

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

Board of Directors
Minutes of the 1,862nd Meeting
April 23, 2020

A regular meeting of the Board of Directors was held on April 23, 2020, convening at 9:01 a.m. via teleconference, pursuant to Governor Gavin Newsom's Executive Order N-29-20 and the California Shelter-in-Place mandate. President Simon presided; Patricia K. Williams, District Secretary.

Directors Present: Directors Allen, Ames, Dufty, Foley, Li, McPartland, Raburn, Saltzman and Simon.

Absent: None.

President Simon gave instructions on the virtual meeting, accessing presentation materials online, Public Comment, and Board Members' remarks.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of March 26, 2020 (Special) and April 9, 2020 (Regular).
2. Resolution Declaring Official Intent to Reimburse Certain Expenditures from Proceeds of Indebtedness.
3. Amendment No. 3 to Concession Permit M342-12 with Imperial Parking Corporation for Administration of Parking Permit Programs.
4. Amendment to Memorandum of Understanding with QIC Limited to Study Improved Connections to the Shops at Tanforan Mall at the San Bruno BART Station.

President Simon called for Public Comment. No comments were received.

Director Ames requested that Item 2-B, Resolution Declaring Official Intent to Reimburse Certain Expenditures from Proceeds of Indebtedness, be removed from the Consent Calendar.

Director Saltzman made the following motions as a unit. Director Raburn seconded the motions, which carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, Li, McPartland, Raburn, Saltzman, and Simon. Noes: 0. (Director Dufty's vote was received later due to audio/visual technical difficulties.)

1. That the Minutes of the Meetings of March 26, 2020 (Special) and April 9, 2020 (Regular) be approved.
2. That the General Manager or his designee be authorized to execute a third amendment of the Concession Permit M342-12 with Imperial Parking Corporation to extend the term of the permit

for six months, with four options for subsequent three-month extensions, through March 30, 2022, and establish new rates for the provision of services during the extension term.

3. That the General Manager or his designee be authorized to execute an Amendment to Memorandum of Understanding with QIC Limited in connection with the San Bruno Station and The Shops at Tanforan (Tanforan) to continue to pursue a Feasibility Analysis and Assessment to determine the commercial viability of integrating the San Bruno Station with the proposed initial phase of Tanforan redevelopment.

President Simon brought Item 2-B, Resolution Declaring Official Intent to Reimburse Certain Expenditures from Proceeds of Indebtedness, before the Board. Ms. Rosemarie Poblete, Controller/Treasurer, and Mr. Robert Powers, General Manager, presented the item.

Director Ames commented on the following subjects: the debt terms, the amount of debt that would potentially be incurred to purchase the train cars, re-opening the contract with Bombardier to re-negotiate the train car price, and her desire to refrain from approving the Item until cost reductions with Bombardier have been considered.

President Simon moved adoption of Resolution No. 5440, Resolution of the San Francisco Bay Area Rapid Transit District Declaring Official Intent to Reimburse Certain Expenditures from Proceeds of Indebtedness. Director Dufty seconded the motion, which carried by roll call vote. Ayes: 7 – Directors Dufty, Foley, Li, McPartland, Raburn, Saltzman, and Simon. Noes: 2 – Directors Allen and Ames. (Director Dufty’s vote was received later due to audio/visual technical difficulties.)

President Simon called for Public Comment.

Ms. Williams read a written comment submitted by Joe Kunzler into the record.

Aleta Dupree and Roland Lebrun addressed the Board via telephone.

President Simon commented on Board Members’ expression of gratitude to essential workers in the BART system at the previous meeting; thanked Station Agents, Train Operators, System Service Workers, Car Cleaners, Transit Vehicle Maintenance staff, Electrical Technicians, Track and Structural Workers, Shopkeepers, Train Control staff, Clerical workers, Communications staff, Building Workers, eBART Workers, and other employees for keeping the system moving; noted that thousands of essential workers are being served by the trains every day; and thanked and lauded the essential workers for their service.

Director McPartland, Chairperson of the Administration Committee, brought the matter of COVID-19 Update: Impact of and Responses to COVID-19, before the Board. Mr. Powers; Ms. Pamela Herhold, Assistant General Manager, Performance and Budget; Ms. Alicia Trost, Chief Communications Officer; Ms. Tamar Allen, Assistant General Manager, Operations; Chief of Police Ed Alvarez; Ms. Gia Ilole, Assistant General Manager, Administration; and Mr. Val Menotti, Chief Planning and Development Officer, presented the item. The presentation contained sections on Ridership, Federal Stimulus Legislation, Long-Term Budget Projections, Temporary Station Entrance Closures, Front Line Safety Efforts, and Employee and Labor Partner Engagement.

Aleta Dupree and Sharmaine Baltimore addressed the Board via telephone.

Director McPartland commented on Aleta Dupree's comment, noting that waiver of the respiratory protection requirement for those riding on trains would jeopardize the potential cleanliness of the trains and facilitate cross-contamination in the trains.

Director Saltzman thanked staff and Board Members for their work to secure the federal funding allocation from the Metropolitan Transportation Commission (MTC) and inquired about and/or commented on the following subjects: closure of the fiscal gap for this year; use of some of the federal funding during the next fiscal year; the need for more funding for the next fiscal year; her appreciation for the work to reduce costs this fiscal year to expand the use of the federal funds as far as possible into the next fiscal year; her gratitude for staff's work on the ridership scenarios for next year, noting improvement in the scenarios and that the low revenue scenario was not low enough; that 20% ridership may not be reached by August; that reaching 30% ridership takes longer when the beginning of the increase in ridership is low; Governor Newsom's comment regarding gradual recovery; presentation of an additional very low/worst-case revenue scenario at the next meeting; constant changes and updates to the revenue scenarios; the difference between the potential maximum cost savings amount and the highest ridership projections; Board support regarding the proposed budget reductions and feedback from employees and unions regarding the proposal to forego wage increases; generating other budget reduction options; obtaining outside support and balancing the budget if no outside support is received without implementing lay-offs; whether additional information regarding other potential budget reduction options would be provided; her desire for the budget to be separately agendaized for future meetings; clarification of enforcement of the mask requirement; essential workers' ability to travel to work amidst the mask requirement; calls from the public and elected officials for BART to distribute masks to all riders; BART's inability to provide masks to all riders and employees; the possibility of elected officials assisting with procuring masks for BART to distribute; providing updates to the Board regarding enforcement of the mask requirement; her gratitude for the progress in providing masks to employees and the importance of offering protection to employees; her gratitude for employees who have offered to create masks; her appreciation of the \$15 personal protective equipment (PPE) allowance for employees; the public comment regarding the PPE allowance and ensuring that the allowance is provided; whether the \$15 PPE allowance would be provided to all employees; her gratitude for BART workers who continue to work to transport essential workers; the increase in attendance; whether the Homeless Outreach Teams (HOT) and Coordinated Outreach Referral Engagement (CORE) teams had been more successful in assisting people with housing in temporary shelters or hotels; whether staff is connecting with counties to ensure that homeless individuals at BART stations are eligible to receive housing or shelter; and her request for a memo to the Board regarding the HOT and CORE teams' use of vouchers for hotels.

Director Dufty commented on the following subjects: his telephone meeting with Mr. Tim Chan, Group Manager, Station Planning, Systems Development; Mr. Armando Sandoval, Community Outreach Specialist, Police Department; Chief Alvarez; Mr. Powers; Director Li; President Simon; the San Francisco Chief of Staff, Sean Elsbernd; the manager of San Francisco's homeless outreach effort; San Francisco Chief of Police William "Bill" Scott; San Francisco Deputy Chief of Police Greg McEachern; and Assistant Chief of Police Michael (Mike) Redmond, regarding efforts to address the COVID-19-vulnerable homeless population throughout the system; Mr. Sandoval's ability to share information with the Department of Homelessness and Supportive Housing and the San Francisco HOT teams and his access to information from the BART Police Department; the development of San Francisco's hotel programs; his impression that Mr. Elsbernd is committed to working with BART and his appreciation

for the presence of Chief Scott, Deputy Chief McEachern, and Assistant Chief Redmond at the meeting; the importance of coordination between the BART Police Department and San Francisco Police Department, given the closure of predominantly southside entrances at BART stations; Chief Scott's assertion that his command staff would be in coordination with Chief Alvarez, noting that the section of Market Street between the Civic Center and Powell Street stations had been rough later in the evenings; his contact with San Francisco Supervisor Matt Haney to request that he temporarily provide BART with 100-150 masks per day for the downtown San Francisco stations and Supervisor Haney's agreement to provide the masks.

Director Saltzman requested that staff ask Board Members for assistance if necessary, as efforts move forward in Alameda and Contra Costa counties and the cities within the counties.

Director Raburn inquired about and/or commented on the following subjects: his appreciation for the efforts of managers, staff working remotely, and frontline workers who report to work every day, noting that they are essential to BART's overall mission; his support for future Coronavirus Aid, Relief, and Economic Security (CARES) Act funding distribution to be means-based and contingent on a recovery strategy that addresses seamless connections, lifeline service needs, and financial stability; whether the Stimulus 4 includes childcare support, noting that 64% of the absentee rate was due to employee's need to care for their children at home; his disappointment in the exclusion of childcare in stimulus packages, noting that childcare could be a continuing issue for many employees; the omission of station-by-station ridership data from the presentation; whether Fruitvale Station was still one of the leading stations regarding ridership; gratitude for the provision of some early bus service from Pittsburg/Bay Fair Station and through Fruitvale Station into San Francisco; the omission of heat maps from the presentation; whether heat maps were still generated; whether heat maps show that BART is facilitating social distancing on trains; whether heat maps were still monitored each morning; whether ridership was generated from Pittsburg/Bay Point Station to the 19th Street Oakland (19th Street) and 12th Street Oakland City Center (12th Street) stations; whether passengers were embarking at the 19th and 12th Street stations; that running all long trains and trying to meet healthcare needs is a costly effort; his concern over further downward ridership and revenue projections; that Bay Area residents are more resilient than the projections reflect; that recovery will require that BART has adequate security and cleanliness in stations and that BART follows Governor Newsom's six principles, noting that these factors are essential to restoring the public confidence in public transit; his gratitude for Chief Alvarez's new plan for enforcement and station entrance closures; his observation of an absence of Police Officers at fixed posts at the 12th and 19th Street stations and his request that Police Officers be disbursed to 19th and 12th Street stations, noting that Station Agents are afraid because they are the only people present to grapple with regular issues; whether Chief Alvarez's April 13th deployment plan allows for a sufficient number of Police Officers to be deployed at the 12th or 19th Street stations; whether Revenue Protection Officers were being deployed on a continuing basis; whether any Alameda County outreach, similar to the HOT and CORE teams, had been provided; and the existence of a gaping hole in social services.

Director Dufty noted that Mr. Chan was negotiating a contract with Alameda County and that Mr. Chan could provide a memo to Board Members regarding the contract.

Director McPartland thanked staff for their hard work; asked whether a sufficient amount of masks have been acquired and whether PPE would be supplied to employees moving forward; and commented on members of the public boarding trains without masks and his Roll Call for Introductions (RCI) request regarding decontamination of trains on a daily basis, indicating that cross-contamination is possible if patrons do not wear respiratory protection on trains.

Director Li asked for confirmation of the absence of known positive COVID-19 test results among frontline employees; thanked frontline employees, transit workers, and BART management for their work; and commented on BART staff and frontline workers' precautionary efforts. Director Li inquired about and/or commented on the following subjects: her alignment with many comments by Director Saltzman regarding federal funding; her gratitude for BART staff's work to advocate for BART's needs; BART needs being appropriately met by the MTC's first tranche allocation; her gratitude for the leadership of President Simon and other Board Members for acting for emergency funding; and the letter from Mr. Jeffrey Tumlin, Director of Transportation for the San Francisco Municipal Transportation Agency (SFMTA), to Ms. Therese McMillan, Executive Director of the MTC, regarding the need to consider equity and social impacts of future tranche allocations. She read excerpts from Mr. Tumlin's letter to Ms. McMillan and she inquired about and/or commented on the following additional subjects: her agreement with the concept that BART is the people's system; BART's service to transit-dependent individuals; that the demographics of BART's ridership are the same as the demographics of local communities across the bay; that acknowledging equity and allocating future tranches based on data-driven equity measures is the right and just course of action and that this action would help protect BART; her request for management to consider Mr. Tumlin's letter when thinking about future tranches; her appreciation for the revised ridership scenarios and support for Director Saltzman's request for a lower scenario; the new "normal" for the budget and fundamental shift in the revenue structure; her request for scenarios with radically differently revenue sources and analysis of each of scenario, including drawbacks, necessary policy actions, and scale of necessary cost-saving actions; her appreciation for Chief Alvarez and staff's approach regarding the public health order requiring face coverings; her encouragement for the education route rather than enforcement-first strategies; her agreement with Aleta Dupree's comment regarding helping people comply with the Order; feedback regarding the face covering requirement when supply is lacking or people are unaware of the Order; Ms. Baltimore's comment regarding customers arriving at the San Francisco International Airport (SFO); her agreement that employees and transit workers should be prioritized for the provision of PPE; her encouragement to provide face coverings to riders rather than issuing citations or forcibly removing them from the system; and her encouragement for staff to contact local jurisdictions and county health departments that issued the public health orders regarding the challenge of providing face coverings to members of the public.

Director Dufty inquired about and/or commented on the following subjects: the reassurance provided by the data presented and the ingenuity and thoughtfulness of the executive team and staff; the inspiration from the percentage of employees reporting to work as they adjust to childcare and family needs; Board Members' clear and consistent communication of their appreciation and commitment to maintaining frontline operators and staff and using tools, such as hiring and travel freezes and federal and state support so that BART can adapt and change as warranted by circumstances and COVID-19; his acknowledgement of and gratitude for Aleta Dupree's comment, noting that all signage shows different face covering formats that are allowed and inhibit the spread of the COVID-19 virus and that N-95 masks are only needed by medical and key frontline personnel; that BART is being creative and clearly communicating; riders' expectation that BART is safe for them and that BART's priority is riders and employees' safety; his outreach to San Francisco Supervisor Haney to request assistance with acquiring fabric masks for the downtown San Francisco stations, noting that BART has struggled with acquiring masks; his gratitude to Sharmaine Baltimore and the Amalgamated Transit Union (ATU) for Ms. Baltimore's suggestion regarding SFO; his outreach to SFO and San Francisco Travel to request assistance with supplying fabric masks or bandanas at the San Francisco International Airport Station; his gratitude for the BART Police Officers' Association's (POA) flexibility regarding scheduling; that BART will continue to refine the budget; that the grant that BART is receiving is the product of BART

working early and being proactive; his acknowledgement of Board Members who are engaged with MTC Commissioners, noting that this engagement has deepened and improved BART's connection and communication with the MTC; his recognition of Mr. Powers and staff for their work with the MTC; his support for collaboration among transit partners; that BART's work and collaboration among transit partners are signs that BART can overcome some concerns in the future; Chief Alvarez' concern to avoid harsh situations related to enforcement of local and county health requirements; that BART should address the needs of individuals and that riders expect the system to be secure and safe with respect to face coverings and social distancing; and that riders and employees deserve that the mandate be followed.

Director Ames expressed appreciation for Board Members' comments and staff's efforts to develop the cost saving action plan and budget for Fiscal Year (FY) 2021 and inquired about and/or commented on the following subjects: how BART could plan for a deeper recession; her support for Director Saltzman's initiative related to the worst-case scenario; clarification of reducing the Priority Capital Programs allocation by \$62 million and pushing out the Rail Car Program; her support for re-prioritizing projects and her concern over incurring debt to postpone a project; encouragement to review FY 2021 proposals and add potential budget reductions for FY 2022; potentially re-negotiating contracts, such as re-negotiating the rail car price with Bombardier; the difficulty of re-negotiating existing contracts and preparing for a severe economic crisis; ideas to prepare for FY 2021 and FY 2022, including a 10% salary reduction for all employees; collaborating and developing ideas to help BART survive the crisis, including potentially reducing Board Members' stipends; budget reductions to prepare for FY 2021 and FY 2022; her discomfort with an interim budget plan that does not show necessary reductions beyond the proposed reductions for FY 2021; the fluidity of the budget situation and reviewing the worst-case scenario option; her discomfort with a wait-and-see approach in the middle of FY 2021; developing a scenario that keeps staff employed and weathers the storm of this economic crisis; that the FY 2021 and FY 2022 concept cost reduction would translate into a two-year budget; her support for a two-year budget scenario, noting the 16% national unemployment rate and that the current unemployment rate is the highest unemployment rate since the Great Depression; the lack of a national response to provide PPE; issues that may impact ridership, including potential corporate defaults, bankruptcies, decreases in the stock market, absence of an additional stimulus package, or the amount of funding received; her commendation of staff for their work to secure funding assistance; her desire to review additional budget reductions for FY 2021 and FY 2022 and a two-year budget, instead of an interim budget, by June; consideration of BART's long-term survival; increasing operating costs; the potential \$500 million operating shortfall in ten years; and the importance of reviewing all options, including contracts.

President Simon commented on the following subjects: that Board Members' are tasked with providing policy advice and oversight; her commendation of staff's strong leadership during this crisis; her acknowledgement of the results of Board Members' efforts to solve problems, such as locating PPE, communicating with local, state, and federal legislators, and working cooperatively with the BART Police Department and other local elected officials to acquire more resources; that cooperative conversation is needed more now than ever; that BART will begin to exist at a new "normal" standard; that all the modelling does not suggest that BART will be in a great place any time soon; that the stations are gleaming and beautiful; her recognition of the work performed by safety staff, budgetary staff, and finance staff; her pride in BART; that the work is only beginning with regard to securing the system's stability in the future; her communication with and support of BART staff, including frontline staff and safety staff, and Chief Alvarez's vision; that Mr. Powers encouraged the Board Members to contact other elected officials to advise of BART's status and discuss mutual support; the strength of regional collaboration with transit partners and her gratitude for this collaboration for future funding allocations

and development of new synchronized transportation systems for essential employees throughout the pandemic.

Director Allen thanked and commended Ms. Herhold and her staff, Government Affairs staff, and other Board Members for their work to secure stimulus funding, and inquired about and/or commented on the following subjects: whether faregates had been closed; confirmation that all faregates, particularly in the San Francisco stations, were open; that the purpose of closing station entrances was to filter riders into a few faregates so that personnel could be posted at faregates to ensure compliance with the face covering requirement, BART rules, and laws; the timeline for closure of faregates; feedback from riders that personnel are not present at all the faregates; her hope that personnel will be posted at all faregates; her satisfaction with the emergency staffing agreement for the BART Police Department (PD); her desire to reduce faregate openings to only a few faregates to establish fixed posts at all open faregates; clarification of the power savings limitation due to contractual obligations; whether long-term clean energy contracts are difficult to un-do; whether the reduction of allocations on the capital side would be combined with re-prioritizing capital project spending; her gratitude for Ms. Herhold's generation of potential cost savings actions; the difference between the total amount of some cost savings options and the potential amount of the budget deficit; that some cost savings options are deferred payments that will need to be made later; the absence of strong leadership; her hope that strong leadership is forthcoming; the lack of drive to make hard decisions or discuss hard topics; that presented potential cost savings actions could result in an increase in the long-term budget deficit; the absence of data regarding labor for full-time employees (FTE); that labor and benefits constitute 63% of the budget; the absence of reductions, such as reductions in real estate activity or potentially selling real estate, in the presented potential cost savings actions; the absence of information in the presentation regarding a decline in investment income revenue due to the lack of revenue from excess reserves; that the projected revenue deficit can only be addressed by more taxpayer funding or reducing expenses; that the issue of additional taxpayer funding has been addressed, noting stimulus funding; that reducing expenses must be addressed, including addressing how to reduce labor expenses; that reducing labor expenses is the most difficult decision and that none of the Board Members want employees to lose their jobs or have their hours reduced on a temporary or long-term basis; that the Board Members' job is to oversee the agency's budget and that Board Members are not doing their job if they do not consider all options; her request for an analysis of FTE and part-time employees (PTE) by department with corresponding estimated dollar costs for each department to be provided at the next meeting; that reducing labor expenses may require eliminating currently unfilled and additional positions; and that BART cannot solely rely on taxpayer funding to address the situation.

Director Allen inquired about and/or commented on the following additional subjects: that sole reliance on taxpayer funding without seriously discussing reductions in expenses at this time is irresponsible; that BART cannot continue with the wait-and-see method of projecting the financial state of the agency; the need for cost numbers at the next meeting and her hope for details, noting that there is not much time between the next meeting and the end of June to review a budget; her suggestion to reduce the COVID-19 presentation at the next meeting and eliminate the mask discussion from the presentation; the need to discuss the financial health of BART moving forward; that providing more than the information contained in PowerPoint presentations is necessary and that budgets cannot be worked in PowerPoint; a request for regular detailed, budget reports that show the actual to budget information for each department in past years, the current year, and budget to date; the ineffectiveness of reviewing PowerPoint presentations with five line items for \$1 billion in costs; that detailed budget information regarding costs had not been provided; her appreciation for updates on COVID-19 but that COVID-19 issues can be condensed and mask supply discussions can be quick; her desire to spend a significant amount of time discussing budget numbers, noting that there are cost reduction measures that were

omitted and that these measures would need to be discussed; her appreciation for staff's work; confirmation that consultants would be retained to assist with the budget process; and her support for obtaining consultants as quickly as possible.

Director Foley expressed his hope that everyone is staying safe; thanked BART employees for keeping the Bay Area moving, essential workers, the MTC and its leadership for supporting BART, and Ms. Herhold for the revised revenue assumptions; and inquired about and/or commented on the following subjects: his support for Director Saltzman's request for a low-low assumption and agreement with Director Allen regarding the need for more detailed cost information, noting that he is committed to balancing the budget and that BART should consider a two-year budget with a five-year projection if necessary; that employees are reporting to work every day to keep BART running and asking these employees to balance the budget with their pay would be disingenuous; the multi-county health order regarding face coverings imposed on BART; that distributing masks must be an all-or-none approach, noting that BART cannot offer some people masks and require others to leave the system; the need for a complete solution if masks are distributed and ensuring enforcement of the health order; his desire to avoid exposing the agency and to make good decisions regarding how to proceed; complaints regarding social distancing on eBART, noting that the eBART trains are limited to three cars; that with the limited number of cars on eBART trains combined with the 30-minute headways, riders could not practice social distancing on the trains; his hope that the new health order would improve social distancing on eBART; his appreciation for Ms. Tamar Allen's work regarding social distancing on eBART trains and his desire to discuss this issue with her; and his recommendation that eBART return to 15-minute headways to allow for six cars in a 30-minute period and better social distancing.

Director Dufty, Chairperson of the Engineering and Operations Committee, had no report.

Director Saltzman, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Transit-Oriented Development Policy Amendment – Affordable Housing Financial Terms before the Board. Ms. Abigail Thorne-Lyman, Manager of Transit-Oriented Development, and Mr. Menotti presented the item.

Ms. Williams read written comments submitted by the following individuals into the record:

Chris Neale
Rodney Nickens
Ener Chiu

The following individuals addressed the Board via telephone:

Gigi Gamble
Alan Doans
Rodney Nickens
Haley Currier

Director McPartland indicated that his position on this subject had not changed from the previous Board Meeting; expressed concern over finances related to transit-oriented development (TOD) and the ability to financially recover during the post-pandemic period; and indicated his appreciation for staff's work.

Director Li expressed support for the amendments to the TOD policy and moved adoption of the attached Transit-Oriented Development Policy, which supersedes the previously adopted Transit-Oriented Development Policy. (The amended Policy is attached and hereby made a part of these Minutes).

Director Li thanked Real Estate and TOD staff for their work on Assembly Bill (AB) 2923 implementation through the COVID-19 situation and inquired about and/or commented on the following subjects: that the pandemic has revealed society's inequalities and the increased importance of BART advancing affordable housing projects and increasing housing supply throughout the region; that BART should be clear about its desires and hold developers accountable to these desires, instead of assuming that non-profit developers are morally superior to for-profit developers by nature; that BART should hold itself accountable to its TOD guidelines and Board Members should exercise due diligence to ensure that development on BART's land meets or exceeds BART's goals; that BART needs a robust transportation demand management policy and program to actively increase ridership for people who live at BART stations and lower-income residents; that BART needs to develop methods of providing transit passes and ensuring that the system is economically feasible; that BART needs to ensure that the residents who live in affordable housing units can afford to ride BART; and her request for more information regarding the Transportation Demand Management (TDM) strategy required by AB 2923.

Director Dufty thanked Chair Saltzman; associated himself with Director Li; and expressed that he appreciated the progress and was looking forward to supporting the amended TOD policy and achieving the goals.

Director Ames inquired about and/or commented on the following subjects: that survey results correlate with her observations regarding affordable workers being less likely to receive commuter benefits and less likely to have jobs near BART; encouraging jobs near BART for low and middle income workers and encouraging employers to offer commuter benefits to workers; her residency near affordable housing projects and her observation that not many people use public transit; the feedback she has received indicating that the low income workers have families and multiple jobs; whether more information regarding ridership related to affordable housing, the families that live in the affordable housing and are struggling, and the possibility that the families are not using public transit as expected is necessary; whether low-income residents are not using BART more frequently because they have multiple jobs and need more mobility; her concern over reducing potential parking availability for people who live in suburban communities, noting that she represents suburban residents; that building a housing project and relying on transportation demand models to encourage people to walk to transit does not address residents who need to drive to BART stations, but will no longer use BART because a housing development has replaced the BART parking lot; her opposition to removing parking spaces for housing because many non-transit dependent people who live in the area drive due to the spread-out nature of the area; her desire to retain parking availability as much as possible; the existence of state and infrastructure funds for affordable housing and under-utilized properties, such as warehousing sites; her hope that cities and counties can assist BART with the affordable housing crisis and her frustration that BART has been placed in the position to help provide affordable housing when cities and counties have more opportunities to develop affordable housing with warehouse sites; that jobs were created in San Francisco, down the peninsula to San Jose, and the necessary housing was not built, leading to the need for housing-jobs balance in communities; that BART should ask cities and counties for assistance, similar to BART's request for assistance with homelessness; her request for staff to develop a policy enhancement to create jobs near BART, noting that this is critical to BART's long-term success; that the University of California, Los Angeles (UCLA) study results suggest that ridership is primarily commuter-based, that most commuters travel to San Francisco, and BART's ridership is dependent on

high-paying jobs; a policy to create off-peak/reverse commute; that locations near BART stations are not the best locations for affordable housing; whether a multi-county ridership survey of people who do not ride BART and who do ride BART could be conducted; whether staff could work with cities and counties to request their assistance with the affordable housing crisis, noting that this the perfect opportunity with the decline in the economy and decreases in valuations; and how BART could engage with cities and counties to obtain their assistance so that BART is not so dependent on the affordable housing TOD plan.

Director Allen inquired about and/or commented on the following subjects: her agreement with Director Li regarding the assertion that there should be no preference between non-profit developers and for-profit developers, noting that both developers can build the developments and should be treated equally; her disagreement with authorizing staff to negotiate discounts upfront in the process without Board involvement; her observation of errors in the past and feedback she has received indicating that errors in TOD deals were made by people who no longer work for BART; that when staff members make mistakes and leave BART, the agency pays for the mistakes; that the Board should be involved in every deal and that every deal is different; her unwillingness to provide staff with a matrix to provide discounts; her advocacy for reducing expenses spent on developing parking lots into housing; that BART is a transit agency and its mission is to provide safe, clean, quality, reliable transit; that BART should not have entered the housing mission; that BART parking lots are assets and are noted as assets on the balance sheet; that little revenue has been generated from leased land over the past 20 years; that projections show that revenue will be generated in the future, but revenue is not currently generated; that BART has been engaged in TOD for a long time and that approximately a little over \$1 million of TOD lease revenue had been generated in the prior fiscal year; a public speaker's comment regarding providing additional discounts; that if BART does not wish to manage parking, then parking assets should be sold to cities and the cities that purchase the assets should be allowed to decide how to utilize the assets; that BART should not be involved in the housing business; that taxpayers purchased parking lots over fifty years ago and the lots were paid for long ago; that replacing one parking spot costs \$70,000.00; that re-directing assets to housing and offering discounts on the fair-market value of the assets is a gift of public funds; and her opposition to the amended TOD policy, noting that BART is forfeiting revenue, and that staff would be authorized to negotiate for low-income housing which does not provide as much ridership.

Director Foley thanked Ms. Thorne-Lyman and Mr. Menotti for providing information regarding ground leases and investigating the for-profit versus non-profit developer issue and commented on the following subjects: his concern that discounted land values have historically drained revenue, not enhanced revenue; that BART's TOD projects need to pencil-out for BART; that over the term of the proposed 75-year ground lease, approximately one thousand surface parking lot spaces would generate around \$650,000.00 per year or \$50 million total; that the \$50 million could be used to reduce fares for youth, seniors, disabled, and low-income riders, or to create entry-level jobs that provide careers to members of the community; and that while he agrees that housing on BART property is a good idea, he cannot support a further financial burden on riders; that it must pencil-out for BART.

President Simon indicated that her comments regarding this issue during the March 12, 2020 Board Meeting remain the same, even with new data.

Director Raburn thanked public commenters; noted that the letters received expressed support of the TOD measure; and commented on the following subjects: his appreciation for Mr. Doans' comments, noting that Mr. Doans has led a successful effort to gain public support for increased zoning to build 240 affordable housing units in West Oakland; his attendance at an international webinar hosted by New City

regarding cities and housing after COVID-19; Dr. Jonathan Woetzel's comment that the market is not delivering affordable housing and the opportunity today is to change the rules; that the webinar participants addressed the \$30 billion unmet need to build affordable housing; that BART needs to work on changing the rules; his rescission of support for Director Foley's proposal to limit discounts to non-profit developers, noting that the limitation is not realistic and that all the bidders for the Lake Merritt Station development had a for-profit component in their bids; and that the awardee, EBALDC/Strada presented a solid proposal that would create 44% affordable housing on the land at Lake Merritt Station.

Director Raburn seconded the motion brought by Director Li.

Director Saltzman thanked public speakers and commenters that submitted letters; expressed support for the amended TOD policy; commented that it is more important than ever, noting the current housing crisis and that more people will be struggling to pay their rent and mortgage; the urgency to develop affordable housing, especially near transit, to provide lower housing and transportation costs; the importance of BART meeting its goals, noting that market rate development ceased during the prior recession, unless the development was already under construction, and that only the affordable projects moved forward; that this is the time to incentivize affordable projects so that BART is able to build housing of any kind on BART land; that parking lots are not greatly used, even from a financial standpoint; her observation that the parking lots at the El Cerrito Plaza and El Cerrito Del Norte stations are empty every day; and that BART needs to consider the best use of the El Cerrito parking lots in the next few years; that housing is a better use of the lots for the region and BART; and that she supports the item.

The motion brought by Director Li and seconded Director Raburn carried by roll call vote. Ayes: 5 – Directors Dufty, Li, Raburn, Saltzman, and Simon. Noes: 4 – Allen, Ames, Foley, and McPartland.

Director Saltzman brought the matter of Update on BART and Valley Transportation Authority Phase I before the Board. Mr. Carl Holmes, Assistant General Manager, Design and Construction, and Mr. Shane Edwards, Chief Maintenance and Engineering Officer, presented the item.

Aleta Dupree addressed the Board via telephone.

Director Li thanked Aleta Dupree for monitoring BART, attending the Meeting, and providing public comment; expressed satisfaction with the project's progress toward revenue service and commencement of pre-revenue service testing; and thanked staff for their work on the project.

Director Dufty commented on the positive feedback from the Santa Clara Valley Transportation Authority (SCVTA) regarding congeniality and cooperation; thanked Mr. Edwards, Mr. Holmes, and staff for their work; commended Mr. Edwards and Mr. Holmes' leadership and positive morale; and noted that the MTC Commissioners are satisfied with the project's progress.

Director Ames inquired about and/commented on the following subjects: clarification of the link between the labor bidding process for operations and the submission of the Safety Certification Report to the California Public Utilities Commission (CPUC); the situation with the Warm Springs extension in which bids were opened and staff was paid, but they were not working because the bid timing was not synchronized with CPUC certification; requested a detailed schedule of the staff bidding process and the required certifications at the next meeting; requested information regarding how revenue service dates

would be declared and the required certifications; and confirmation that if service begins in mid-June, the 21-day notice to the CPUC is tied to the labor bid close date of May 27th.

Director Foley thanked Mr. Holmes and Mr. Edwards for their leadership; commented that 80 open Category A items is great new news; and noted that people who are working on this project are doing great work to support BART's South Bay neighbors to give them a transit alternative.

President Simon commented that she, Vice President Foley, and Mr. Holmes attended an inaugural meeting on April 22, 2020 with the SCVTA's Chair and Vice Chair; noted that she and Vice President Foley would attend monthly meetings with the SCVTA's Chair and Vice; and indicated that she, Vice President Foley, and the SCVTA agreed to hold a bi-lateral conversation between the agencies' Boards of Directors before opening for revenue service.

President Simon called for the General Manager's Report. Mr. Powers reported that on April 22, 2020, the California State Transportation Agency (CalSTA) announced that it will award \$107 million to BART for the Core Capacity Program, noting that the Program will allow BART to increase the number of trains in the Transbay Tube from 23 trains up to 30 trains per hour; reported that External Affairs staff issued a press release regarding CalSTA's award; and acknowledged Ms. Poblete for her leadership and reported that BART would provide employees with a second round of FEMA disaster training, noting that the training would provide an overview of the cost recovery process and requirements for submitting and receiving federal assistance grants after an emergency and that about one hundred people had enrolled in the training.

President Simon brought the matter of Response to Roll Call for Introductions Item No. 20-830, Creation of Audit Ad Hoc Committee, before the Board.

Director Dufty thanked President Simon for calendaring the item in a way that allows the Board to move expeditiously and commented on the following subjects: his acknowledgement that other colleagues have advocated for an Audit Ad Hoc Committee or an Audit Committee, including Director Allen who had been advocating for such a Committee; that retaining Ms. Harriet Richardson, Inspector General, as BART's first Inspector General was a positive change; legislators' attention to the Inspector General process and ensuring that the process is vigorous and part of BART reclaiming its legacy; that Ms. Richardson, Ms. Poblete, and Ms. Herhold would give presentations; that the presented motion was for the Board to create an Audit Ad Hoc Committee; that he had spoken with Ms. Richardson, Ms. Poblete, and Mr. Herhold and that they are comfortable with creating the Audit Ad Hoc Committee; that there are options regarding the structure of the Audit Ad Hoc Committee and the areas of jurisdiction; that he, staff, and President Simon believe that the Audit Ad Hoc Committee members would be able to weigh structural and jurisdiction issues and other options and return to the Board if needed.

Director Raburn moved that the proposed revisions to the 2020 Organization of Committees and Special Appointments be ratified. Director Saltzman seconded the motion.

Ms. Richardson; Mr. Dennis Markham, Director of Performance and Audit; Ms. Poblete; Ms. Herhold; and Mr. Powers presented the item.

Aleta Dupree addressed the Board via telephone.

Director Allen commented on a reference to information from The Institute of Internal Auditors in staff's presentation; read an excerpt from a document authored by The Institute of Internal Auditors; and commented on the following subjects: that the information presented by staff was selected from a larger amount of information from The Institute of Internal Auditors; recommended that Board Members read The Institute of Internal Auditors' *Global Public Sector Insight: Independent Audit Committees in Public Sector Organizations*; that the Controller/Treasurer is a Board Appointed Officer who reports directly to the Board; that an audit committee would be involved in the financial audit; that under the current process, the Controller/Treasurer and other staff members select the current auditors, and manage the auditors through the audit of their own departments; that the process in which the subject of an audit participates in the audit and directs the auditor is troublesome; that the current audit process provides more justification for the Audit Committee to select auditors; that Audit Committee members who are Board Members are not always independent on any particular issue; and that initial meetings of the Audit Ad Hoc Committee should be more than monthly.

Director Allen commented on the following additional subjects: Ms. Richardson's recommendations regarding (1) appointment of an Audit Committee and (2) requiring the Audit Committee to participate in the evaluation of technical responses and offer a recommendation for the selection of the external financial auditor based on the Request for Proposal (RFP) currently out for bid; and that Ms. Richardson's second recommendation is an important part of the functions in which an Audit Committee should participate. Director Allen referenced the memo issued by President Simon regarding establishment of the Audit Ad Hoc Committee and read an excerpt from the memo; commented on the Board's existing authority to receive and discuss audits; indicated that the better reason to establish the Audit Ad Hoc Committee is participation in the selection of a financial auditor; commented on the procedures and processes to govern an Audit Ad Hoc Committee; and noted an urgent need to add the participation and selection of the external auditors to the Audit Ad Hoc Committee's jurisdiction.

Director Allen proposed the following substitute motion: That the proposed revisions to the 2020 Organization of Committees and Special Appointments be ratified; that the Audit Ad Hoc Committee meet on a monthly basis, until its procedures are set; and that the Audit Ad Hoc Committee participate in selecting the independent auditor which is the subject of the RFP currently out for bid.

Director Allen commented that she is the only member of the Board who has substantial financial experience as a former Certified Public Accountant (CPA), Chief Financial Officer, and finance manager in a government agency, and that she is willing to serve as the Chair of the Audit Ad Hoc Committee, if President Simon decided to appoint her.

Director McPartland seconded Director Allen's substitute motion.

Director Saltzman asked whether staff could immediately staff the monthly Audit Ad Hoc Committee meetings, noting that BART is addressing many issues, and commented on the following subjects: her support for the establishment of the Audit Ad Hoc Committee; her appreciation for the additional information regarding other transit agencies' Audit Committees; that some Audit Committees are comprised of Board Members instead of public members; and her disagreement with the idea that Board Members are not independent, noting that Board Members only depend on the voters in their districts, and even though Board Members have different interests and connections, they are independent.

Staff confirmed that they are available to assist the proposed committee.

Director Dufty asked staff to address the auditor recruitment process and noted that his understanding is that the Board is ultimately responsible for approving these items, and asked Ms. Richardson to comment on when the Audit Ad Hoc Committee should be involved in the current auditor recruitment process.

Ms. Poblete, Mr. Powers, and Ms. Richardson provided information on the RFP selection process.

Director Allen commented that an Audit Committee is involved in the selection of the auditors at the technical review level; shared her experience as a pension board member; noted that the Board does not have the opportunity to hear the interviews as heard by the interview panel after the auditor has been selected and approved by the General Manager; and advocated that the Audit Ad Hoc Committee members participate in the technical reviews, noting that she would be willing to participate in the reviews if the entire Committee did not wish to participate and that she understands the topic.

Director Raburn commented on the following subjects: his experience with good government; that the Audit Ad Hoc Committee is a measure that promises to provide good government in BART; that the proposal is for the formation of an Audit Ad Hoc Committee that will create a charter; that when he served as the Chair of the Alameda County Transportation Sales Tax watchdog committee, the Committee reviewed all finances, advised staff and elected Directors, and wrote annual reports for the public, but it did not select anyone; that the structure of the Alameda County Transportation Sales Tax watchdog committee had been embraced at BART; noting that the BART Safety, Reliability and Traffic Relief Program (Measure RR) watchdog committee is able to oversee all the finances of Measure RR, that the Committee reports to the public and the Board, and that the Committee meetings are open to the public; that the Audit Ad Hoc Committee could follow the structure of the Measure RR committee; that authorizing an ad hoc committee with the authority to select an external auditor would preempt the creation of an audit committee charter; that he read the independent audit committee guidelines and that the guidelines repeatedly use the words “review” and “advise,” but not “select;” that selection is within the purview of the Board; that the Audit Ad Hoc Committee will create another model when developing a charter and that he would not stipulate how the Committee should function; and his desire to only move forward with the ratification of the Audit Ad Hoc Committee.

Director Dufty asked about delaying the auditor recruitment and allowing the Audit Ad Hoc Committee to meet as needed, noting that all Board Members support a strong Inspector General function and that it would be worthwhile to establish the Audit Ad Hoc Committee and consider the selection element; asked for clarification of the audit deadlines and the receipt of proposals for the RFP and for confirmation of Ms. Richardson’s suggestion to focus on the next contract and develop a process in which the Audit Ad Hoc Committee could possibly participate.

Director Dufty expressed appreciation for Ms. Richardson’s input and suggested that extending the current auditor’s contract for one year would provide flexibility, noting that two Board Appointed Officers support a one-year contract extension and that the Board could more seriously consider the charter and the role of the Audit Ad Hoc Committee prior to the next auditor recruitment. Director Dufty verified Director Allen was agreeable to the approach he outlined.

With the understanding that the auditor recruitment would be extended and that the original motion would be amended to include direction for the Ad Hoc Audit Committee to meet quarterly, Director Allen withdrew the substitute motion. She commented that auditor contracts terms are typically five years and that she does not wish for staff to extend a contract for five years.

The motion brought by Director Raburn and seconded by Director Saltzman carried by unanimous roll call vote. Ayes: 9 – Directors Allen, Ames, Dufty, Foley, Li, McPartland, Raburn, Saltzman, and Simon. Noes: 0.

President Simon thanked Directors Dufty and Allen, those who commented on the item, staff from the Office of the Inspector General, Ms. Herhold, Ms. Poblete, and staff who presented the item.

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

Director Ames expressed satisfaction with building trust and confidence through the creation of the Audit Ad Hoc Committee and selecting a potential auditor; and thanked staff for keeping operations safe.

Ms. Williams relayed Director Dufty's request that the Meeting be adjourned in honor of Mrs. Tessie Henry, a longtime resident of the San Francisco Bayview neighborhood and activist who passed away due the COVID-19 virus.

Director McPartland asked whether staff had responded to his RCI request.

President Simon commented that her understanding was that Director McPartland would receive an update regarding car cleaning and the standards used by the District to move toward increased sanitation. She indicated that she had received such an update and that a memo was provided.

Director McPartland commented that the RCI response needed to be discussed in detail and suggested that the RCI response discussion be postponed.

President Simon commented on the value of ensuring that BART is doing everything possible to keep people safe and requested that Ms. Tamar Allen provide an update in the next COVID-19 report in conjunction with the RCI response memo regarding efforts and capabilities to disinfect trains.

Director McPartland commented on the situational awareness needed to be prepared for the follow-up pandemic that is approaching; the consequences of acting reactively instead of proactively, including shutting the down the system or running trains that will accelerate the COVID-19 virus; and BART's ability to choose whether it will own the credit or the blame when the COVID-19 virus is controlled.

President Simon thanked essential workers who were listening to the Meeting, staff, and Board Members.

The Meeting was adjourned at 2:36 p.m.

Patricia K. Williams
District Secretary

Transit-Oriented Development Policy

Adopted June 9, 2016 | Amended April 23, 2020

VISION

The San Francisco Bay Area Rapid Transit District (BART) is a steward of a large scale public investment. This includes real estate assets essential to BART's transit operations, and real estate assets that can be used to catalyze transit-oriented development in furtherance of BART's purpose and goals. BART leverages these opportunities by working in partnership with the communities it serves in order to implement the regional land use vision and achieve local and regional economic development goals. Strengthening the connections between people, places, and services enhances BART's value as a regional resource.

GOALS

- A. Complete Communities.** Partner to ensure BART contributes to neighborhood/district vitality, creating places offering a mix of uses and incomes.
- B. Sustainable Communities Strategy.** Lead in the delivery of the region's land use and transportation vision to achieve quality of life, economic, and greenhouse gas reduction goals.
- C. Ridership.** Increase BART ridership, particularly in locations and times when the system has capacity to grow.
- D. Value Creation and Value Capture.** Enhance the stability of BART's financial base by capturing the value of transit, and reinvesting in the program to maximize TOD goals.
- E. Transportation Choice.** Leverage land use and urban design to encourage non-auto transportation choices both on and off BART property, through enhanced walkability and bikeability, and seamless transit connectivity.
- F. Affordability.** Serve households of all income levels by linking housing affordability with access to opportunity.

STRATEGIES

- A. Manage Resources Strategically to Support Transit-Oriented Development**
 - 1. Develop a 4-Year Work Plan to assess how staff and financial activities toward TOD will be most fruitful. Identify BART staffing priorities and assignments to promote TOD on and around District property, including contributions to efforts such as planning and development, community engagement, funding and financing strategies.
 - 2. Favor long-term ground leases of no more than 66 years, rather than sale of property, as the standard disposition strategy for joint development projects, except in cases where alternative approaches are required to achieve specific development objectives (e.g., Low Income Housing Tax Credit-funded affordable housing, requiring a ground lease term of no less than 75 years), or where other strategies would generate greater financial return to the District.
 - 3. Solicit proposals for transit-oriented development in localities that have an adopted plan allowing for transit-supportive land uses as defined in the TOD Guidelines. Utilize a competitive selection process but ensure the solicitation process considers property assembly with adjacent land owners for optimal TOD.

Transit-Oriented Development Policy

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4. Develop a procedure that will allow BART to respond to unsolicited proposals for property development on BART-owned land. Although BART does not encourage unsolicited proposals, they can be a valuable means for BART to partner with local communities and/or the development community to produce innovative or unique developments that deliver benefits in excess of what is typically provided by the market.
5. Revisit the Transit-Oriented Development Policy every 10 years.

B. Support Transit-Oriented Districts

1. Proactively support local jurisdictions in creating station area plans and land use policies that: a) encourage transit-supportive, mixed-use development on and around station properties, b) enhance the value of BART land, and c) enhance the performance of the BART system as a whole.
2. Form partnerships with public agencies, developers and landowners, community development organizations, finance entities, and consider strategic land acquisition to help build TOD both on and off BART property.
3. For BART system expansion, ensure that transit-oriented development and value capture opportunities are explicitly accounted for in major investments such as the location of new station sites, design and construction of station facilities, and acquisition of new properties.

C. Increase Sustainable Transportation Choices using Best Practices in Land Use and Urban Design

1. Utilize BART's TOD Guidelines to ensure future development and investments seamlessly connect BART stations with surrounding communities.
2. Ensure that combined TOD/parking/access improvements on and around each BART station encourage net new BART ridership, utilizing corridor-level, shared, and off-site approaches to parking replacement as appropriate. Following the aspirational Station Access Policy place types, use the following guidelines to replace current BART parking as follows when developing BART property with TOD: strive for no or limited parking replacement at "Urban with Parking" Stations; and use the access model to maximize revenue to BART from development and ridership when determining a parking replacement strategy at all station types.
3. Utilize strategies including mixed-use development, transportation demand management, and pedestrian-friendly urban design to encourage reverse-commute, off-peak, and non-work trips on BART and other modes of non-auto transportation, thereby reducing greenhouse gas emissions.

D. Enhance Benefits of TOD through Investment in the Program

1. Evaluate the financial performance of proposed projects based on sound financial parameters and the ability to generate transit ridership, fare revenue, lease payments, parking revenues, grant resources, other financial participation, and/or cost savings. Consider the opportunity cost to the District of delaying or accelerating development opportunities.
2. Use a variety of financing and governance mechanisms, including joint powers authorities, assessment districts, improvement districts, and lease credits to achieve station area TOD objectives.
3. As appropriate, and in consideration of District-wide financial needs, reinvest revenues from the sale and lease of BART land into the TOD Program, informed by the priorities identified in the 4-Year Work Plan.

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E. Invest Equitably

1. Increase scale of development at and near BART stations through catalytic investments in TOD, to help address the regional shortfall in meeting housing and other sustainable growth needs.
2. Implement BART's adopted Affordable Housing Policy and aim for a District-wide target of 35 percent of all units to be affordable, with a priority to very low (<50% AMI), low (51-80% AMI) and/or transit-dependent populations. To aid in achieving BART's 35% affordability goal, provide up to a 60 percent discount in ground lease for projects with at least 35% affordable housing (30% for projects with a high rise). Establish a framework for varying the eligible project discount based on the depth of affordability of the deed-restricted housing units, the demonstrated need for discounted ground rent, and efforts to benefit BART in other ways.
3. Pursue state, regional, and philanthropic partnerships that alleviate and prevent homelessness through production of affordable housing. BART's property will be offered at a greater discount if matched with regional-scale, external funding commitments for housing and homelessness.
4. Ensure the 4-Year Work Plan addresses how BART will achieve its affordable housing goals.