

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

Board of Directors
Minutes of the 1,657th Meeting
June 28, 2012

A regular meeting of the Board of Directors was held June 28, 2012, convening at 9:09 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, Murray, Raburn, Sweet, and McPartland.

Absent: None. Director Radulovich entered the Meeting later.

Vacant: Election District No. 3.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of June 14, 2012.
2. Resolution Authorizing Actions Necessary to Obtain Third Cycle Lifeline Transportation Program Funds from the Metropolitan Transportation Commission.

Director Fang made the following motions as a unit. Director Murray seconded the motions, which carried by unanimous electronic vote. Ayes – 7: Directors Blalock, Fang, Keller, Murray, Raburn, Sweet, and McPartland. Noes – 0. Absent – 1: Director Radulovich. Vacant – 1.

1. That the Minutes of the Meeting of June 14, 2012, be approved.
2. Adoption of Resolution No. 5196, In the Matter of Authorizing Actions Necessary to Obtain Lifeline Transportation Funds from the Metropolitan Transportation Commission.

President McPartland announced that the Board would enter into closed session under Item 3-A (Conference with Labor Negotiators) and Item 3-B (Conference with Labor Negotiators – Public Employee Performance Evaluation) of the Regular Meeting agenda and that the Board would reconvene in open session at the end of the closed session.

The Board Meeting recessed at 9:10 a.m.

The Board reconvened in closed session at 9:14 a.m.

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

Absent: None.

Vacant: Election District No. 3.

The Board Meeting recessed at 11:07 a.m.

The Board reconvened in open session at 11:10 a.m.

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

Absent: None.

Vacant: Election District No. 3.

President McPartland announced that the Board had concluded the closed session and there was no announcement to be made.

Director Sweet, Chairperson of the Administration Committee, announced that Item 4-A, Agreement with Aon Risk Solutions for Insurance Brokerage Services, would be continued to a future meeting. Director Sweet brought the matter of Agreements and Authorities Related to the District's Electrical Power Supply before the Board. Mr. Frank Schultz, Manager of Energy Programs, presented the item. The item was discussed. Director Fang made the following motions as a unit.

1. That the General Manager be authorized to execute: a) the First Amendment to the Lodi Energy Center Project Management and Operating Agreement; b) the amended and restated Market Purchase Program Agreement; c) the Northern California Power Agency Legislative and Regulatory Program Agreement; and d) the State of California Department of General Services Natural Gas Services Agreement.
2. Adoption of Resolution No. 5197, In the Matter of Authorizing the General Manager to Execute Electrical Power Related Contracts.

Director Blalock seconded the motions, which carried by unanimous voice vote. Ayes – 8: Directors Blalock, Fang, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Vacant – 1.

Director Sweet brought the matter of Third Amendment to Lease at 2150 Shattuck Ave., Berkeley, before the Board. Mr. Jeffrey Ordway, Department Manager, Real Estate, presented the item. Director Fang moved that the General Manager or her designee be authorized to execute the Third Amendment to Lease with First Shattuck, LLC, to add 200 square feet of office space at 2150 Shattuck Avenue, Berkeley, for a five-year term, for a total rental amount,

inclusive of three percent annual rent increases, not to exceed \$23,000.00. Director Blalock seconded the motion, which carried by unanimous electronic vote. Ayes – 8: Directors Blalock, Fang, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Vacant – 1.

Director Sweet brought the matter of Approval of American Federation of State, County, and Municipal Employees (AFSCME) Local 3993, Side Letter to Modify Section 86, "Special Provision Applicable to Line/Yard Senior Operations Supervisors and Operations Supervisors – Scheduling," before the Board. Mr. Rudolph Medina, Department Manager, Labor Relations, presented the item. The item was discussed. Director Fang moved that the General Manager be authorized to execute the Side Letter of Agreement with AFSCME Local 3993, AFSCME/SL-1-12, RE: Section 86: Special Provisions Applicable to Line/Yard Senior Operations Supervisors and Operations Supervisors – Scheduling and Modifying the AFSCME Collective Bargaining Agreement as specified therein. Director Blalock seconded the motion, which carried by unanimous electronic vote. Ayes – 8: Directors Blalock, Fang, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Vacant – 1.

Director Fang, Chairperson of the Engineering and Operations Committee, brought the matter of Proposed Fremont Line Operability, Earthquake Safety Project, before the Board. Mr. Thomas Horton, Manager of Earthquake Safety Programs, presented the item. The item was discussed. Director Raburn requested that the environmental documents be corrected to read "East 12th Street" and "19th Avenue" where appropriate. Director Blalock made the following motion.

Having reviewed and considered the information in the Final Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Proposed Fremont Line Operability Retrofit Project, together with the comment received during the public review process, the Board

1. Finds on the basis of the whole record before the Board that there is no substantial evidence that the Proposed Fremont Line Operability Retrofit Project will have a significant effect on the environment;
2. Finds that the Mitigated Negative Declaration reflects the Board's independent judgment and analysis;
3. Adopts the Mitigated Negative Declaration and adopts the Mitigation Monitoring and Reporting Plan for the Proposed Fremont Operability Retrofit Project as amended; and
4. Adopts the Fremont Line Operability Retrofit Project as proposed.

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

Director Fang brought the matter of Modify Agreement No. 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation, for Operability Upgrades, before the Board.

Director Murray recused herself from the discussion to avoid any appearance of conflict of interest.

Mr. Horton presented the item. The item was discussed. Director Blalock moved that the General Manager be authorized to execute a modification to Agreement No. 6G3975, General Engineering Services for the Earthquake Safety Program, with Bechtel Infrastructure Corporation, to increase the not-to-exceed value to \$262,230.00, and to extend the term of the Agreement for an additional 33 months, from March 2016 to December 2018. Director McPartland seconded the motion, which carried by unanimous voice vote. Ayes – 7: Directors Blalock, Fang, Keller, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Absent - 1: Director Murray. Vacant – 1.

Director Fang brought the matter of Change Order to Contract No. 79HM-110, San Francisco Transition Structure Security Barrier (SFTS SB), with Taber Construction, Inc., for Plaza Deck Structural Improvements Support (C.O. No. 5), before the Board. Mr. Horton presented the item. The item was discussed. Director Keller moved that the General Manager be authorized to execute Change Order No. 5, Deck Structural Improvements, in an amount not to exceed \$302,000.00, to Contract No. 79HM-110, SFTS SB, with Taber Construction, Inc. Director Blalock seconded the motion, which carried by electronic vote. Ayes – 7: Directors Blalock, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Abstain - 1: Director Fang. Vacant – 1.

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

Director Blalock, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of 2012 State and Federal Legislative Advocacy Program before the Board. Ms. Kerry Hamill, Department Manager, Government and Community Relations, and Mr. Paul Fadelli, Legislative Officer, presented the item.

Director Fang exited the Meeting.

Director Blalock moved that the Board support the Governor’s proposed general election Proposition: “Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Initiative Constitutional Amendment.” President McPartland seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Blalock, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Absent - 1: Director Fang. Vacant – 1.

The presentation continued. The item was discussed.

Director Raburn moved that the Board support the following State legislation: Assembly Bill (AB) 391 (Pan), AB 904 (Skinner), AB 1532 (Perez), AB 1971 (Buchanan), Assembly Constitutional Amendment 23 (Perea), Senate Bill (SB) 1151 (Steinberg), SB 1156 (Steinberg), SB 1339 (Yee), SB 1380 (Rubio), and SB 1572 (Pavley); that the Board support if amended AB 1585 (Perez), and SB 1160 (Padilla); and that the Board watch AB 57(Beall), AB 2247 (Lowenthal), SB 1002 (Yee), and SB 1149 (DeSaulnier). Director Radulovich seconded the motion, which carried by unanimous electronic vote. Ayes – 7: Directors Blalock, Keller, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 0. Absent - 1: Director Fang. Vacant – 1.

The presentation continued. The Board did not act on the staff recommendation to approve the federal advocacy program.

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. Ms. Crunican noted upcoming topics including a pilot initiative promoting bicycles on BART in August, the potential cancellation of one of the Regular Board Meetings in July, and the process for filling the vacancy in District 3. Directors posed questions regarding the potential methods for addressing the Election District 3 vacancy to be addressed on a future agenda.

Director Sweet, Chairperson of the BART Police Department Review Special Committee, brought the matter of Amendment to the BART Citizen Oversight Model before the Board. Ms. Marcia deVaughn, Deputy General Manager, presented the item. The item was discussed. Director Sweet moved that the Board amend the BART Citizen Oversight Model previously adopted on August 13, 2009 and last amended on February 23, 2012, to reflect changes as detailed in Attachment A. President McPartland seconded the motion, which carried by electronic vote. Ayes – 6: Directors Blalock, Murray, Raburn, Radulovich, Sweet, and McPartland. Noes – 1: Director Keller. Absent - 1: Director Fang. Vacant – 1. (Attachment A is attached and hereby made a part of these Minutes.)

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

Director Blalock reported he had attended the Capitol Corridor Joint Powers Authority Board meeting, and events for the Mineta Transportation Institute and the Diridon Station High Speed Rail Station.

Director Blalock requested the District develop budget adjustments to be implemented in the event projected revenues are reduced due to changing economic conditions (i.e.: drops in projected ridership).

Director Blalock requested the District revisit continuation of the Consumer Price Index (CPI) based fare increase strategy.

Director Sweet reported she had attended numerous meetings.

Director Sweet requested that accurate information be provided to customers by subject matter experts (in this instance the Department Manager of Customer Services), citing incorrect information provided by Customer Services staff to complainant Alla Rivas dated June 26.

Director Sweet requested the District modify its permit process for parties soliciting donations on District property (in the context of issues involving St. Andrews Church School).

Director Keller exited the Meeting.

Director Sweet requested staff respond to complainant regarding M/WBE certification findings and clarify process and specifics regarding their situation.

Director Radulovich reported he had met with the California Transportation Commission chairperson and executive director regarding funding and with the Governor's office regarding transit-oriented development.

Director Radulovich requested the District respond to pending RCI Item No. 12-525 addressing rationalizing the District youth discount program, including recent issues regarding orange tickets.

Director Radulovich requested staff investigate and report on a table display and delivery of medical services by a permit holder at Powell Street Station.

President McPartland reported he had attended many meetings, including meetings with the mayor of Millbrae and the mayor of Dublin, and that he had attended the California Public Utilities Commission leadership conference.

Director Murray reported that she had attended the Capitol Corridor Joint Powers Authority Board meeting, the Mineta Transportation Institute event, and a Clipper event in Concord.

Director Murray requested the proposed letter to the Alameda County Board of Supervisors regarding the appointment to the Board of Directors for District 3 be expedited well in advance of the July 12 Board Meeting.

Director Raburn reported he had visited Vancouver, British Columbia, and ridden their automated rail service.

Director Raburn requested the District develop a financial crisis action plan with internal triggers requiring action by departments at designated points.

Director Raburn requested the District re-evaluate and modify the permitting process and criteria for solicitation of donations on District property (incident observed at Fruitvale Station).

President McPartland called for General Discussion and Public Comment. No comments were received.

The Board Meeting was adjourned at 2:17.

Kenneth A. Duron
District Secretary