

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

Board of Directors
Minutes of the 1,744th Meeting
November 19, 2015

A regular meeting of the Board of Directors was held November 19, 2015, convening at 9:06 a.m. in the Board Room, 344 20th Street, Oakland, California. President Blalock presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Josefowitz, Keller, Mallett, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None. Director McPartland entered the Meeting later.

President Blalock called for a moment of silence to remember the recent bombing of a Russian plane and the killings in Paris.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of October 22, 2015.
2. Appointments to the Tri-Valley Regional Rail Advisory Group.
3. Revision to Board Rule 3-4.1, Agendas, and Board Rule 5-5.1, Contractor/Subcontractor Contributions.
4. District Response to Contra Costa County Grand Jury Report.
5. Grant of Easement for the Purple Lotus Temple in the Cities of Union City and Fremont.
6. Lease of Warehouse Space at 800 East 8th Street, Oakland.
7. Sole Source Procurement with Giesecke & Devrient America, Inc., for Upgrade of a Currency Processor and Procurement of Associated Equipment.
8. Award of Contract No. 04SF-160, Construction of East Contra Costa BART Extension Project Antioch Station Parking Landscaping.
9. Award of Contract No. 15QH-180, Repave North Parking Lot and Access Road – Walnut Creek.
10. Award of Invitation for Bid No. 8971, Chain, Escalator Step.
11. Reject All Bids for Contract No. 15PJ-130, BART Earthquake Safety Program Fruitvale Station and Coliseum Station.

Directors Keller and Mallett requested that Item 2-D, District Response to Contra Costa County Grand Jury Report, be removed from Consent Calendar.

Director Murray made the following motions as a unit. Director Keller seconded the motions, which carried by unanimous acclamation. Ayes - 8: Directors Josefowitz, Keller, Mallett, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 0. Absent – 1: Director McPartland.

1. That the Minutes of the Meeting of October 22, 2015, be approved.
2. That the Board ratify the appointment of Director Tom Radulovich as representative of the Board of Directors to the Tri-Valley Regional Rail Advisory Group, and that Director John McPartland be appointed as alternate.
3. That the Board adopt the attached revision to Board Rule 3-4.1 Agendas with the Rule revision to be reviewed after six months in effect; and that the Board adopt the attached revision to Board Rule 5-5.1 Contractor/Subcontractor Contributions. (The revised Board Rules are attached and hereby made a part of these Minutes.)
4. Adoption of Resolution No. 5303, In the Matter of Authorizing the Grant of Easement to the Purple Lotus Temple BART Parcels: O-AB74E6 (O-AB94E6 and O-AD28E4) (Portion of APN 507-0030-014-02 and 507-0030-018-03).
5. That the General Manager or her designee be authorized to execute a lease agreement with East 8th Street Associates, for approximately 18,200 square feet of warehouse space at 800 East 8th Street, Oakland, for a four-year term, for a total lease amount, excluding gas and water, which will be billed quarterly at a pro-rata share of usage and electricity that is metered separately, not to exceed \$489,689.40.
6. That the Board find, pursuant to Public Contract Code Section 20227, that Giesecke & Devrient America, Inc., is the single source for the procurement of equipment and services necessary to upgrade and refurbish a currency processor and associated equipment, and that such purchase is for the sole purpose of duplicating or replacing equipment in use; and that the General Manager or her designee be authorized to negotiate and execute a contract with Giesecke & Devrient America, Inc., for the upgrade and refurbishment of one currency processor, and associated equipment, in an amount not to exceed \$750,000.00; and that the General Manager or her designee be authorized to enter into a five-year maintenance agreement for two currency processors in an amount not to exceed \$549,930.00. (This motion carried by the required two-thirds vote.)
7. That the General Manager be authorized to award Contract No. 04SF-160, for the Construction of East Contra Costa BART Extension Project Antioch Station Parking Landscaping, to Empire Landscaping, Inc., of

Davis, California, for the amount of \$277,500.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures.

8. That the General Manager be authorized to award Contract No. 15QH-180, Repave North Parking Lot and Access Road, Walnut Creek Station, to Golden Bay Construction, Inc., for the Bid Price of \$411,999.00, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures.
9. That the General Manager be authorized to award Invitation for Bid No. 8971, an estimated quantity contract, for Chain, Westinghouse Escalator Step, to Precision Escalator, Kenilworth, New Jersey, in the amount of \$130,086.00, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures.

(The foregoing motion was made on the basis of analysis by the staff and certification by the Controller/Treasurer that funds are available for this purpose.)

10. That all bids for Contract No. 15PJ-130, Earthquake Safety Program, Fruitvale Station and Coliseum Station, be rejected, and that the General Manager be authorized to re-advertise the Contract.

Director Radulovich moved that the Board approved the attached response to Finding #5 of the Contra Costa County Civil Grand Jury Report 1504, Averting Bay Area Rapid Transit District Strikes. Director Saltzman seconded the motion, which carried by electronic vote. Ayes - 6: Directors Josefowitz, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes - 2: Directors Keller and Mallett. Absent - 1: Director McPartland. (The response is attached and hereby made a part of these Minutes.)

President Blalock announced that the Board would enter into closed session under item 3-A (Conference with Labor Negotiators; Public Employee Performance Evaluation) 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 9:10 a.m.

The Board Meeting reconvened in closed session at 9:15 a.m.

Directors present: Directors Josefowitz, Keller, Mallett, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None. Director McPartland entered the Meeting later.

Director McPartland entered the Meeting.

The Board Meeting recessed at 10:06 a.m.

The Board Meeting reconvened in open session at 10:10 a.m.

Directors present: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None.

President Blalock announced that there were no announcements to be made and that Compensation and Benefits for General Manager, General Counsel, District Secretary, and Independent Police Auditor would be continued to a future meeting.

President Blalock announced that the order of agenda items would be changed and called for Public Comment. The following individuals addressed the Board.

Stephen Everett
Michael Rothbaum
Bernardo Montiel
Kurt Kuhwald
Sharon Fennena
Mollie Costello
Kathryn Gilje
Terry Morris
Jane Martin
Sulaiman Hyass
Bob Allen
Dennis Fagaly
Lindsay Imai Hong
Feng Kung
Rebecca Hom
Cecilia Lucas
Michelle Puckett
Kyle McCoy
Vanessa Riles
Nichola Torbett
Michael Gast
Leigh Davenport
Tova Fry
Tristen Schmidt
Marcy Rein
Margi Clark
Alex Fuller
Prince White
Megan Swoboda
Kimberly Banford
Taina Vargas-Edmond
Jenny Crofton

Jill Shenker
NTanya Lee
Jerry Grace
Colleen Tani

The Board Meeting recessed at 12:05 p.m.

The Board Meeting reconvened in open session at 12:40 p.m.

Directors present: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock.

Absent: None.

President Blalock brought the matter of Renaming of the Citizen Review Board to “BART Police Citizen Review Board” before the Board. Director Raburn moved that the Citizen Review Board be renamed the BART Police Citizen Review Board, and that the BART Citizen Oversight Model be amended to reflect this change. Director Keller seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of BART Bicycle Advisory Task Force Annual Report before the Board. Mr. David Favello, Chairperson of the BART Bicycle Advisory Task Force, presented the report. The report was discussed.

Jerry Grace addressed the Board.

Director Raburn brought the matter of BART Bicycle Advisory Task Force and BART Accessibility Task Force Joint Recommendations for Improved Station Circulation before the Board. Mr. Favello and Mr. Alan Smith, Chairperson of the BART Accessibility Task Force, presented the item. The item was discussed.

Director Raburn brought the matter of Warm Springs/South Fremont Station West Side Access Bridge before the Board. Mr. Robert Powers, Assistant General Manager, Planning and Development; Mr. John Rennels, Principal Property Development Officer; Ms. Jessica von Borck, Assistant City Manager, City of Fremont; and Mr. Norm Hughes, Public Works Director, City of Fremont, presented the item. The item was discussed.

Director Keller, Chairperson of the Administration Committee, brought the matter of Agreement with Data Ticket, Inc., for Parking Citation Processing Services (Agreement No. 6M5096), before the Board. Mr. Justin Morgan, Police Administrative Supervisor, presented the item. The item was discussed.

Director McPartland moved that the General Manager be authorized to award Agreement No. 6M5096 to Data Ticket, Inc., to provide parking citation processing services, for a total

compensation amount not to exceed \$2,399,850.00, pursuant to notification to be issued by the General Manager.

Brook Westcott addressed the Board.

President Blalock seconded the motion. Discussion continued. The motion carried by electronic vote. Ayes - 6: Directors Keller, Mallett, McPartland, Murray, Raburn, and Blalock. Noes – 3: Directors Josefowitz, Radulovich, and Saltzman.

Director Keller brought the matter of Fiscal Year 2015 Year-End Budget Revision before the Board. Mr. Robert Umbreit, Department Manager, Budget Department, presented the item. Director Saltzman moved adoption of Resolution No. 5304, In the Matter of Amending Resolution No. 5262 regarding Fiscal Year 2015 Annual Budget. President Blalock seconded the motion.

Chris Finn addressed the Board.

The motion carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director McPartland, Chairperson of the Engineering and Operations Committee, brought the matter of Agreement with Nordco Rail Services for Ultrasonic Rail Flaw Detection Testing (Agreement No. 6M3286) before the Board. Mr. Gregory Shivy, Principal Track Engineer, presented the item. Director Murray moved that the General Manager be authorized to award Agreement No. 6M3286, to Nordco Rail Services LLC, of Beacon Falls, Connecticut, for Rail Flaw Detection Testing Service, for an amount not to exceed \$709,650.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures. Director Saltzman seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director McPartland brought the matter of Award of Contract No. 11OG-130A, Balboa Park Station – Phase 2, before the Board. Ms. Shirley Ng, Group Manager, Stations Engineering and Construction, presented the item. The item was continued to a future meeting.

Director McPartland brought the matter of Award of Contract No. 15PB-120, BART Earthquake Safety Program Aerial Structures – A Line Lake Merritt to Coliseum, before the Board. Mr. Thomas Horton, Group Manager, Earthquake Safety Program, presented the item. President Blalock moved that the General Manager be authorized to award Contract No. 15PB-120, Earthquake Safety Program Station Structures – A Line Lake Merritt to Coliseum, to Brosamer & Wall, Inc., for the Bid amount of \$12,958,770.00, pursuant to notification to be issued by the General Manager, and subject to the District's protest procedures and Federal Highway Administration's requirements related to protest procedures. Director Murray seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director McPartland brought the matter of Increase Authority to Execute Third Party Agreements and Work Authorizations to Support the Hayward Maintenance Complex Project before the Board. Mr. Horton, Group Manager, Hayward Maintenance Complex, presented the item. Director Saltzman moved that the General Manager or her designee be authorized to

increase authority for an additional \$750,000.00 to execute third party agreements and work authorizations with various public and private utilities including cities, agencies, special districts, other third parties and the Union Pacific Railroad to perform support services including, but not limited to, design, installation, minor construction, relocation, and permit and inspection fees required in support of the Hayward Maintenance Complex Project. Director Murray seconded the motion, which carried by unanimous acclamation. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director McPartland brought the matter of Sole Source Procurement with Dailey and Wells Communications for Portable Radio Replacement before the Board. Mr. Thomas Herold, Manager of Telecommunications Engineering, presented the item. Director Murray moved that the Board find, in accordance with Public Contract Code 20227, that Dailey and Wells Communications is the single source of supply for Harris radio equipment, the only equipment which is compatible with the BART 800 MHz radio system, and that this procurement is for the purpose of replacing old and outdated equipment in use at the District; and that the General Manager be authorized to enter into direct negotiations with Dailey and Wells Communications and to execute a contract, in a form acceptable to the General Counsel, with Dailey and Wells Communications to provide approximately 50 units of “system” model XG-75 portable radios and approximately 250 units of “scan” model XG-75 portable radios pursuant to the requirements of Project 79LS001, for a total price not to exceed \$949,801.00, including applicable taxes. President Blalock seconded the motion, which carried by electronic vote by the required two-thirds vote. Ayes - 9: Directors Josefowitz, Keller, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 0.

Director Raburn brought the matter of Agreement with Alameda Contra Costa Transit District (AC Transit) for Late Night Bus Core Service Enhancements on AC Transit Routes 800 and 801 before the Board. Ms. Marianna Parreiras, Access Coordinator, Transit & Shuttles, presented the item.

Jerry Grace addressed the Board.

The item was discussed. Director Keller moved that the General Manager be authorized to execute an agreement with AC Transit for the Late Night Bus Core Service enhancements on AC Transit routes 800 and 801 for one year, with the plan to include up to \$50,000.00 available for marketing and with staff to return with a plan for a research study on extending the 822 route. Director Saltzman seconded the motion, which carried by electronic vote. Ayes - 8: Directors Josefowitz, Keller, McPartland, Murray, Raburn, Radulovich, Saltzman, and Blalock. Noes – 1: Director Mallett.

Director McPartland brought the matter of Quarterly Performance Report, First Quarter Fiscal Year 2016 - Service Performance Review, before the Board. Mr. Paul Oversier, Assistant General Manager – Operations; Mr. Jeffrey Lau, Chief Safety Officer; and Deputy Chief of Police Benson Fairrow presented the item. The report was discussed.

Jerry Grace addressed the Board.

President Blalock called for the General Manager’s Report. General Manager Grace Crunican reported on steps she had taken and activities and meetings she had participated in, reminded the Board of upcoming events, and reported on open Roll Call for Introduction items.

President Blalock called for the Quarterly Report of the Controller/Treasurer – June 30, 2015. Ms. Rose Poblete, Interim Controller/Treasurer, and Mr. Chris Gan, Assistant Controller, presented the item. The report was discussed.

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

Director Josefowitz requested a report detailing what of the cash and cash equivalents is encumbered, for what liabilities or expected liabilities it is encumbered, and why the District is holding the unencumbered cash that it is. Director Murray seconded the request.

Director McPartland reported he had attended a Veterans Day presentation with Congressman Swalwell and Assemblymember Quirk.

Director Keller requested the creation of a Board advisory committee to provide a voice for BART riders similar to the Rider Advisory Committee that advises the Capitol Corridor Joint Powers Authority Board and that this item be placed on a future Board Meeting agenda. Director Murray seconded the request, and Director Saltzman was a third supporter of the request.

Director Raburn reported he had attended a Dia de los Muertos event at the Fruitvale Station.

Director Saltzman expanded on the General Manager's report of the labor/management two-day summit.

Director Saltzman requested that staff be directed to work with Capitol Corridor and Caltrain on a better communication plan to avoid Capitol Corridor and Caltrain riders missing their trains by seconds or minutes due to BART delays, with a memo on the plan to be provided to the Board. Director Josefowitz seconded the request.

Directors Mallett and Saltzman requested evaluation of options for making crowd and load data available to the public and app developers, potentially by making SCRAM and load factor data publicly available. This request is not asking for the data to be made available in real time.

President Blalock called for In Memoriam, and requested that the Meeting be adjourned in honor of former Alameda County Supervisor, AC Transit Interim General Manager, and BART Director Mary V. King.

The Board Meeting was adjourned at 4:43 p.m. in honor of Mary V. King.

Kenneth A. Duron
District Secretary