

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

BOARD MEETING AGENDA

May 9, 2019

**8:30 a.m.**

A regular meeting of the Board of Directors will be held at **8:30 a.m.** on Thursday, May 9, 2019, in the BART Board Room, 2040 Webster Street, Third Floor, Oakland, California.

Members of the public may address the Board of Directors regarding any matter on this agenda. Please complete a "Request to Address the Board" form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

Any action requiring more than a majority vote for passage will be so noted.

Items placed under "consent calendar" are considered routine and will be received, enacted, approved, or adopted by one motion unless a request for removal for discussion or explanation is received from a Director or from a member of the audience.

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to these meetings, as there may be people in attendance susceptible to environmental illnesses.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at 510-464-6083 for information.

Rules governing the participation of the public at meetings of the Board of Directors and Standing Committees are available for review on the District's website (<http://www.bart.gov/about/bod>), in the BART Board Room, and upon request, in person or via mail.

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>); at [bart.legistar.com](http://bart.legistar.com); and via email ([https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic\\_id=CATRANBART\\_1904](https://public.govdelivery.com/accounts/CATRANBART/subscriber/new?topic_id=CATRANBART_1904)) or via regular mail upon request submitted to the District Secretary. Complete agenda packets (in PDF format) are available for review on the District's website and [bart.legistar.com](http://bart.legistar.com) no later than 48 hours in advance of the meeting.

Please submit your requests to the District Secretary via email to [BoardofDirectors@bart.gov](mailto:BoardofDirectors@bart.gov); in person or U.S. mail at 300 Lakeside Drive, 23<sup>rd</sup> Floor, Oakland, CA 94612; fax 510-464-6011; or telephone 510-464-6083.

Patricia K. Williams  
District Secretary

Regular Meeting of the  
BOARD OF DIRECTORS

The purpose of the Board Meeting is to consider and take such action as the Board may desire in connection with:

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.

2. CONSENT CALENDAR

NO ITEMS.

3. PUBLIC COMMENT – 15 Minutes

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda. An additional period for Public Comment is provided at the end of the Meeting.)

4. ADMINISTRATION ITEMS

Director Simon, Chairperson

- A. Fiscal Year 2020 Preliminary Budget Sources, Uses, Service Plan, and Capital Budget.\* For information.

5. ENGINEERING AND OPERATIONS ITEMS

Director Foley, Chairperson

NO ITEMS.

6. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS

Director Raburn, Chairperson

NO ITEMS.

7. GENERAL MANAGER’S REPORT

- A. Report of Activities, including Updates of Operational, Administrative, and Roll Call for Introductions Items.

8. BOARD MATTERS

- A. Reconsideration of State Senate Bill 50 (Wiener) – Planning and zoning: housing development: equitable communities incentive; in Response to Allegation of Brown Act Violation.\* Board requested to support. (THIS ITEM WILL BE HEARD NO EARLIER THAN 11:00 a.m.)
- B. Board Member Reports.  
(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary. An opportunity for Board members to report on their District activities and observations since last Board Meeting.)

- C. Roll Call for Introductions.  
(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)
- D. In Memoriam.  
(An opportunity for Board members to introduce individuals to be commemorated.)

9. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.)

10. CLOSED SESSION (Room 303, Board Conference Room)

- A. PUBLIC EMPLOYEE EMPLOYMENT:  
Title: Inspector General  
Government Code Section: 54957(b)(1)
- B. PUBLIC EMPLOYEE EMPLOYMENT:  
Title: General Manager  
Government Code Section: 54957(b)(1)

11. OPEN SESSION

- A. Announcement from Closed Session, if any.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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**MEMORANDUM**

**TO:** Board of Directors

**DATE:** May 3, 2018

**FROM:** General Manager

**RE:** FY20 Sources, Uses, Service Plan and Capital Budget presentation

Attached is the "FY20 Sources, Uses, Service Plan and Capital Budget" presentation that will be presented to the Board at the May 9, 2019 meeting as an information item.

If you have any questions about the document, please contact Pamela Herhold, Assistant General Manager, Performance and Budget, at 510-464-6168.

  
Grace Crunican

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors **DATE:** May 3, 2019  
**FROM:** General Counsel  
**SUBJECT:** Allegation of Brown Act violation and Senate Bill 50

As you are aware, the District received a written allegation of a Brown Act violation relating to a vote taken regarding Senate Bill 50 (Wiener) at the March 14<sup>th</sup> Special Meeting.

The complaint itself, sent on behalf of New Livable California, Inc. and Community Venture Partners, Inc. ("Complainants") alleges that the District violated the Brown Act by calling the above referenced Special Meeting to consider the legislation.

The District takes allegations of violation of the Brown Act ("Act") seriously, as the Act serves the important purpose of ensuring that the public has meaningful access to deliberations of the Board. Generally, the Act bars a lawsuit if the Board cures the complained of act by providing notice of a new meeting in public session within 30 days of notice of a complaint. The Act expressly provides that taking such action shall not constitute an admission of wrongdoing. Although we believe that Complainants' challenge would ultimately be rejected, we also believe that District resources would be better spent on other important District business, instead of engaging in litigation. As such, I suggest that the Board consider the following motions, which rescind the March 14<sup>th</sup> action and then reconsider support of SB 50.

A staff analysis of SB 50 is attached and staff will be present at the meeting to answer any questions Directors may have about the proposed legislation. Staff recommends a Support position.

### **Proposed Motions:**

- 1) That the action taken under item 3 of the Board's Special Meeting agenda of March 14, 2019 is hereby vacated.
- 2) That the Board takes a position of Support on Senate Bill 50 (Wiener) and directs the General Counsel to notify the Complainants of these Board actions and this Board's unconditional commitment to compliance with the Act.



Matt Burrows