

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

Board of Directors
Minutes of the 1,664th Meeting
October 11, 2012

A regular meeting of the Board of Directors was held October 11, 2012, convening at 9:13 a.m. in the Board Room, 344 20th Street, Oakland, California. President McPartland presided; Kenneth A. Duron, District Secretary.

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

Absent: None.

Director Fang exited the Meeting.

Consent Calendar item brought before the Board was:

1. Approval of Minutes of the Meetings of September 7, 2012 (Special), and September 13, 2012 (Special).

Director Blalock requested that the September 7 Minutes be amended to reflect that he had exited the Meeting at 10:00 a.m. With that amendment, Director Sweet moved that the Minutes of the Meetings of September 7, 2012 (Special), and September 13, 2012 (Special), be approved. Director Murray seconded the motion, which carried by unanimous roll call vote. Ayes – 8: Directors Blalock, Keller, King, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Absent – 1: Director Fang.

Consent Calendar report brought before the Board was:

1. Audit of Directors' Use of District Property for Fiscal Year 2012.

President McPartland announced that the Board would enter into closed session under Item 3-A (Conference with Labor Negotiators) 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 9:16 a.m.

The Board reconvened in closed session at 9:20 a.m.

Directors present: Directors Blalock, Keller, King, Murray, Raburn, Radulovich, and McPartland.

Absent: None. Directors Fang and Sweet entered the closed session later.

Directors Fang and Sweet entered the Meeting.

The Board Meeting recessed at 9:41 a.m.

The Board reconvened in open session at 9:46 a.m.

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

Absent: None.

President McPartland brought the matter of Training Session: Training in General Ethics Principles and Ethics Laws Relevant to Public Service, in Accordance with California Government Code Section 53235, before the Board. Ms. Morin Jacobs, of Liebert Cassidy Whitmore, conducted the training.

The Board Meeting recessed at 11:21 a.m.

The Board Meeting reconvened at 11:32 a.m.

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

Absent: None.

Director Sweet, Chairperson of the Administration Committee, had no report.

Director Fang, Chairperson of the Engineering and Operations Committee, brought the matter of Implementation of California Assembly Bill 716 Authorizing Prohibition Orders before the Board. Chief of Police, Kenton Rainey, and Deputy Chief Daniel Hartwig presented the item. The item was discussed. Director Sweet made the following motions as a unit:

1. That Janet Abelson, Antonette C. Bryant, Tyrone R. Forte, George Holland, Armando Sandoval, Roy Wilson, and Lauren Sugayan be appointed to the AB 716 Advisory Committee;
2. That the AB 716 Advisory Committee Bylaws be adopted (the Bylaws are attached and hereby made a part of these Minutes);

3. Adoption of Resolution No. 5201, In the Matter of Adopting the San Francisco Bay Area Rapid Transit District Administrative Rules for Issuance and Processing Exclusions;
4. That the General Manager or her designee be authorized to implement AB 716, including designation of staff to perform the initial review and administrative hearing functions, provision of notice to riders of the prohibition order program, and establishment of any training programs recommended by the AB 716 Advisory Committee.

Director Blalock seconded the motions, which carried by unanimous roll call vote. Ayes – 9: Directors Blalock, Fang, Keller, King, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0.

Director Fang brought the matter of Oakland Airport Connector Project before the Board. Mr. Thomas Dunscombe, Project Manager – Oakland Airport Connector, presented the Quarterly Update. The item was discussed.

Mr. Dunscombe presented the item on Change Order to Contract No. 01ZK-110, Oakland Airport Connector, with Flatiron/Parsons Joint Venture, for Procurement and Installation of a Standby Power Generator (C.O. No. 37). The item was discussed. Director Raburn moved that the General Manager be authorized to execute Change Order No. 37 to Contract No. 01ZK-110, Oakland Airport Connector, with Flatiron/Parsons Joint Venture, for procurement and installation of a standby power generator to supply backup system traction power, in an amount not to exceed \$1,849,301.00. Director Sweet seconded the motion. Discussion continued. The motion carried by unanimous roll call vote. Ayes – 9: Directors Blalock, Fang, Keller, King, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0.

Ms. Molly McArthur, Division Manager, Government and Community Relations, Capital Projects, presented the item on Agreements with Artists for Oakland Airport Connector Project. The item was discussed. Director Raburn moved that the General Manager be authorized to execute agreements with Tom Patti and Gordon Huether, in an amount not to exceed \$350,000.00 each, for the procurement, fabrication and installation of artwork for the Coliseum connector and Oakland International Airport terminus stations. Director King seconded the motion.

Mr. Jerry Grace addressed the Board.

Director King exited the Meeting.

The motion carried by unanimous roll call vote. Ayes – 8: Directors Blalock, Fang, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Absent – 1: Director King.

Director Blalock, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Policy on Sister Transit Agency Affiliations before the Board. Ms. Jennifer Barton, Executive Manager, External Affairs, presented the item.

Director King re-entered the Meeting.

The item was discussed.

Director Murray moved that the Board approve the Policy on Sister Transit Agency Affiliations, with the exception of Rule 5. Director King seconded the motion. Director Murray offered a substitute motion to keep Rule 5 with the exception of the sentence, "After Board approval of a Sister Transit Agency affiliation, related travel expenses by the staff liaison appointed by the General Manager shall not exceed \$10,000 per year." Director McPartland seconded the substitute motion, which carried by roll call vote. Ayes – 8: Directors Blalock, Fang, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 1: Director King.

Director Blalock brought the matter of Resolution Authorizing Development of a Sister Transit Agency Affiliation with Shanghai Metro and Appointment of Board Liaison before the Board. Director Sweet moved adoption of Resolution No. 5202, In the Matter of Support for Developing a Sister Transit Agency Affiliation with Shanghai Metro. Director Blalock seconded the motion. The item was discussed.

Director Blalock proposed an amendment to the motion to make the resolution subject to the adopted amended policy. The maker and the seconder of the motion accepted Director Blalock's proposed amendment. The amended motion carried by roll call vote. Ayes – 8: Directors Blalock, Fang, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 1: Director King.

President McPartland called for the General Manager's report. General Manager Grace Crunican reported on steps she had taken and meetings she had participated in.

President McPartland called for Board Member Reports and Roll Call for Introductions.

Director Keller reported he had attended a groundbreaking event for eBART.

Director Blalock reported he had attended a Conference of Minority Transportation Officials (COMTO) panel discussion on Measure B1, the Board Workshop on Hispanic-Owned Businesses, and a groundbreaking event in Fremont for grade separation projects in preparation for the Silicon Valley extension.

Director Sweet reported she had attended the Oakland Art Murmur, a San Francisco Redevelopment Oversight Board Meeting, and a Citizen Review Board meeting in Richmond.

Director Radulovich reported he had attended the District picnic and had gone to Portland.

Director Radulovich requested an evaluation of potential risks and impacts upon the District's capital and operating programs of the 'fiscal cliff' confronting federal transportation funding.

President McPartland reported he had attended the Board Workshop on Hispanic-Owned Businesses, the eBART groundbreaking event, a planning meeting with staff related to the TransBay Tube, a luncheon meeting related to emergency managers' responsibilities, and a meeting with the mayors of Pleasanton and Livermore regarding parking issues.

Director Murray reported she had attended a presentation by Assemblymember Susan Bonilla on the Science, Technology, Engineering and Math (STEM) program, the Concord Mayors Conference, the Admiral's reception on the USS Macon, the Contra Costa Labor-to-Labor dinner, and a meeting with Human Resources, Dion Aroner, and a representative from East Bay Innovations.

Director Raburn reported he had attended an Oakland Chamber of Commerce breakfast, the COMTO panel discussion on Measure B1, and the Oakland Art Murmur.

Director Raburn requested the following in relationship to the Coliseum Oakland Airport Station Capacity: review of expressive activity permitting process to ensure that customer access/passenger flow is not negatively affected by location of permittees; a plan for improving access to the west end of the platform, as furniture placement is currently inefficient and access to stairs and escalators must be considered; and a report of progress in acquiring Union Pacific Railroad property.

Director King reported she had attended the Oakland Chamber of Commerce breakfast, the COMTO panel discussion on Measure B1, the Board Workshop on Hispanic-Owned Businesses, and a ribbon-cutting at the Rockridge Open Space area.

President McPartland called for General Discussion and Public Comment. Mr. Jerry Grace addressed the Board.

President McPartland announced that the Board would enter into closed session under Item 11-A (Conference with Real Property Negotiator), Item 11-B (Threat to Public Services or Facilities), and 11-C (Conference with Labor Negotiators) 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 1:43 p.m.

The Board reconvened in closed session at 1:50 p.m.

Directors present: Directors Blalock, King, Murray, Raburn, Radulovich, Sweet, and McPartland.

Absent: Director Keller. Director Fang entered the closed session later.

Director Fang entered the Meeting.

The Board Meeting recessed at 3:33 p.m.

The Board reconvened in open session at 3:34 p.m.

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

Absent: Director Keller.

President McPartland announced that there was no announcement to be made for Items 11-B and 11-C.

President McPartland brought the matter of Agreement with TransMart, Inc., for Station Retail Development at BART Stations in Alameda, Contra Costa, San Francisco and San Mateo Counties (excluding San Francisco Airport Station [SFO]) before the Board. Director Blalock made the following motion: That the General Manager or her designee be authorized to complete negotiations and execute a 30-year agreement with two 10-year options with TransMart, Inc., for retail at all BART stations (excluding SFO) at a base rent of \$24.00 per square foot per year subject to annual Consumer Price Index increases and reassessments every 10 years, or 13.5% of Adjusted Gross Income, whichever is greater, and 2.5% of the gross income from any agreement transfer to a non affiliate, subject to the following: completion of Tier 1 and Tier 2 analyses approved by BART; adoption of station retail design guidelines and approval of each station's retail program, subject to California Environmental Quality Act (CEQA) review and approval by BART; and that the General Manager is directed to ensure that throughout this process BART's operational and design interests are effectively and consistently coordinated. Director Sweet seconded the motion, which carried by roll call vote. Ayes – 6: Directors Blalock, Fang, Murray, Raburn, Sweet, and McPartland. Noes – 1: Director Radulovich. Abstain – 1: Director King. Absent – 1: Director Keller/

Award of Agreement No. 6M4189 was continued to a future meeting.

The Board Meeting was adjourned at 3:37 p.m.

Kenneth A. Duron
District Secretary