

BOARD OF DIRECTORS MEETING

Thursday, May 6, 2021

MINUTES

1. CALL TO ORDER AND ROLL CALL

The Regular Meeting of the Santa Clara Valley Transportation Authority's (VTA) Board of Directors (Board) was called to order by Chairperson Hendricks at 5:30 p.m. via video and teleconference.

1.1. ROLL CALL

Attendee Name	Title	Status
Margaret Abe-Koga	Ex-Officio Member	Present
Marie Blankley	Alternate Board Member	Present
Pat Burt	Board Member	Present
Magdalena Carrasco	Board Member	Present
Cindy Chavez	Board Member	Present
Rich Constantine	Board Member	Present
Dev Davis	Alternate Board Member	Absent
Lisa Gillmor	Alternate Board Member	Present
Glenn Hendricks	Chairperson	Present
Sergio Jimenez	Board Member	Present
Charles "Chappie" Jones	Vice Chairperson	Present
Otto Lee	Alternate Board Member	Absent
Lynette Lee-Eng	Alternate Board Member	Present
Sam Liccardo	Board Member	Present
Carmen Montano	Board Member	Present
Darcy Paul	Board Member	Present
Raul Peralez	Board Member	Present
Rob Rennie	Alternate Board Member	Absent
Joe Simitian	Board Member	Present

* Alternates do not serve unless participating as a Member.

A quorum was present.

1.2. Orders of the Day

Chairperson Hendricks announced that Closed Session **Agenda Item #9.1.C**, Public Employment, will be removed from the Agenda.

M/S/C (Chavez/Constantine) to accept the Orders of the Day.

RESULT:	Accepted – Agenda Item #1.2
MOVER:	Cindy Chavez, Member
SECONDER:	Rich Constantine, Member
AYES:	Chavez, Constantine, Hendricks, Jimenez, Jones, Lee Eng, Montano, Paul, Peralez, Simitian
NOES:	None
ABSENT:	Carrasco, Liccardo

2. AWARDS AND COMMENDATION

There were no Awards and Commendation.

3. PUBLIC COMMENT

Reyne Jimeno, Board Assistant, noted that the written public comment received from James Salsman, Interested Citizen, and was posted on the Agenda portal.

Mr. Salsman encouraged VTA to distribute the Federal Emergency Management Agency (FEMA) 100% reimbursement information brochures to homeless riders.

Board Member Carrasco arrived and joined the meeting at 5:33 p.m.

Eugene Bradley, CEO of Silicon Valley Transit Users, thanked VTA relating to the yellow curbing in several light rail stations. He commented on the recent cyber-attack.

Board Member Liccardo arrived and joined the meeting at 5:35 p.m.

Blair Beekman, Interested Citizen, expressed support for Evelyn Tran, General Counsel and Interim General Manager/CEO. He commented on the following: 1) his written public comment not being posted on the Agenda portal; and 2) ShotSpotters.

Roland Lebrun, Interested Citizen, commented about the following: 1) absence of closed caption feature during Zoom meeting; and 2) monthly ridership report and current or projected BART Extension cost were not posted in a timely manner.

Kathryn Hedges, Interested Citizen, expressed support for the following: 1) FEMA 100% reimbursement information brochures to homeless riders; and 2) comment about protecting VTA from ransomware attacks.

NOTE:M/S/C MEANS MOTION SECONDED AND CARRIED AND, UNLESS OTHERWISE INDICATED, THE MOTION PASSED UNANIMOUSLY.

4. PUBLIC HEARINGS

There were no Public Hearings.

5. COMMITTEE REPORTS

5.1. Citizens Advisory Committee (CAC) Chairperson's Report

Citizens Advisory Committee (CAC) Chairperson Swaminathan provided a brief report on the CAC meeting of April 7, 2021.

5.2. Policy Advisory Committee (PAC) Chairperson's Report

Policy Advisory Committee (PAC) Chairperson Moore provided a brief report on the PAC meeting of April 8, 2021.

5.3. Standing Committee Chairpersons' Report

Chairperson Hendricks noted that the Administration and Finance Committee, Congestion Management Program and Planning Committee, and Capital Program Committee Chairperson's reports were available in the online Agenda packet.

5.4. Policy Advisory Board Chairpersons' Report

Chairperson Hendricks noted that the Diridon Station Joint Policy Advisory Board Chairperson's report was available in the online agenda packet.

Public Comment

Mr. Beekman expressed concern about his letter not being posted on the Agenda portal. He commented about the California High Speed Rail (CHSR) system connector from Los Angeles to Sacramento.

Mr. Lebrun made the following comments: 1) violation of California Government Code 54954.3; and 2) Chairperson Hendricks' testimony on Assembly Bill (AB) 1091.

6. CONSENT AGENDA

Public Comment

Mr. Lebrun made a comment on Congresswoman Anna Eshoo's letter to VTA.

Mr. Beekman commented about the following: 1) CHSR and the City of San Jose and Alameda County; 2) 2016 Measure B; 3) transit operations; and 4) surveillance.

ADMINISTRATION & FINANCE (A&F) COMMITTEE

6.1. Selling and Optimizing Low Carbon Fuel Standard Credits

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to 1) Approve the selling of Low Carbon Fuel Standard (LCFS) credits using a Request for Quotes (RFQ) process. 2) Delegate authority to the General Manager/Chief Executive Officer (CEO) or designee to enter into purchasing and selling agreements with buyers of LCFS credits. 3) Delegate authority to the Chief Financial Officer (CFO) or designee to approve the sale of LCFS credits based on a specified price range. 4) Delegate authority to the General Manager/CEO or designee to competitively procure Renewable Energy Certificates (RECs) for the purpose of increasing the number of LCFS credits earned. Board Member Simitian abstained.

6.2. Transit Operations Insurance Program Renewal for Fiscal Year 2022

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to authorize the General Manager to purchase Property and Casualty insurance coverage for General and Auto Liability, Public Officials & Employment Practice Liability, Cyber Liability, Environmental Impairment & Pollution Liability, Crime, Blanket Railroad Protective Liability, and Property Insurance renewing the annual Transit Operations Insurance Program for an amount not to exceed \$4,250,000. Board Member Simitian abstained.

6.3. Amendment to SR 17 Corridor Congestion Relief Project

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to authorize the General Manager/CEO to execute a contract amendment with Jacobs Engineering Group, Inc. (Jacobs) for Project Approval/Environmental Document (PA/ED) services for the SR 17 Corridor Congestion Relief Project (Project) in the amount of \$2,930,000 for a new total contract amount of \$3,474,436. Board Member Simitian abstained.

6.4. I-680 Soundwall - Vehicle Registration Fee Transfer

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the transfer of \$800,000 of Vehicle Registration Fee (VRF) funds from the I-680 Soundwall Project in San Jose from Capitol Expressway to Mueller Avenue to the I-280 Soundwall Project in San Jose from SR 87 to Los Gatos Creek. Board Member Simitian abstained.

CONGESTION MANAGEMENT PROGRAM & PLANNING (CMPP) COMMITTEE

6.5. Lifeline Transportation Program Cycle 6 Program of Projects

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the Lifeline Transportation Program Cycle 6 program of projects; and adopt a required **Resolution No. 2021.05.10** of Local Support. Board Member Simitian abstained.

6.6. Resolution to apply the Fiscal Year 2021-22 Low Carbon Transit Operations Program (LCTOP) Funds

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to adopt a **Program Resolution No. 2021.05.11** for VTA's 2021 Low Carbon Transportation and Operations Program (LCTOP) of projects for \$3,900,446 for the VTA 2022 Zero Emission Bus Purchase and the Eastridge to BART Regional Connector (EBRC) Project. Board Member Simitian abstained.

6.7. Morgan Hill Community Based Transportation Plan

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to adopt the Morgan Hill Community-based Transportation Plan (CBTP). Board Member Simitian abstained.

6.8. Programmed Project Monitoring - Quarterly Report

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to receive the Programmed Projects Quarterly Monitoring Report for January – March 2021. Board Member Simitian abstained.

CAPITAL PROGRAM COMMITTEE

6.9. Approve First Two Years of Strategic Capital Investment Plan

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the recommended projects for the first two years of the Strategic Capital Investment Plan for inclusion in the FY 2022 & FY 2023 VTA Biennial Budget. Board Member Simitian abstained.

SAFETY, SECURITY, AND TRANSIT PLANNING & OPERATIONS (SSTP&O) COMMITTEE

There were no items submitted for the Consent Agenda from the Safety, Security, and Transit Planning & Operations Committee.

GOVERNANCE AND AUDIT (G&A) COMMITTEE

There were no items submitted for the Consent Agenda from the Governance and Audit (G&A) Committee.

BOARD OF DIRECTORS

6.10. 2016 Measure B Formula-based Program Categories & Administrative Cost Category FY2022 & FY2023 Biennial Budget Allocation

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to adopt the Adopt the fiscal years 2022 and 2023 Biennial Budget allocations for the 2016 Measure B Formula-based program categories of Local Streets and Roads, Bicycle & Pedestrian, and Transit Operations and for the 2016 Measure B Program administration cost category.

6.11. 2016 Measure B Project Readiness Criteria & Prioritization Methodologies

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to 1) Approve the existing prioritization processes for five Need/Capacity-based program categories: BART Phase II, Caltrain Grade Separations, Caltrain Corridor Capacity, County Expressways and SR 85 Corridor. 2) Direct staff to develop a Prioritization and Project Selection Process for the Highway Interchanges program category. 3) Approve the proposed Project Readiness Criteria for all Need/Capacity-based 2016 Measure B Program categories; and 4) Upon approval, use the Project Selection and Prioritization Processes as well as the Project Readiness Criteria to develop biennial budget recommendations and a draft 2016 Measure B 10-year Program (FY 2022-2031) for Board review and approval.

6.12. Regular Meeting Minutes of April 1, 2021

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve Regular Meeting Minutes of April 1, 2021. Board Member Simitian abstained.

6.13. Special Meeting Minutes of April 1, 2021

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the Special Meeting Minutes of April 1, 2021. Board Member Simitian abstained.

6.14. Special Meeting Minutes of April 9, 2021

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the Special Meeting Minutes of April 9, 2021. Board Member Simitian abstained.

6.15. Special Meeting Minutes of April 10, 2021

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the Special Meeting Minutes of April 10, 2021. Board Member Simitian abstained.

6.16. Special Meeting Minutes of April 16, 2021

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the Special Meeting Minutes of April 16, 2021. Board Member Simitian abstained.

6.17. Workshop Meeting Minutes of April 16, 2021

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the Workshop Meeting Minutes of April 16, 2021. Board Member Simitian abstained.

6.18. Special Meeting Minutes of April 22, 2021

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the Special Meeting Minutes of April 22, 2021. Board Member Simitian abstained.

6.19. Special Meeting Minutes of April 29, 2021

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to approve the Special Meeting Minutes of April 29, 2021. Board Member Simitian abstained.

6.20 Unapproved Minutes/Summary Reports from VTA Committees, Joint Powers Boards (JPB), and Regional Commissions

M/S/C (Chavez/Liccardo) on a vote of 11 ayes and 1 abstention to receive unapproved Minutes/Summary Reports from VTA Committees, Joint Powers Boards (JPB), and Regional Commissions. Board Member Simitian abstained.

RESULT:	APPROVED – Agenda Items #6.1-6.20
MOVER:	Cindy Chavez, Member
SECONDER:	Sam Liccardo, Member
AYES:	Carrasco, Chavez, Constantine, Hendricks, Jimenez, Jones, Lee Eng, Liccardo, Montano, Paul, Peralez
NOES:	None
ABSTAIN:	Simitian
ABSENT:	None

7. REGULAR AGENDA

SVRT Program Update

7.1. Silicon Valley Rapid Transit (SVRT) Program Update

Takis Salpeas, BART Silicon Valley Extension Project Chief, provided a presentation entitled “VTA’s BART Silicon Valley Phase II Extension.”

Ex-Officio Board Member Abe Koga arrived and joined the meeting at 5:59 p.m.

Board Member Burt arrived and joined the meeting at 6:06 p.m.

Alternate Board Member Lee-Eng relinquished her seat to Board Member Burt.

Public Comment

Mr. Lebrun made a comment on the following: 1) BART documentation that VTA submitted to the Federal Transit Administration (FTA); and 2) bookkeeping for BART Phases I and II.

Mr. Beekman commented on 2016 Measure B funding allocation for BART and as well as for other VTA programs.

The Board had a discussion on funding issues on BART Phase II and other programs, availability of sufficient funds for the other programs, piecemealing recommendations for subsequent programs, and referral procedures.

On order of Chairperson Hendricks and there being no objection, the Board received the Silicon Valley Rapid Transit (SVRT) Program Update.

ADMINISTRATION AND FINANCE (A&F) COMMITTEE

7.2. Contract Extension for MV Transportation

David Hill, Chief Operations Officer, provided a presentation entitled “Contract Extension for MV Transportation.”

Public Comment

Mr. Beekman expressed interest sanitizing VTA buses, light rails, and paratransit vehicles by ATU Members.

Mr. Lebrun made the following comments: 1) queried about the availability of online and phone paratransit service booking; 2) bidding a new contract instead of amending and extending the contract with MV Transportation (MV) Inc.

Mr. Hill addressed the query.

The Board discussed other options that were implemented to be able to provide an improved quality of paratransit service to customers. The Board expressed their appreciation to the staff and everybody who worked on this program.

Elaine Baltao, Board Secretary, noted that the written public comment received from the Silicon Valley Independent Living Center and was posted on the Agenda portal.

M/S/C (Chavez/Montano) to authorize the General Manager to amend the contract with MV Transportation, Inc. (MV) as the provider for ACCESS paratransit services for VTA to extend the term through June 30, 2023, and to increase the contract value by \$48,000,000 for a new total contract value not to exceed \$127,875,047.

RESULT:	APPROVED – Agenda Item #7.2, as amended
MOVER:	Cindy Chavez, Member
SECONDER:	Carmen Montano, Member
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jimenez, Jones, Liccardo, Montano, Paul, Peralez, Simitian
NOES:	None

CONGESTION MANAGEMENT PROGRAM & PLANNING (CMPP) COMMITTEE

There were no items submitted for the Regular Agenda from the Congestion Management Program & Planning Committee.

SAFETY, SECURITY, AND TRANSIT PLANNING & OPERATIONS (SSTP&O) COMMITTEE

There were no items submitted for the Regular Agenda from the Safety, Security, and Transit Planning & Operations Committee.

GOVERNANCE AND AUDIT (G&A) COMMITTEE

There were no items submitted for the Regular Agenda from the Governance and Audit Committee.

8. OTHER ITEMS

8.1. General Manager's Report

Ms. Tran provided a report on the following: 1) Cyberattack; 2) attack on a VTA bus operator; 3) COVID-19 Update; and 4) 2020 VTA Annual Report.

Jim Lawson, Chief External Affairs Officer, provided a brief report on the Blue Ribbon Transit Recovery Task Force.

8.1.A. Transit Ridership Trends Report

Mr. Tyree provided a presentation entitled "Ridership and Pass-Up Trends" and reviewed efforts to maximize service while following Public Health Department's social distancing protocols.

8.1.B. Government Affairs Report

Ms. Tran noted that the Government Affairs report was provided to the Board Members and was included in the online agenda packet.

Public Comment

Ms. Jimeno noted that the written public comments received from Charlotte Quinn, Interested Citizen, and the Silicon Valley Independent Living Center were posted online.

The following Interested Citizens urged to prioritize transit service restoration to pre-COVID levels as early as possible, increase service frequency, reduce passed up riders; invest in increasing transit service and infrastructures, and minimize green gas emission:

- Eugene Bradley
- Hoai-an Truong
- Alexis
- Shreya
- Mary Dowd
- Kevin Ma
- Monica Mallon
- Liana Crabtree
- Brittani Baxter
- Allen Liou
- Sid Kotapati
- Calley Wang

Mr. Lebrun provided comments on the following: 1) 34 vacant acres on the Santa Teresa Light Rail station; 2) Blue Ribbon Transit Recovery Task Force; 3) governance; and 4) use of paratransit service for passed up riders.

John Courtney, Amalgamated Transit Union (ATU), Local 265 President, commended the Community Outreach staff for their efforts. He commented about the following: 1) inaccurate data on passed up riders; 2) operators sign-ups and assignments; and 3) meeting with management and union representatives.

The following Interested Citizens provided comments on allocating funds for Caltrain:

- Brittani Baxter
- Adina Levin, Seamless Bay Area

The following Interested Citizens urged to use stimulus funds to increase transit service:

- Kathryn Hedges
- Jeri, ATU 265
- Calley Wang
- Matthew Asuncion

The Board of Directors and staff discussed the following: 1) resolving pass ups; 2) air circulation on buses and light rail; 3) protective barriers for bus operators; 4) reducing social distancing from six feet to three feet will help alleviate pass ups; 5) communications and negotiations between management and union; 6) vaccination; 7) preparation for the June 15 reopening of economy in California; and 8) concept of holding hybrid meetings.

8.2. Chairperson's Report

There was no Chairperson's Report.

8.3. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

Board Member Simitian noted that he would submit his items of concern and referral related to 2016 Measure B.

8.4. Announcements

Chairperson Hendricks mentioned that the Santa Teresa Light Rail station is still accepting appointments and walk-ins for vaccination.

9. CLOSED SESSION

Public Comment

Mr. Lebrun made a comment on the following: 1) Item # 9.1.A as unconscionable; 2) Item #9.1.B – investigation on debt service; 3) Item # 9.1.D – expressed concern about instructing drivers not to push the button to save bandwidth. He further requested to agendize the issue at future Board meetings.

Mr. Beekman expressed support for Ms. Tran as Acting General Manager/CEO. He commented about cybersecurity.

9.1. Recessed to Closed Session at 8:15 p.m.

A. Public Employment

[Pursuant to Government Code Section 54957(b)]

Interim General Counsel/CEO Evaluation

B. Conference with Legal Counsel - Existing Litigation

[Government Code Section 54956.9(d)(1)]

Name of Case: Skanska-Shimmick-Herzog v. Santa Clara Valley Transportation Authority (Santa Clara County Superior Court Case No. 19-CV-356027)

C. (Removed from the Agenda)

Public Employment

[Pursuant to Government Code Section 54957(b)]

Title of position to be filled: General Manager/CEO

D. Threat to Public Services or Facilities

[Government Code Section 54957(a)]

Consultation with Richard Bertalan, Chief Information Technology Officer

9.2. Reconvened to Open Session at 9:36 p.m.

9.3. Closed Session Report

A. Public Employment

[Pursuant to Government Code Section 54957(b)]

Interim General Counsel/CEO Evaluation

Chairperson Hendricks noted no reportable action taken during Closed Session.

B. Conference with Legal Counsel - Existing Litigation
[Government Code Section 54956.9(d)(1)]

Name of Case: Skanska-Shimmick-Herzog v. Santa Clara Valley Transportation Authority (Santa Clara County Superior Court Case No. 19-CV-356027)

Ms. Tran noted no reportable action taken during Closed Session.

C. (Removed from the Agenda)

Public Employment
[Pursuant to Government Code Section 54957(b)]
Title of position to be filled: General Manager/CEO)

D. Threat to Public Services or Facilities
[Government Code Section 54957(a)]

Consultation with Richard Bertalan, Chief Information Technology Officer

Ms. Tran noted no reportable actions were taken during Closed Session.

9.4 Acting Pay salary increase for Evelynnn Tran for the duration of her assignment as VTA General Counsel and Interim General Manager/CEO.

Sylvester Fadal, Chief Administrative Officer, noted that based on the survey on average compensation for General Manager/CEO, staff recommends an acting pay of \$331,000 annual salary for Ms. Tran. The acting pay will be effective January 20, 2021 and will continue for the duration of Ms. Tran's service as the Interim General Manager/CEO.

Public Comment

Mr. Lebrun expressed appreciation to Ms. Tran. He commented on adding the goals and rules to the Administrative Code to prevent this situation from happening again.

M/S/C (Liccardo/Jones) on a vote of 11 ayes to 1 no to approve Acting Pay salary increase for Evelynnn Tran for the duration of her assignment as VTA General Counsel and Interim General Manager/CEO. Board Member Simitian opposed.

RESULT:	APPROVED – Agenda Item #9.4
MOVER:	Liccardo, Member
SECONDER:	Jones, Vice Chairperson
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jimenez, Jones, Liccardo, Montano, Paul, Peralez,
NOES:	Simitian

10. ADJOURNMENT

On order of Chairperson Hendricks and there being no objection, the meeting was adjourned at 9:44 p.m.

Respectfully submitted,

Reyne Jimeno, Board Assistant
VTA Office of the Board Secretary