

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

Board of Directors
Minutes of the 1,495th Meeting
December 7, 2006

A regular meeting of the Board of Directors was held December 7, 2006, convening at 9:12 a.m. in the Board Room, 344 20th Street, Oakland, California. President Ward Allen presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Fang, Franklin, Keller, Luce, Murray, Sweet, and Ward Allen.

Absent: None. Director Radulovich entered the meeting later.

Director Luce introduced and welcomed his son, Mr. Jason Luce.

Consent Calendar items brought before the Board were:

1. Approval of the Minutes of the Meeting of November 16, 2006.
2. Resolutions to Establish the 2007 - 2009 Premium Contribution by the District for Medical Coverage for Employees and Retirees under Public Employees' Medical and Hospital Care Act (PEMHCA).
3. Resolution for Public Employees Retirement System (PERS) Contract Technical Amendment Regarding Employer-Paid Member Contributions Converted to Pay Rate in Final Compensation Period for Non-Represented Local Safety Members.
4. Six-Month Extension of Existing On-Call Joint Development Services Agreements: (a) Agreement No. 6G5439 with Economic and Planning (EPS); (b) Agreement No. 6G5628 with Keyser Marston Associates, Inc. (KMA); (c) Agreement No. 6G5629 with Economics Research Associates (ERA); (d) Agreement No. 6G5630 with CBRE Consulting, Inc. formerly the Sedway Group (CBRE).
5. Agreement with Industrial Battery Services (IBS) for Reconditioning of Transit Vehicle Nickel Cadmium Batteries (Agreement No. 6M3033).

Consent Calendar motions, as follow, were moved as a unit by Director Blalock. Director Murray seconded the motions, which carried. Ayes – 8: Directors Blalock, Fang, Franklin, Keller, Luce, Murray, Sweet, and Ward Allen. Noes – 0. Absent – 1: Director Radulovich.

1. That the Minutes of the Meeting of November 16, 2006, be approved.

2. Adoption of the following resolutions:

Resolution No. 4997, In the Matter of Fixing the Employer's Contribution under the Public Employees' Medical and Hospital Care Act for Employees/Annuitants Represented by American Federation of State, County, and Municipal Employees (AFSCME);

Resolution No. 4998, In the Matter of Fixing the Employer's Contribution under the Public Employees' Medical and Hospital Care Act for Employees/Annuitants Represented by Amalgamated Transit Union (ATU);

Resolution No. 4999, In the Matter of Fixing the Employer's Contribution under the Public Employees' Medical and Hospital Care Act for Employees/Annuitants Represented by BART Police Managers Association (BPMA);

Resolution No. 5000, In the Matter of Fixing the Employer's Contribution under the Public Employees' Medical and Hospital Care Act for Employees/Annuitants Represented by BART Police Officers Association (BPOA);

Resolution No. 5001, In the Matter of Fixing the Employer's Contribution under the Public Employees' Medical and Hospital Care Act for Non-Represented Employees; and

Resolution No. 5002, In the Matter of Fixing the Employer's Contribution under the Public Employees' Medical and Hospital Care Act for Employees/Annuitants Represented by Service Employees International Union Local 790 (SEIU).

3. Adoption of Resolution No. 5003, Authorizing a Correction to the Amendment to Contract between the Board of Administration California Public Employees' Retirement System and the Board of Directors San Francisco Bay Area Rapid Transit District.

4. That the General Manager or his designee be authorized to extend the existing On-Call Joint Development Services Agreements with Economic and Planning Systems (EPS) (Agreement No. 6G5439); Keyser Marston Associates, Inc. (KMA) (Agreement No. 6G5628); Economics Research Associates (ERA) (Agreement No. 6G5629); and CBRE Consulting, Inc., formerly the Sedway Group (CBRE) (Agreement No. 6G5630), for a period of six months, through June 30, 2007.

5. That the General Manager be authorized to award Agreement No. 6M3033, for Reconditioning Transit Vehicle Nickel-Cadmium Storage Batteries, to Industrial Battery Services, for an amount not to exceed \$1,093,646.72, plus applicable taxes, pursuant to notification to be issued by the General Manager.

Consent Calendar report brought before the Board was:

1. Independent Auditor's Report on Basic Financial Statements and Internal Control for the Fiscal Year Ended June 30, 2006.

President Ward Allen announced that the Board would enter into closed session under Item 3-A (Conference with Legal Counsel – Existing Litigation) and Item 3-B (Conference with Legal Counsel – Anticipated Litigation) of the regular meeting agenda, and that the Board would reconvene in open session upon conclusion of the closed session.

The Board Meeting was recessed at 9:15 a.m.

The Board entered into closed session at 9:17 a.m.

Directors present: Directors Blalock, Fang, Franklin, Keller, Luce, Murray, Radulovich, Sweet, and Ward Allen.

Absent: None.

Closed session recessed at 11:27 a.m.

The Board Meeting reconvened at 12:33 p.m.

Directors present: Directors Blalock, Fang, Franklin, Keller, Luce, Murray, Radulovich, Sweet, and Ward Allen.

Absent: None.

Director Keller, Chairperson of the Administration Committee, brought the matter of Authority to Execute Agreement No. 6M5006 for an Availability and Utilization Study for the Bay Area Public Transportation Agencies before the Board, and moved that the staff-recommended motion to authorize execution of the agreement with CRA International be approved, and that staff be directed to seek proposals for a BART only availability and utilization study. Director Blalock seconded the motion. The following vote was taken: Ayes – 5: Directors Blalock, Franklin, Keller, Murray, and Radulovich. Noes – 3: Directors Fang, Sweet, and Ward Allen. Abstain – 1: Director Luce. (Please refer to page 4, paragraph 11, for further consideration of this item.)

Director Fang, Chairperson of the Engineering and Operations Committee, reported that the Quarterly Performance Report, First Quarter Fiscal Year 2007 – Service Performance Review, had been forwarded to the Board under General Manager’s Report without discussion in the Committee.

Director Radulovich, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Reconsideration of Alcohol Advertising on BART before the Board. Director Murray made the following motion:

That the following paragraph (iii) be inserted as one of the prohibitions in Section (b) of the Advertising Standards set forth in the BART Advertising Content Guidelines:

“(iii) Alcoholic Beverages. The advertisement promotes or encourages the consumption of alcoholic beverages including, but not limited to, beer, wine, and distilled spirits, or depicts such products.”

The remaining paragraphs of Section (b) shall be renumbered, and Section (c) Advertising Alcoholic Beverages, shall be deleted.

Director Blalock seconded the motion, which carried. Ayes – 7: Directors Blalock, Fang, Franklin, Keller, Murray, Sweet, and Ward Allen. Noes – 2: Directors Luce and Radulovich.

Directors Fang and Keller exited the meeting.

President Ward Allen asked for the General Manager’s Report. Mr. Margro reported that the Quarterly Performance Report would be continued to a future meeting.

Vice President Sweet, Chairperson of the District Security Advocacy Ad Hoc Committee, had no report.

Dr. Eleanor Ramsey addressed the Board.

After discussion, it was determined that because it was not recognized that a member of the public had wished to address the Board on the matter of Authority to Execute Agreement No. 6M5006 for an Availability and Utilization Study for the Bay Area Public Transportation Agencies, the vote which had been taken on the item would be suspended, and the item would be placed on a future agenda for reconsideration so that the public could be afforded the opportunity to speak, in compliance with Brown Act requirements.

Director Keller re-entered the meeting.

Director Blalock, Chairperson of the District Organizational Review Ad Hoc Committee, reported that the committee had met on November 13, 2006, to receive comments from the union representatives, the General Manager, the Controller/Treasurer, and the Doolittle consultant

team, and that notes from the meeting and supplemental comments from Mr. Doolittle would be made available to the Board.

President Ward Allen brought Roll Call for Introductions before the Board.

Director Murray requested information on the steps necessary for the District to access \$4 million in Metropolitan Transportation Commission funding available for District signage projects.

Director Blalock requested that the District investigate and provide a recommendation on customer drop off and access improvements at the Union City Station in the area currently shared with bus access (i.e. re-designation of exclusive bus loading zones).

President Ward Allen called for General Discussion and Public Comment. Ms. Rosa Cabrera addressed the Board.

The Board Meeting adjourned at 12:56 p.m. in honor of the indomitable spirit of Mr. James Kim.

Kenneth A. Duron
District Secretary