

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

Board of Directors
Minutes of the 1,818th Meeting
August 9, 2018

A regular meeting of the Board of Directors was held August 9, 2018, convening at 9:01 a.m. in the BART Board Room, 2040 Webster Street, Oakland, California; and Provincetown Inn, 1 Commercial Street, Provincetown, Massachusetts. President Raburn presided; Patricia K. Williams, Interim District Secretary.

Directors present: Directors Allen, Blalock, Josefowitz, Keller, McPartland, Saltzman, Simon and Raburn.

Present in Massachusetts: Director Dufty.

Absent: None.

President Raburn called for Introduction of Special Guests. General Manager Grace Crunican introduced Assistant General Manager, Operations, Mr. Paul Oversier, and thanked him for his 28 years of service to BART.

President Raburn announced that under the provisions of the Rules of the Board of Directors of the San Francisco Bay Area Rapid Transit District, this was the time set to hold a public hearing on the Proposed Termination of the BART Teenage Student Discount (Orange Ticket) Trial Program for Students at Participating Middle and High Schools, that staff would give a brief presentation on the item, and that the meeting would then be opened for comments from the public.

Ms. Pamela Herhold, Assistant General Manager, Performance and Budgets; and Ms. Karen Basting, Department Manager, Customer Service, presented the item.

Aleta Dupree and Margy Wilkinson addressed the Board

There being no further public comment, the Public Hearing was closed.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of July 12, 2018.
2. Side Letters of Agreement.
 - a. Amalgamated Transit Union, Local 1555 (eBART) SL 17-02, Clarification of Special Pay Provisions.
 - b. Amalgamated Transit Union, Local 1555, SL 02-18, Warm Springs and Berryessa Stations.
3. Fixed Property Tax Rates Fiscal Year 2018-2019 General Obligation Bonds.

4. Lifeline Transportation Program Cycle 5 Funds.
5. Revision of Equal Employment Opportunity (EEO) and Prevention of Sexual Harassment in the Workplace Policies.

Director Saltzman made the following motions as a unit. Director McPartland seconded the motions, which carried by unanimous roll call vote. Ayes – 9: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0.

1. That the Minutes of the Meeting of July 12, 2018, be approved.
2. a. That the General Manager be authorized to execute Side Letter of Agreement ATU (eBART)/SL 17-02 regarding Clarification of Special Pay.
b. That the General Manager be authorized to execute Side Letter of Agreement ATU/SL 01-18 regarding Warm Springs and Berryessa Stations between the District and Amalgamated Transit Union Local 1555.
3. Adoption of Resolution No. 5376, In the Matter of Fixing the Rate of Taxes for San Francisco Bay Area Rapid Transit District for Fiscal Year 2018/19.
4. Adoption of Resolution No. 5377, In the Matter of Authorizing Action Necessary to Obtain Cycle 5 Lifeline Transportation Funds from the Metropolitan Transportation Commission.
5. Adoption of the revised Equal Employment Opportunity and Prevention of Sexual Harassment in the Workplace Policies.

President Raburn called for Public Comment.

The following individuals addressed the Board.

Clarence Fischer
Michael Moore
Antwon Cloird
Alamo Brown
Robert S. Allen
Jim Wunderman
Blake G.
James Burch
John Arantes

Director Allen, Chairperson of the Administration Committee, brought the matter of Proposed Termination of the BART Teenage Student Discount (Orange Ticket) Trial Program for Students at Participating Middle and High Schools before the Board. Ms. Herhold and Ms. Basting presented the item. The item was discussed.

Aleta Dupree addressed the Board.

President Raburn moved approval of the termination of the BART Discounted “Teenage Student Discount” (Orange Ticket) Trial Program for Students at Participating Middle and High Schools. Director Blalock seconded the motion, which carried by unanimous roll call vote. Ayes – 9: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0.

Director Allen brought the matter of BART Safety and Security Action Plan before the Board. Ms. Crunican; Mr. Oversier; Ms. Kerry Hamill, Assistant General Manager, External Affairs; Police Chief Carlos Rojas; and Mr. Travis Engstrom, Assistant Chief Information Officer, presented the item.

The following individuals addressed the Board:

Clarence Fischer	Lou F.
Aleta Dupree	P.F.
Brian Hofer	Joshua Davis
Ken Castle	Michael Moore
Don Fogg	Tracy Rosenberg
Darrell Owens	Ankush Ganapathy
Victoria Fierce	Nagil Arnaaat
Ben Eversole	Roman Kimer
Jim Wunderman	Tekla Balukas
Jackie Barshak	Blake G.
Alexander Post	Charlotta Wallace
Kenji Yamada-read into record	Tareq Samman
Catherine Hutching	Starchild
Mike Chase	Dayten Andrews
Cassidy Crofton	Michael Thomas-read into record
Camille Ochoa	Sinuba Dreem
Lou Katz	
Donna Willmott	

The item was discussed.

Director Saltzman moved that the Board continue Initiative 6 Expansion & Conversion – Digital Camera Network In Stations, Parking Lots & Garages; Initiative 7 Physical Security Information Management (PSIM) System – Implement Systemwide; Initiative 8 Platform Emergency Call Boxes; Initiative 9 Video Screens Showing Real Time Station CCTV Images & Enhanced Video Surveillance Signage; Initiative 10 “No Panhandling” Ordinance within paid areas; Initiative 11 Accelerate System Hardening Efforts; and Initiative 12 Additional Proof of Payment Team For Evenings, be continued to a future meeting. Director Dufty seconded the motion.

Discussion continued.

Director Blalock requested an amendment to exclude Initiative 6 Expansion & Conversion – Digital Camera Network in Stations. Director Saltzman did not accept the amendment.

Director Blalock made a substitute motion to exclude Initiative 6 Expansion & Conversion – Digital Camera Network in Stations. Director McPartland seconded the substitute motion.

Director Simon requested an amendment to the substitute motion to also exclude Initiative 8 Platform Emergency Call Boxes. Directors Blalock and McPartland accepted the amendment.

Discussion continued.

Director Keller made a second substitute motion to continue Initiatives 6 through 12, to an evening meeting in central Contra Costa County, Dublin/Pleasanton or Richmond.

Discussion continued.

Director Keller revised his substitute motion to include El Cerrito or any suburban city.

Discussion continued.

Director Keller further revised his substitute motion to include that the proposed Surveillance Policy come forward in 30 days for action. President Raburn seconded the this substitute motion.

Discussion continued.

Director McPartland made a third substitute motion to continue initiatives 7, 9, 10, 11 and 12 to a future meeting in a suburban city and that the proposed surveillance policy come forward in 30 days for action. Director Blalock seconded the third substitute motion.

President Raburn made a fourth substitute motion to continue Initiatives 6 through 12 to an evening meeting within 30 days in a suburban city.

Director Allen made a fifth substitute motion that the vote be taken on the second substitute motion excluding Initiative 6 and Initiative 8. Director Blalock seconded the fifth substitute motion.

Director Keller made a sixth substitute motion to continue Initiatives 7, 9, 10, 11, and 12 to an evening meeting within 30 days in a BART accessible suburban city, ending before midnight, with the Surveillance Policy being presented for action.

President Raburn seconded the sixth substitute motion. The motion carried by roll call vote. Ayes - 7: Directors Allen, Blalock, Dufty, Josefowitz, McPartland, Saltzman and Simon. Noes – 2: Directors Keller and Raburn.

Director Allen moved to direct the General Manager to move forward with Initiative 6 and Initiative 8. Director Blalock seconded the motion.

Director Josefowitz requested an amendment that the adoption of the Surveillance Policy take place before the procurement process proceeds.

Directors Allen and Blalock accepted the amendment.

Discussion continued.

Director Blalock called the question.

The motion carried by roll call vote. Ayes- 6: Directors Allen, Blalock, Keller, Josefowitz, McPartland, and Raburn. Noes – 3: Directors Dufty, Saltzman, and Simon.

Discussion continued.

Director Josefowitz moved that at the next meeting within the discussion of the BART Safety and Security Action Plan would be included plans on how to engage community organizations, social services, health departments, police, criminal justice, and elected officials to have a holistic response that includes regional partners. Director Dufty seconded the motion. The motion carried by unanimous roll call vote. Ayes – 9: Directors Allen, Blalock, Dufty, Josefowitz, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0.

Director Dufty exited the meeting via teleconference.

The Board Meeting recessed at 1:30 p.m.

The Board Meeting reconvened at 1:57 p.m.

Directors present: Directors Allen, Blalock, Josefowitz, Keller, McPartland, Saltzman, Simon, and Raburn.

Absent: Director Dufty.

Director Allen brought the matter of Responses to the 2017-2018 Contra Costa Grand Jury Report No. 1804, “BART Crime and Transparency” before the Board. Ms. Herhold presented the item. The item was discussed. Director Saltzman moved that the Board approve the attached responses from the BART Board of Directors to the 2017-2018 Contra Costa Grand Jury Report No. 1804, “BART Crime and Transparency,” and that staff be directed to transmit those responses to Contra Costa Grand Jury. Director Blalock seconded the motion. The motion carried by unanimous roll call vote. Ayes – 8: Directors Allen, Blalock, Josefowitz, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0. Absent – 1: Director Dufty.

Director Allen brought the matter of Resolution for the Authorization of the Certifications and Assurances for the California State of Good Repair Program before the Board. Ms. Herhold; and Ms. Donna Lee, Principal Planner, presented the item. The item was discussed. Director Saltzman moved adoption of Resolution No. 5378 Resolution of Authorization for the Execution of Certifications and Assurances for the California Sate of Good Repair Program, and that the General Manager be designated to execute all required documents for participation in this program. This action will enable the receipt of funds in the amount of \$6,102,066.00 to perform critical elevator escalator renovation and automatic fare collections/communications equipment repairs at various District stations and facilities. Director Keller seconded the motion. The motion carried by unanimous acclamation. Ayes – 8: Directors Allen, Blalock, Josefowitz, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0. Absent – 1: Director Dufty.

Director Allen brought the matter of District's Workers' Compensation Program Contracts: Award of Contract No. 6M4111, Workers' Compensation Third Party Administration Services; Award of Contract No. 6M4112, Workers' Compensation Medical Case Management Services; and Award of Contract No. 6M4113, Workers' Compensation Utilization Review/Bill Review Services before the Board. Mr. Michael Jones, Assistant General Manager, Administration; and Mr. Rod Maplestone, Human Resources, Division Manager, presented the item. The item was discussed.

Director Blalock made the following motions as a unit.

President Raburn requested the motion to award Agreement No. 6M4112 be amended to reflect the agreement would return to the Board for additional authorization prior to exercising the option years.

1. That the General Manager be authorized to award Agreement No. 6M4111, Third-Party Administration Services for the District's self-insured Workers' Compensation Program, to Athens Administrators, Inc., for an amount not to exceed \$3,542,584.00 for the base three-year period, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures; and that the General Manager be authorized to exercise Option Year 1 for an amount not to exceed \$1,246,396.00 and Option Year 2 for an amount not to exceed \$1,280,672.00, subject to availability of funds. The Agreement authorizes Athens Administrators, Inc. to pay self-insured workers' compensation claims and losses out of a fund provided by the District to the amount required by law.
2. That the General Manager be authorized to award Agreement No. 6M4112, Worker's Compensation Medical Case Management, for the District's self-insured Workers' Compensation Program, to Excel Managed Care & Disability Services, Inc. for an amount not to exceed \$2,846,355 for the base three-year period, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures; and that the Agreement be brought back before the Board of Directors in three years to ask permission to exercise the options, subject to availability of funds.
3. That the General Manager be authorized to award Agreement No. 6M4113, Utilization and Bill Review Services, for the District's self-insured Workers' Compensation Program, to CareWorks Managed Care Services, Inc. for an amount not-to-exceed \$1,050,507.80 for the base three-year period, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures; and that the General Manager be authorized to exercise Option Year 1 for an amount not to exceed \$389,883.00 and Option Year 2 for an amount not to exceed \$414,824.25, subject to availability of funds.

Director Keller seconded the motions, which carried by unanimous roll call vote. Ayes – 8: Directors Allen, Blalock, Josefowitz, Keller, McPartland, Saltzman, Simon, and Raburn. Noes – 0. Absent – 1: Director Duffy.

Director Simon, Chairperson of the Engineering and Operations Committee, brought the following items before the Board:

1. Award of Contract No. 15EJ-171, 34.5 kV Cable Replacement M-Line MVS Switching Station and MTF, MSS, MPS, and MTW Substations.
2. Award of Contract No. 54RR-420, Coverboard Enhancement, L-Line.
3. Measure RR Project Support Leases and Rentals.
4. Change Order to Contract No. 01RQ-110, Construction of Hayward Maintenance Complex Project Maintenance Facilities, with Clark Construction Group – California, LP, for Differing Site Condition Soil Plasticity at CRS NOPC No. 6 (C.O. No. 170).
5. Change Orders to Contract No. 15IF-130A, Powell Street Station Ceiling Upgrades, with Icenogle Construction Management, Inc., for the Procurement and Installation of the Public-Address System Infrastructure.
6. Change Order to Agreement No. 6M5087, Disposal of Bulk Hazardous and Non-hazardous Liquid Wastes, with Environmental Resources Management, for General Environmental Services (C.O. No. 2).
7. Change Order to Invitation for Bid No. 8942, Provide Uniforms for Station Agents and Foreworkers, with Murphy and Hartelius Uniforms, for Extension of the Current Contract.
8. Change Order to Invitation for Bid No. 8947A, Provide Uniforms for Train Operators, with Banner Uniform Center, for Extension of the Current Contract.

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

1. That the General Manager be authorized to award Contract No. 15EJ-171, 34.5 kV Cable Replacement M-Line MBP-MTW Substations, to DMZ Builders Co, Inc. in the amount of \$79,195,100.00, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures and Federal Transit Administration requirements related to protest procedures.
2. That the General Manager be authorized to award Contract No. 54RR-420, for Coverboard Enhancement, L-Line, to LC General Engineering, for the Base Bid price of \$3,192,843.73, pursuant to notification to be issued by the General Manager, and subject to compliance with the District's protest procedures.
3. That the General Manager be authorized to execute Lease and Rental Agreements for non-revenue vehicles and equipment as identified in Attachment II up to \$20,000,000.00, in the aggregate, for a period of 5 years with vendors listed in the current Attachment I, and those vendors added to Attachment I hereafter. (Attachments I and II are attached and hereby made a part of these minutes.)

4. That the General Manager be authorized to execute Change Order No. 170, Differing Site Condition Soil Plasticity at Component Repair Shop (CRS), for an amount not to exceed \$1,607,000, for Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, with Clark Construction.
5. That the General Manager be authorized to execute Change Orders, in an aggregate amount not to exceed \$500,000 to Contract No. 15IF-130A, Powell Street Station Ceiling Upgrades with Icenogle Construction Management, Inc., to support the procurement and infrastructure installation of a new public-address system.
6. That the General Manager or her designee be authorized to execute Change Order No. 2 to Agreement No. 6M5087, with Environmental Resource Management in the amount of \$1,000,000.00 for general environmental services to support BART's hazardous materials program.
7. That the General Manager or her designee be authorized to execute a Change Order to extend the contract with M&H for one year to procure additional Station Agent and Foreworker uniforms in the amount of \$848,692, including all applicable taxes.
8. That the General Manager be authorized to execute Change Order to extend the contract with Banner Uniform Center for one year to procure additional Train Operator uniforms in the amount of \$433,069, including all applicable taxes.

Mr. Oversier, Mr. Shane Edwards, Assistant Chief Maintenance and Engineering Officer; and Mr. Myat San, Manager, Traction Power Engineering, gave a presentation on Award of Contract No. 15EJ-171, 34.5 kV Cable Replacement M-Line MVS Switching Station and MTF, MSS, MPS, and MTW Substations.

The following individuals addressed the Board:

John Arantes
Aleta Dupree
Starchild

The item was discussed.

Aleta Dupree addressed the Board on Award of Contract No. 54RR-420, Coverboard Enhancement, L-Line.

Mr. Oversier and Mr. Edwards gave a presentation on Measure RR Project Support Leases and Rentals.

John Arantes addressed the Board.

The item was discussed.

Director Keller exited the meeting.

Director Simon brought the matter of Change Orders to Contract No. 40FA-110, Procurement of Transit Vehicles, with Bombardier Corporation before the Board. Mr. Oversier, Mr. John

Garnham, Group Manager, Rail Vehicles; and Mr. David Hardt, Chief Mechanical Officer, gave a presentation. The item was discussed.

President Raburn moved that the General Manager or her designee be authorized to execute Change Order No. 029 (Dual Coupler Adapter) to Contract No. 40FA-110, Procurement of Transit Vehicles, in the amount of \$794,621.00, plus escalation and 9.75% sales tax; and that the General Manager or her designee be authorized to execute Change Order No. 030 (Side Door Header) to Contract No. 40FA-110, Procurement of Transit Vehicles, in the amount of \$1,425,085.00, plus escalation and 9.75% sales tax.

The motion carried by unanimous acclamation. Ayes – 7: Directors Allen, Blalock, Josefowitz, McPartland, Saltzman, Simon, and Raburn. Noes – 0. Absent – 2: Directors Dufty and Keller.

Director Simon brought the matter of Quarterly Performance Report, Fourth Quarter Fiscal Year 2018 – Service Performance Review before the Board. Ms. Crunican and Mr. Oversier presented the item. The item was discussed.

President Raburn called for the General Manager’s Report.

Ms. Crunican reported on steps she had taken and activities and meetings she had participated in, ridership, upcoming events, and outstanding Roll Call for Introductions items.

Director Blalock, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of State Legislation for Consideration before the Board. Mr. Roddrick Lee, Department Manager of Government and Community Relations, presented the item.

Mr. Lee gave a presentation on Senate Bill 1045 Conservatorship; serious mental illness and substance use disorders. The item was discussed.

Michael Moore addressed the Board.

Discussion continued.

Director Josefowitz moved that the Board of Directors take a support position on Senate Bill 1045 Conservatorship; serious mental illness and substance use disorders. Director Allen seconded the motion, which failed by electronic vote. Ayes - 4: Directors Allen, Blalock, Josefowitz, and McPartland. Noes - 1: Director Raburn. Abstain – 2: Directors Saltzman and Simon. Absent – 2: Directors Dufty and Keller.

Director Josefowitz recused himself from the presentation and vote on Senate Bill 1376 Transportation network companies: accessibility for persons with disabilities.

Director Josefowitz exited the meeting.

Mr. Lee gave a presentation on Senate Bill 1376 Transportation network companies: accessibility for persons with disabilities. The item was discussed.

Aleta Dupree addressed the Board.

President Raburn moved that the Board take a support position on Senate Bill 1376 Transportation network companies: accessibility for persons with disabilities. Director Saltzman seconded the motion, which carried by electronic vote. Ayes – 5: Directors Blalock, McPartland, Raburn, Saltzman, and Simon. Noes – 0. Abstain – 1: Director Allen. Absent – 3: Directors Dufty, Josefowitz, and Keller.

Director Josefowitz re-entered the meeting.

President Raburn called for Board Member Reports, Roll Call for Introductions, and In Memoriam.

Director Simon reported attending the memorial service for Nia Wilson and working on a safer transport from the Santa Rita Jail due to the recent death of Jessica St. Louis at the Dublin/Pleasanton BART Station.

Director Blalock reported he had met with the Mayor of Fremont regarding Assembly Bill – 2923 San Francisco Bay Area Rapid Transit District: Transit Oriented Development; attended an Urban and Business Association meeting where he gave a Rebuilding BART presentation; met with a graduate student interested in transportation and gave a tour of the Warm Springs Station; and attended the Fremont Festival of the Arts.

President Raburn reported he had attended a special memorial at the MacArthur BART Station for Nia Wilson; attended Personnel Review Special Committee meetings; attended both the Pedal Fest and Art and Soul Festival where he supported the BART booths; and attended the dedication of a mural at the East Bay Greenway at the Coliseum BART Station.

Director Allen reported she had attended a Valley Link meeting to discuss rail options, a League of California Cities meeting, the Contra Costa Sheriff's Posse Barbecue, and the City of Lafayette's 50th Anniversary.

Director McPartland reported he had given a Better BART presentation and attended a three-day Financial Disaster Recovery Workshop at BART.

President Raburn called for Public Comment. Aleta Dupree addressed the Board.

President Raburn announced that the Board would enter closed session under Item 11-B (Public Employee Employment), and Item 11-C (Conference with Negotiators) of the Regular Meeting agenda, and that the Board would reconvene in open session upon conclusion of the closed session.

The Board Meeting recessed at 4:02 p.m.

The Board Meeting reconvened in closed session at 4:05 p.m.

Directors present: Directors Allen, Blalock, Josefowitz, McPartland, Saltzman, Simon and Raburn.

Absent: Directors Dufty and Keller.

The Board Meeting recessed at 4:39 p.m.

The Board Meeting reconvened in open session at 4:40 p.m.

Directors present: Directors Allen, Blalock, Josefowitz, McPartland, Saltzman, Simon, and Raburn.

Absent: Directors Dufty and Keller.

President Raburn announced that the Board had concluded its closed session and that there were no announcements to be made

The Meeting was adjourned at 4:40 p.m. in memory of Wayne Wong and in honor of the families of Nia Wilson, Don Stevens, Gerald Brisbee, and Jessica St. Louis.

Patricia K. Williams
Interim District Secretary