock, Fang, Radulovich, and Sweet.

Director McPartland moved the following motions as a unit.

1. That the General Manager or his designee be authorized to execute a Sale Agreement with Wittek Development, LLC, for the sale of approximately 1.65 acres of BART property east of Dixon Street based upon fair market value and conditioned upon execution of a Transit Benefit Fee covenant to secure revenue from either the sale or lease of residential units.
2. That the General Manager or his designee be authorized to execute a Joint Exercise of Powers (JPA) Agreement concerning access for the South Hayward BART Station by and between BART and the City of Hayward, provided a joint powers agency is established to manage parking and that on-street parking is provided by Hayward to make up for the loss of the Dixon Street lot. Modifications of the JPA Agreement will be subject to future Board actions once a specific access plan is identified by the JPA.
3. That the General Manager or his designee be authorized to execute any and all actions in support of the aforementioned motion.

President Franklin seconded the motions, which carried by unanimous roll call vote. Ayes – 5: Directors Keller, McPartland, Murray, Raburn, and Franklin. Noes – 0. Absent – 4: Directors Blalock, Fang, Radulovich, and Sweet.

President Franklin reported that no action had been taken in connection with Items 10-A and 10-B.

The Meeting was adjourned at 3:06 p.m.

Kenneth A. Duron
District Secretary