

## BOARD OF DIRECTORS MEETING

Thursday, February 4, 2021

### MINUTES

#### 1. CALL TO ORDER AND ROLL CALL

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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	Present
Marie Blankley	Alternate Board Member	Absent
Patrick "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
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	Present
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 noted staff's request to remove Closed Session **Agenda Item #9.1.A**, Conference with Legal Counsel regarding anticipated litigation.

**M/S/C (Montano/Jones)** to accept the Orders of the Day.

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

<b>RESULT:</b>	<b>ACCEPTED – Agenda Item #1.2</b>
<b>MOVER:</b>	Carmen Montano, Board Member
<b>SECONDER:</b>	Chappie Jones, Vice Chairperson
<b>AYES:</b>	Burt, Constantine, Jimenez, Hendricks, Jones, Liccardo, Montano, Paul, Peralez
<b>NOES:</b>	None
<b>ABSENT:</b>	Carrasco, Chavez, Simitian

## 2. AWARDS AND COMMENDATION

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### 2.1. Retirement Commendation

The Board recognized Ephraim Cadaing, Senior Contracts Administrator, for 30 years of distinguished public service.

### 2.2. Resolution of Appreciation for VTA General Manager and Chief Executive Officer Nuria I. Fernandez

Members of the Board thanked Ms. Fernandez for her exceptional leadership during her tenure at VTA.

M/S/C (Liccardo/Peralez) to adopt Resolution of Appreciation No. **2021.02.03** for retiring General Manager/Chief Executive Officer Nuria I. Fernandez.

<b>RESULT:</b>	<b>ADOPTED – Agenda Item #2.2</b>
<b>MOVER:</b>	Sam Liccardo, Board Member
<b>SECONDER:</b>	Raul Peralez, Board Member
<b>AYES:</b>	Burt, Chavez, Constantine, Jimenez, Hendricks, Jones, Liccardo, Montano, Paul, Peralez, Simitian
<b>NOES:</b>	None
<b>ABSENT:</b>	Carrasco

## 3. PUBLIC COMMENT

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Eugene Bradley, Interested Citizen, thanked the Board for listening to the public regarding rear boarding and bus service changes.

Roland Lebrun, Interested Citizen, commented about the following: 1) expressed funding concerns; and 2) environmental clearance for cut and cover structure for the VTA's BART Silicon Valley Phase II Project.

Blair Beekman, Interested Citizen, commented on the following: 1) violent crimes; 2) the use of Shot Spotters at the Berryessa Bay Area Rapid Transit (BART) station; and 3) suggested establishing an advertising policy.

#### **4. PUBLIC HEARINGS**

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There were no public hearings.

#### **5. COMMITTEE REPORTS**

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

Citizens Advisory Committee (CAC) Chairperson Swaminathan provided a brief report on the CAC Meeting of January 27, 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 January 14, 2021.

##### **5.3. Standing Committee Chairpersons' Report**

Chairperson Hendricks noted that the Administration and Finance Committee Chairperson's report was available in the online agenda packet.

Congestion Management Program and Planning (CMPP) Committee Chairperson Perez provided a brief report on the CMPP Meeting of January 21, 2021.

##### **5.4. Policy Advisory Board Chairpersons' Report**

There was no Policy Advisory Board Chairpersons' Report.

##### **Public Comment**

Mr. Lebrun commented on the following: 1) Government Code Section 54954.3; and 2) auditor and 2000 Measure A bonding concern.

Mr. Beekman commented on meeting efficiency and the importance of an open public process.

#### **6. CONSENT AGENDA**

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Board Member Liccardo referenced **Agenda Item #6.1.**, Authorization on Caltrans Agreements and Certifications for SB-1 Grants, and thanked VTA for their work.

Board Member Liccardo recused himself on **Agenda Item #6.3.**, Inspect VTA Freight Bridges along Vasona Corridor, under Government Code Section 84308.

Board Member Simitian requested **Agenda Item #6.4.**, Technology Consulting and Support Services, be removed from the Consent Agenda and placed on the Regular Agenda.

**Public Comment**

Mr. Beekman commented on the following: 1) cybersecurity; 2) concerns about excessive surveillance; 3) the importance of an open democratic process; and 4) work towards social and racial equity.

Mr. Lebrun commented about written public comment.

<b>ADMINISTRATION AND FINANCE (A&amp;F) COMMITTEE</b>
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**6.1.      Authorization on Caltrans Agreements and Certifications for SB-1 Grants**

M/S/C (Constantine/Jones) to authorize the General Manager or Designee to execute and submit all documents, agreements, certifications, and assurances with California Department of Transportation (Caltrans) and the California Transportation Commission (CTC) necessary to deliver the US 101/Trimble De La Cruz interchange and the US 101/SR-25 Interchange, including receipt and use of Senate Bill 1 (SB-1) grant funds.

**6.2.      Master Agreement for State Funded Transit Projects**

M/S/C (Constantine/Jones) to adopt Resolution No. 2021.02.04 to authorize the General Manager to execute a ten-year extension of the Master Agreement and associated Program Supplements for State Funded Transit Projects with the California Department of Transportation (Caltrans).

**6.3.      Inspect VTA Freight Bridges along Vasona Corridor**

M/S/C (Constantine/Jones) on a vote of 10 ayes to 0 noes to 1 recusal to authorize the General Manager to execute a contract with Biggs Cardosa Associates up to \$1,145,000 to inspect bridges for five years plus two option years. Board Member Liccardo recused.

**6.4.      (Removed from the Consent Agenda and placed on the Regular Agenda.)**

Authorize the General Manager to enter into contracts and task order agreements with pre-qualified firms for technology consulting and support services. Each contract shall be for a maximum five-year period, with an option of two additional years with an aggregate value not to exceed \$11,750,000 for all contracts.

**6.5.      State Route 85 Noise Reduction Program (Phase 2) – S19246**

M/S/C (Constantine/Jones) to authorize the General Manager to execute a contract with Jacobs Engineering Group, Inc. to provide preliminary engineering and design services for the Project Initiation Document (PID), Project Approval Environment Document (PAED) and Final Design (PS&E) phases of the State Route 85 Noise Reduction Project (Phase 2) project for a total value of \$1,965,000.

<b>CONGESTION MANAGEMENT PROGRAM &amp; PLANNING (CMPP) COMMITTEE</b>
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**6.6.      Programmed Project Monitoring – Quarterly Report**

M/S/C (Constantine/Jones) to receive the Programmed Projects Quarterly Monitoring Report for October - December 2020.

**6.7.      TFCA Project Status Report**

M/S/C (Constantine/Jones) to review the status of projects in the Santa Clara County Transportation Fund for Clean Air County Program Manager Fund.

**6.8.      Vehicle Registration Fee (VRF) Annual Report**

M/S/C (Constantine/Jones) to review the status of ongoing Santa Clara County Vehicle Registration Fee (VRF) activity.

<b>SAFETY, SECURITY, AND TRANSIT PLANNING &amp; OPERATIONS (SSTP&amp;O) COMMITTEE</b>
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*There were no items submitted for the Consent Agenda from the Safety, Security and Transit Planning and Operations Committee.*

<b>GOVERNANCE AND AUDIT (G&amp;A) COMMITTEE</b>
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*There were no items submitted for the Consent Agenda from the Governance & Audit Committee.*

<b>BOARD OF DIRECTORS</b>
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**6.9.      Revised 2021 Appointments to Board Standing Committees, Joint Powers Boards, Policy Advisory Boards, and Ad Hoc Committees for 2021**

M/S/C (Constantine/Jones) to approve revised appointments to Board Standing Committees, Joint Powers Boards, Policy Advisory Boards, and Ad Hoc Committees for 2021.

**6.10. Regular Meeting Minutes of January 7, 2021**

M/S/C (Constantine/Jones) to approve the Regular Meeting Minutes of January 7, 2021.

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

M/S/C (Constantine/Jones) to receive unapproved Minutes/Summary Reports from VTA Committees, Joint Powers Boards (JPB), and Regional Commissions.

<b>RESULT:</b>	<b>APPROVED – Agenda Item #s 6.1-6.2, 6.5-6.11</b>
<b>MOVER:</b>	Rich Constantine, Board Member
<b>SECONDER:</b>	Chappie Jones, Vice Chairperson
<b>AYES:</b>	Burt, Chavez, Constantine, Jimenez, Jones, Hendricks, Liccardo, Montano, Paul, Peralez, Simitian
<b>NOES:</b>	None
<b>ABSENT:</b>	Carrasco

<b>RESULT:</b>	<b>APPROVED – Agenda Item #6.3</b>
<b>MOVER:</b>	Rich Constantine, Board Member
<b>SECONDER:</b>	Chappie Jones, Vice Chairperson
<b>AYES:</b>	Burt, Chavez, Constantine, Jimenez, Jones, Hendricks, Montano, Paul, Peralez, Simitian
<b>RECUSAL:</b>	Liccardo
<b>NOES:</b>	None
<b>ABSENT:</b>	Carrasco

**7. REGULAR AGENDA**

<b>ADMINISTRATION AND FINANCE (A&amp;F) COMMITTEE</b>
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**6.4. Technology Consulting and Support Services**

Board Member Simitian queried whether the latitude requested would allow for the purchase or acquisition of surveillance technology without consideration of the privacy implications by the VTA Board.

Richard Bertalan, Deputy Director Technology, indicated only items previously approved by the Board would be purchased. He stated there would be no purchases that exceed the existing authorization under the current Closed-Circuit Television (CCTV) Policy.

**Public Comment**

Mr. Beekman commented on development of policies to protect the public from invasive surveillance technology.

Lance, Interested Citizen, queried about updating the CCTV cameras to newer technology.

**M/S/C (Constantine/Jones)** on a vote of 10 ayes to 0 noes to 1 abstention to authorize the General Manager to enter into contracts and task order agreements with pre-qualified firms for technology consulting and support services. Each contract shall be for a maximum five-year period, with an option of two additional years with an aggregate value not to exceed \$11,750,000 for all contracts. Board Member Simitian abstained.

<b>RESULT:</b>	<b>APPROVED – Agenda Item #6.4</b>
<b>MOVER:</b>	Rich Constantine, Board Member
<b>SECONDER:</b>	Chappie Jones, Vice Chairperson
<b>AYES:</b>	Burt, Chavez, Constantine, Jimenez, Jones, Hendricks, Liccardo, Montano, Paul, Peralez
<b>ABSTAIN:</b>	Simitian
<b>NOES:</b>	None
<b>ABSENT:</b>	Carrasco

<b>CONGESTION MANAGEMENT PROGRAM &amp; PLANNING (CMPP) COMMITTEE</b>
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*There were no items submitted for the Regular Agenda from the Congestion Management Program & Planning Committee.*

<b>SAFETY, SECURITY, AND TRANSIT PLANNING &amp; OPERATIONS (SSTP&amp;O) COMMITTEE</b>
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*There were no items submitted for the Regular Agenda from the Safety, Security, and Transit Planning & Operations Committee.*

<b>GOVERNANCE AND AUDIT (G&amp;A) COMMITTEE</b>
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**7.1. Receive Overview of the Governance and Audit Committee and Auditor General Duties**

Stephen Flynn, Senior Policy Analyst, provided a brief overview of the Governance and Audit Committee and Auditor General duties and a presentation entitled “Auditor General Function.”

**Public Comment**

Mr. Lebrun commented on the following: 1) suggested changing the Board leadership election process; and 2) Governance and Audit Committee duties and responsibilities.

Mr. Beekman commented on the following: 1) transit vehicle cleaning policy; 2) encouraged cancelling large advertising plans for transit hubs; and 3) auditing ideas.

**On order of Chairperson Hendricks** and there being no objection, the Board of Directors received an overview of the Governance and Audit Committee and Auditor General duties.

**7.2. Auditor General Recommended Work Plans for FY 2021, 2022 and 2023**

Scott Johnson, Auditor General, provided a brief overview of the Work Plans for FY2021, 2022 and 2023 and a presentation entitled “FY 2021, FY 2022, FY 2023 Recommended Auditor General Work Plans.”

Chairperson Hendricks referenced slide nine of the presentation “Summary of FY 2021, FY 2022 and FY 2023 Recommended Auditor General Plan,” and noted the Governance and Audit Committee removed the Bay Area Transit Partnership from the list of projects. Chairperson Hendricks requested the Board approve the workplan without that item.

**Public Comment**

Mr. Beekman commented on the following: 1) importance of open policies; 2) community partnerships and projects; 3) innovation; and 4) expressed support for racial and social equity.

Mr. Lebrun commented on the following: 1) MGO familiarity concerns; and 2) 2000 Measure A Bonding capacity for BART Phase II.

Members of the Board and staff discussed the following: 1) Bay Area Transit Partnership; 2) 2016 Measure B independent compliance audit status; 3) 2016 Measure B Citizens’ Oversight Committee vacancy recruitment process and meeting schedule; 4) risk from Bay Area Rapid Transit (BART) partnership operations and long term sustainability; 5) scope, timing and prioritization of audits; 6) audit budget constraints; 7) importance of identifying potential risks; 8) spot audits; 9) recommended Auditor General projects; 10) Ethics Hotline; and 11) look into project partnerships with other organizations to complete research and assessment.

Board Member Simitian requested staff provide the Board with an update on the meeting schedule and progress made on filling the vacancies for the 2016 Measure B Citizens’ Oversight Committee.



**M/S/C (Jones/Montano)** to approve the Auditor General's recommended Work Plans and projects for the remainder of Fiscal Year 2021 and for Fiscal Years 2022 and 2023. Further, to remove Bay Area Transit Partnerships from the list of projects.

<b>RESULT:</b>	<b>APPROVED – Agenda Item #7.2, as amended</b>
<b>MOVER:</b>	Chappie Jones, Vice Chairperson
<b>SECONDER:</b>	Carmen Montano, Board Member
<b>AYES:</b>	Burt, Carrasco, Chavez, Constantine, Jimenez, Jones, Hendricks, Liccardo, Montano, Paul, Peralez, Simitian
<b>NOES:</b>	None
<b>ABSENT:</b>	None

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## 8. OTHER ITEMS

### 8.1. General Manager Report

#### 8.1.A. COVID-19 Safety Measures

Evelynn Tran, General Counsel & Interim General Manager/CEO, provided a brief report on VTA's implementation of COVID-19 safety measures, noting the following: 1) on January 25, 2021, the statewide order was lifted and Santa Clara County stayed within the purple tier which included wearing masks on vehicles and enforcing social distancing measures; 2) on February 1<sup>st</sup> the Centers for Disease Control (CDC) ordered mask wearing on all public transportation systems; 3) VTA advocacy for COVID-19 vaccine priority and rollout; and 4) no contact boarding to begin Monday, February 8, 2021, to minimize the transmission of COVID-19 and monitor compliance. Ms. Tran also reported on Black History month at VTA.

David Hill, Chief Operating Officer, provided an update on the following: 1) COVID-19 employee personal protective equipment; 2) customer safety; 3) safety at VTA facilities and on VTA vehicles; 4) filter installation on buses; and 5) installation of operator barriers.

Members of the Board and staff discussed the following: 1) filtration systems and airflow restrictions; 2) thanked Evelynn Tran for taking on the interim role of General Manager/CEO; and 3) thanked staff for their work.

Takis Salpeas, BART Program and Delivery, provided a brief update on BART Phase II, highlighting: 1) expedited program delivery application; 2) Federal Transit Administration (FTA) funding allocation; 3) Right of Way (ROW); 4) VTA/BART partnership to finalize design criteria; and 5) third party agreements.

**8.1.B. Government Affairs Update**

Ms. Tran noted that the Government Affairs update as well as the security statistics and preliminary ridership data were included in the online Agenda packet.

**Public Comment**

Mr. Lebrun commented about the following: 1) thanked staff for the safety and security information; 2) BART Phase II update; and 3) BART Phase I.

Mr. Bradley commented on the following: 1) thanked staff for listening to the public and increasing bus service and restarting rear door only boarding; and 2) expressed concern about security and lack of enforcement.

Mr. Beekman commented on the following: 1) personal protective equipment protocols; and 2) welcomed Ms. Tran in her new role.

John Courtney, Amalgamated Transit Union (ATU), Local 265, commented about the following: 1) welcomed Ms. Tran to her new role; 2) thanked ATU Executive staff; and 3) COVID-19 protocols.

Huascar Castro, Working Partnerships USA, expressed his support for the implementation of rear door only boarding to ensure the safety and protection of transit workers.

Monica Mallon, Youth Climate Action, commented on the following: 1) expressed support for spending funds to implement rear door boarding which protects essential transit drivers; and 2) encouraged VTA to continue to protect health and safety after the pandemic.

**8.2. Chairperson's Report**

Chairperson Hendricks provided a brief update on the Section 218 efforts to protect Social Security benefits for VTA employees.

**Public Comment**

Mr. Lebrun commented on the following: 1) public correspondence; 2) BART Phase II update; and 3) requested an update on BART extension ridership.

**8.3. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION**

Board Member Peralez noted his request for the BART Phase II update and suggested the matter be a standing item on the agenda.

Board Member Simitian requested staff note the public correspondence that was received after the 1:00 p.m. deadline.

**8.4. Announcements**

There were no Announcements.

**9. CLOSED SESSION**

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**9.1 Recessed to Closed Session at 7:54 p.m.**

**A. (Removed from the Agenda.)**

Conference with Legal Counsel - Anticipated Litigation

Significant Exposure to Litigation

[Government Code Section 54956.9(d)(2)]

Significant Exposure to Litigation

Number of potential cases: multiple

**B. Public Employment**

[Pursuant to Government Code Section 54957]

Title of Position to be filled: General Manager

**9.2 Reconvene to Open Session at 8:45 p.m.**

**9.3 Closed Session Report**

**B. Public Employment**

[Government Code Section 54957]

Title of Position to be filled: General Manager

Chairperson Hendricks noted that no reportable action was taken during Closed Session.

**10. ADJOURNMENT**

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**On order of Chairperson Hendricks** and there being no objection, the meeting was adjourned at 8:46 p.m.

Respectfully submitted,

Anita McGraw  
VTA Office of the Board Secretary