

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

Board of Directors
Minutes of the 1,604th Meeting
July 22, 2010

A regular meeting of the Board of Directors was held July 22, 2010, convening at 9:01 a.m.

The meeting was held via simultaneous teleconference in the Board Room, 344 20th Street, Oakland, California, Embassy Suites, Walnut Creek, 1345 Treat Boulevard, Walnut Creek, California, and Silver Creek Lodging Mountainside Center, 96 Mountainside Drive, Unit 87, Granby, Colorado. President Fang presided; Kenneth A. Duron, District Secretary.

Directors present in Oakland: Directors Fang, Franklin, Keller, McPartland and Ward Allen.

Director present in Walnut Creek, California: Director Murray.

Director present in Granby, Colorado: Director Blalock.

Absent: None. Directors Radulovich and Sweet entered the meeting later.

President Fang welcomed and introduced Station Agent Angela Fields.

Ms. Fields addressed the Board and introduced Cure Kids Cancer team member, Brittany Fields who addressed the Board.

Director Ward Allen welcomed Vice Mayor of Oakland, Ignacio de la Fuente, Cheri Clausen of Congressman Jerry McNerney's Office and George Holland, National Association for the Advancement of Colored People (NAACP) . Mr. de la Fuente and Ms. Clausen addressed the Board.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of June 10, 2010, and July 8, 2010.
2. Resolution of Project Compliance in support of Warm Springs Extension Project.
3. Approval of Fund Pass-Through Agreement between BART and the City of Oakland for the Oakland Public Library West Oakland Shuttle.
4. Approval of the amendment to the District Code of Conduct.
5. Award of Contract No. 15EL-210, Procurement of Negative Ground Device (NGD) Controllers.
6. Award of Contract No. 15SZ-130, Parking Lot Lighting Improvements.

Consent Calendar motions, as follow, were moved as a unit by Director Blalock. Director Keller seconded the motions, which carried by unanimous roll call vote. Ayes – 7: Directors Blalock, Fang, Franklin, Keller, McPartland, Murray and Ward Allen. Noes – 0. Absent - 2: Directors Sweet and Radulovich.

1. That the Minutes of Minutes of the Meetings of June 10, and July 8, 2010, be approved.
2. Adoption of Resolution No. 5141, In the Matter of the Approval of a Subsequent Resolution of Project Compliance and Initial Project Report for Regional Measure 1, Regional Measure 2, and AB1171 Funds for the Warm Springs Extension Project.
3. That the General Manager is authorized to execute the Fund Pass Agreement for Lifeline Transportation Program state Transit Assistance Funds for the West Oakland Library Shuttle with the City of Oakland in connection with the funding of transportation shuttle services to the West Oakland Library.
4. That the Board of Directors adopt the amendment to the District Code of Conduct.
5. That the General Manager is authorized to award Contract No. 15EL-210 for Procurement of Negative Grounding Device (NGD) Controllers to VG Controls, Inc., for the Bid price of \$380,000, to which will be added all applicable taxes, subject to the District's protest procedures and FTA's requirements related to protest procedures.
6. That the General Manager is authorized to award Contract No. 15SZ-130, Parking Lot Lighting Improvements, to Angelo Utilities, for the Bid price of \$186,900, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and FTA requirements related to protest procedures.

Director Keller, Chairperson of the Engineering and Operations Committee, brought the matter of the Re-Affirmation of the Award of Two Contracts for the Design-Build and Operation and Maintenance of the Oakland International Airport Connector (Contracts No. 01ZK-110 and No. 01ZK-120). Ms. Chris Quinn, Acting Deputy Executive Manager of Transit System Development, presented the item. The item was discussed.

Director Sweet entered the Meeting.

Director Radulovich entered the Meeting.

The following individuals addressed the Board:

Ms. Deborah Aly Flint

Ms. Gloria Jeffries

Mr. Sugi Loni
Mr. Andreas Cluver
Councilman Larry Reid
Mr. Paul Cohen
Mr. Andy Slivka
Mr. Doyle Williams
Mr. Robert Lux
Mr. Pedro Espinoza
Mr. Michael Hoshiyama
Mr. Dave Kangas
Mr. George Holland
Mr. Trip Belote
Mr. Michael Baines
Mr. Daniel Buford
Mr. Reginald Lyles
Mr. Sylvester Grisby
Mr. Len Turner
Mr. Austin Thomas
Mr. Michael Quiggley
Ms. Christine Monsen
Mr. Bob Allen
Mr. Joshua Arce
Mr. Scott Peterson
Pastor Mc Daniels
Mr. Claude Everhart
Ms. Karen Smulevitz
Ms. Gaby Miller
Ms. Marcia Lovelace
Mr. Brian Lester
Ms. Bette Ingraham
Mr. Stuart Cohen
Mr. John Knox White
Mr. Joel Ramos
Ms. Joyce Roy
Mr. Kevin Rowe
Mr. Dave Benjamin
Mr. Eddie Dilliard
Mr. Al Roosma
Mr. Les Dias

Discussion on the item continued. Director Ward Allen moved the following motions:

1. The Board hereby re-affirms that, upon certification by the Controller/Treasurer that, 1) \$20M in State funds have been committed, and 2) sufficient Small Starts funds have been obligated by the Federal Transit Administration for the Project and are available for Contract No. 01ZK-110, the General Manager is authorized to award Contract No. 01ZK-110 to Flatiron/Parson, JV, for the Design Build of the Oakland International Airport Connector, for the not to exceed price of \$361,022,150.

2. Concurrent with the award of Contract No. 01ZK-110, the General Manager is authorized to award Contract No. 01ZK-120 to Doppelmeyer Cable Car, Inc., to Operate and Maintain the Oakland International Airport Connector, for the not to exceed price of \$4, 906,865 and Capital Asset Replacement Program (CARP) costs of \$768,396, both paid annually for a period of twenty (20) years and subject to escalation.
3. The Board hereby authorizes the reallocation of \$10,000,000 from the BART SFO Reserve account to the Oakland International Airport Connector Project.
4. The Board hereby authorizes the revision of the List of Projects for the BART High-Speed Passenger Train Bond Program, thereby reducing the Traction Power/Train Control Reliability Improvements line item amount from \$17.4 million to \$12.0 million and adding a new line item of \$5.4 million for the OAC Project.

Director Blalock seconded the motion. Director Franklin proposed an amendment to Director Ward Allen's motion to include the requirement that if there are any negative signals from the Port of Oakland submittal of the Passenger Facilities Charge Application or the Federal Aviation Administration's acceptance of this application before the other two conditions in Motion 1 are met then the General Manager must come back before the Board before the award. Director Ward Allen accepted Director Franklin's amendment to the motion. Discussion followed.

The motion, as amended, carried by roll call vote. Ayes – 8: Directors Blalock, Franklin, Keller, McPartland, Murray, Sweet, Ward Allen and Fang. Noes – 1: Director Radulovich.

The Board Meeting recessed at 12:40 p.m.

The Board reconvened in closed session at 1:02 p.m.

Directors present in Oakland: Directors Franklin, Keller, McPartland and Ward Allen.

Director present in Walnut Creek, California: Director Murray.

Director present in Granby, Colorado: Director Blalock.

Absent: Directors Fang and Radulovich. Director Sweet entered the meeting later.

Director Sweet entered the Meeting.

The Board Meeting recessed at 1:35 p.m.

The Board Meeting reconvened in open session at 1:38 p.m.

Directors present in Oakland: Directors Franklin, Keller, McPartland, Sweet and Ward Allen.

Director present in Walnut Creek, California: Director Murray.

Director present in Granby, Colorado: Director Blalock.

Absent: Directors Fang and Radulovich.

Vice President Franklin brought the matter of Fruitvale Transit Village Project before the Board. Mr. Jeffrey Ordway, Manager, Property Development presented the item.

The following individuals addressed the Board:

Ms. Gilda Gonzales
Mr. Victor Martinez
Ms. Rosy Davalos
Mr. Maurilio Leon

Director Ward Allen moved the following Board motions as a unit.

1. That after review and consideration of the Final EIR, Standard Conditions of Approval/Mitigation Monitoring and Reporting Program, the Findings and Statement of Overriding Considerations adopted by the City of Oakland on May 19, 2010, the Board: 1) Adopts the City of Oakland's Findings, Statement of Overriding Considerations and Standard Conditions of Approval/Mitigation Monitoring and Reporting Program for the Project, and 2) Finds that for the sale for the BART property at the Fruitvale BART Station, all significant environmental effects either have been mitigated to insignificance or found significant and unavoidable, and no further environmental review is required.
2. Land Disposition:
 - The Board hereby authorizes staff to complete negotiations of the sale of approximately 3.4 acres of land at the Fruitvale BART Station to the City of Oakland Redevelopment Agency ("Agency") conditioned upon the Agency, in turn, selling the property to the Spanish Speaking Unity Council of Alameda County, Inc. ("Unity Council") or its designee.
 - The sale price shall be \$6,000,000 and shall involve a Transit Benefit Fee ("TBF") Agreement and a deed restriction related to Transit-Oriented Development.
 - The TBF on the initial sale value of residential units shall be no less than 1.5 percent of gross sale proceeds and the TBF for future residential unit sales shall be no less than 1.5 percent of gross sale proceeds. BART shall also receive 25 percent of net profits above the developer's return thresholds on the initial sale of the residential units.

- If a portion of the property sold by BART is used for an affordable housing project, BART shall re-purchase such portion (approximately 1 acre) from the Unity Council or its designee for one dollar, provided that the viability of the affordable housing project will not be impaired because it is constructed on leased property. BART staff is authorized to complete negotiations and execute a long-term ground lease of such re-purchased property with the Unity Council or their designee for affordable housing. Base rent for the ground lease shall be one dollar so long as the residential units remain affordable.

3. Application of Credit

- The Board hereby authorizes staff to complete negotiations on the assignment of approximately \$10, 200,000 worth of credits available to the Unity Council with an understanding that approximately 46 percent of the credits would be allocated to Phase I of the Fruitvale Village and approximately 54 percent of the credits would be allocated to Phase II.
- The Board hereby authorizes staff to amend the Phase I Ground Lease to reflect the assignment and re-allocation of credits.

4. General

- The Board hereby authorizes staff to complete negotiations and execute appropriate documents to effectuate the above motions. All documents shall be approved as to form by the Office of the General Counsel.

Director Blalock seconded the motions, which carried by unanimous roll call vote. Ayes – 7; Directors Blalock, Franklin, Keller, McPartland, Murray, Sweet and Ward Allen. Noes – 0. Absent: Directors: Fang and Radulovich

Director McPartland, Vice-Chairperson of the Administration Committee, brought the matter of the Fiscal Year 2011 Budget Follow up: Customer Appreciation Initiatives before the Board and announced that a discussion on Temporary Fare Reductions would be continued to a future meeting. Mr. Carter Mau, Executive Manager of Planning & Budget, presented the item. Discussion followed.

Director Sweet moved the Approval of implementation of customer appreciation items included in the FY11 Budget Adopted by the Board on June 10, 2010, for: a frontline personnel customer improvement program, real-time monitors, conversion of four part-time utility workers to full-time, seat cushion replacement and interior maintenance for 50 cars, allocation to capital to fund the Emergency Operations Center, and an increase to operating reserves of \$1.0 million. Director McPartland seconded the motion, which carried by roll call vote. Ayes – 7: Directors Blalock, Franklin, Keller, McPartland, Murray, Sweet and Ward Allen. Noes – 0. Absent: Directors Fang and Radulovich.

Director McPartland, brought the matter of Proposed Fare Increase and Fare Modifications for East Bay Paratransit before the Board. Mr. Carter Mau, Executive Manager of Planning & Budget, presented the item. Discussion followed.

Director Sweet moved adoption of Resolution No. 5142, In the Matter of Adopting Paratransit Fare Increases and Modifications. Director Blalock seconded the motion, which carried by roll call vote. Ayes – 7: Directors Blalock, Franklin, Keller, McPartland, Murray, Sweet and Ward Allen. Noes – 0. Absent: Directors Fang and Radulovich.

Director Keller, Chairperson of the Engineering and Operations Committee announced that Cost Reimbursement Agreement with the City and County of San Francisco for Central Subway Project Costs has been pulled from the Agenda and the Memorandum of Understanding Regarding Operations and Maintenance of Clipper Fare Collection System would be continued to a future Meeting.

Director Ward Allen, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, had no report.

Vice President Franklin called for the General Manager's report. General Manager Dorothy W. Dugger had no report.

Vice President Franklin announced that the Sustainability/Green Committee report will be continued to a future meeting.

Vice President Franklin brought Roll Call for Introductions before the Board. No items were received.

Vice President Franklin called for General Discussion and Public Comment.

Mr. Robert S. Allen addressed the Board.

The Board Meeting adjourned at 2:05 p.m. in Honor of Harold Logwood, Reverend Walter Hawkins and Vonetta McGee.

Kenneth A. Duron
District Secretary