

BOARD OF DIRECTORS MEETING

Thursday, April 1, 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	Absent
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	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 requested to remove Closed Session **Agenda Item #9.1.E**, Public Employment, from the Agenda.

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

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

2. AWARDS AND COMMENDATION

2.1 Employees and Supervisor of the Quarter for the Second Quarter of 2021

The Board of Directors recognized the following employees: 1) David Lovato, Public Communication Specialist II, Community Engagement Department; 2) Luoc Nguyen, Electro-Mechanic, Light Rail Vehicle Maintenance Department; 3) Marlon Pulido, Coach Operator, Cerone Operations; and 4) Jay Tyree, Transportation Planning Manager, Service Planning Department as Employees and Supervisor of the Second (2nd) Quarter of 2021.

Public Comment

Roland Lebrun, Interested Citizen, noted that the description for **Agenda Item #9.1**, Closed Session, was not available on the agenda portal outline.

Elaine Baltao, Board Secretary, responded that the full pdf Agenda packet had the items to be discussed during Closed Session.

Alex Shoor, Interested Citizen, praised Mr. Lovato and Mr. Tyree for their work.

Brandi Childress, Media and Public Affairs Manager, expressed gratitude for Mr. Lovato and Mr. Tyree.

Blair Beekman, Interested Citizen, expressed appreciation to Mr. Lebrun for noting that the Closed Session items were not listed on the agenda outline.

3. PUBLIC COMMENT

Thalia Young, Board Assistant, noted written public comment was received from Silicon Valley Independent Living Center and San José State University (SJSU) Social Work Graduate Students, Interested Citizens, and were posted on the Agenda portal.

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

The following Interested Citizens commented on VTA resuming fare collection:

- Tricia Kokes;
- Eugene Bradley, CEO of Silicon Valley Transit Users; and
- Christine Fitzgerald.

Mr. Lebrun commented on a different interpretation of the fifth amendment to the United States Constitution explaining that anything that is not explicitly said can be used against you.

Mr. Beekman commented on the following: 1) COVID-19 variant in Europe; and 2) surveillance technology.

Andrea Guzman, SJSU Social Work Student, encouraged VTA to make the Department of Family and Children Services (DFCS) more accessible by bus.

4. PUBLIC HEARINGS

4.1. EBRC 1350 (Pacific Bowie)

Chairperson Hendricks noted public comment was received from the following Interested Citizens and posted on the Agenda portal:

- In-N-Out;
- Matteoni, O’Laughlin & Hechtman; and
- Albertson’s.

Ron Golem, Director of Real Estate & Transit Oriented Development, provided a presentation entitled “Eastridge to BART Regional Connector: Capitol Expressway Light Rail Project (EBRC) Amended Resolution of Necessity Hearing.”

Public Comment

Mr. Matteoni, Matteoni, O’Laughlin & Hechtman, made the following comments: 1) the requests from Pacific Gas & Electric (PG&E) are overreaching and beyond the easement; 2) the Board has the right to push back on PG&E; and 3) government code requires substance over form for appraisal of properties.

Natalie Mattei, Safeway Director of Real Estate, urged VTA to review the submitted letter, especially access to the shopping center as it would put Safeway’s business at risk.

Mr. Lebrun made the following comments: 1) funding and federal oversight; and 2) expressed concern about moving utility lines.

Mr. Beekman commented on tree cutting.

Members of the Board discussed the following: 1) VTA and PG&E master agreement; 2) impacts to the businesses in the shopping center; and 3) next steps.

M/S/C (Chavez/Jones) to close the Public Hearing and adopt **Resolution No. 2021.04.05** for the property listed herein determining that the public interest and necessity require the acquisition of a portion of property for the Eastridge to BART Regional Connector: Capitol Expressway Light Rail Project EBRC (“Project”).

RESULT:	Approved – Agenda Item #4.1
MOVER:	Cindy Chavez, Member
SECONDER:	Chappie Jones, Vice Chairperson
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jones, Liccardo, Montano, Paul, Peralez, Simitian
NOES:	None
ABSENT:	Jimenez

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 March 10, 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 March 11, 2021.

5.3. Standing Committee Chairpersons’ Report

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

5.4. Policy Advisory Board Chairpersons’ Report

Chairperson Hendricks noted that the Eastridge to BART Regional Connector Joint Policy Advisory Board Chairperson’s report was available in the online agenda packet.

5.5. Oversight Committee Chairpersons’ Report

2016 Measure B Citizens’ Oversight Committee Chairperson Herrera provided history of the Committee and a brief report on the annual audit.

Public Comment

Mr. Beekman commented on bringing the bike path system in north San José to south San José.

6. CONSENT AGENDA

Ms. Young noted that written public comment was received from Robin Roemer, Interested Citizen, referring to **Agenda Item #6.6**, 2016 MB FY21 Highway IC Program Mods and posted on the Agenda portal.

Public Comment

Mr. Lebrun made the following comments: 1) referenced **Agenda Item #6.6**, Redirect FY21-22 STA/GSR Funds, and commented on BART funding; 2) referenced **Agenda Item #6.9**, 2016 MBCOC Appointment - Educational Administration Professional. and expressed concern with the appointee; and 3) referenced **Agenda Item #6.16**, Unapproved Minutes for 4/1/21 BOD, and expressed concern with Caltrain Chairperson Davis' meeting management.

Mr. Beekman referenced **Agenda Item #6.7**, VTP Transportation Program Semi-Annual Report Ending December 31, 2020, and **Agenda Item #6.8**, 2020 Transportation Systems Monitoring Program Report, and expressed concern with surveillance.

Mr. Bradley referenced **Agenda Item #6.1**, SJAM Diridon Parking Agreement Amendment, and expressed interest in a formal discussion pertaining to the item.

Evelynn Tran, General Counsel and Interim General Manager/CEO, provided clarification that Silicon Valley Berryessa Extension (SVBX) and the BART Phase II projects.

ADMINISTRATION & FINANCE (A&F) COMMITTEE

6.1. SJAM Diridon Parking Agreement Amendment

M/S/C (**Chavez/Montano**) to authorize the General Manager to execute Amendment No. 6 to the Cooperative Parking Agreement (Agreement) between San Jose Arena Management (SJAM), the Peninsula Corridor Joint Powers Board (Caltrain), and VTA, to allow SAP Arena event parking on the Caltrain and VTA Diridon parking lots for a term up to June 30, 2022, with additional authority for the General Manager to extend it for up to an additional 90 days through September 30, 2022.

6.2. Measure A Semi-Annual Report ending December 31, 2020

M/S/C (**Chavez/Montano**) to receive the 2000 Measure A Transit Improvement Program Semi-Annual Report Ending December 31, 2020.

6.3. Real Estate Acquisition for I-680 Soundwall Project

M/S/C (**Chavez/Montano**) to receive I-680 Soundwall Project right of way acquisition information for Temporary Construction Easements.

CONGESTION MANAGEMENT PROGRAM & PLANNING (CMPP) COMMITTEE

6.4. Redirect FY21-22 STA/GSR Funds

M/S/C (Chavez/Montano) to adopt **Resolution No. 2021.04.06** to redirect \$4.56M in State of Good Repair (SGR) funds for Fiscal year 2021-22 from capital to operating assistance and to authorize the General Manager or her/his designee to execute grant related documentation, such as applications, agreements, certifications and assurances.

6.5. FY 2021-2022 TDA/STA Claim

M/S/C (Chavez/Montano) to adopt **Resolution No. 2021.04.07** authorizing the filing of an annual claim to the Metropolitan Transportation Commission (MTC) for allocation of eligible FY2021-2022 Transportation Development Act (TDA) and State Transit Assistance (STA) funds.

6.6. 2016 MB FY21 Highway IC Program Mods

M/S/C (Chavez/Montano) to adopt the fiscal years 2020 and 2021 modifications for the 2016 Measure B Highway Interchange Program Category.

6.7. VTP Transportation Program Semi-Annual Report Ending December 31, 2020

M/S/C (Chavez/Montano) to receive the Valley Transportation Plan (VTP) Transportation Program Semi-Annual Report Ending December 31, 2020.

6.8. 2020 Transportation Systems Monitoring Program Report

M/S/C (Chavez/Montano) to receive the FY 2020 Annual Transportation Systems Monitoring Program Report.

**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

6.9. 2016 MBCOC Appointment - Educational Administration Professional

M/S/C (Chavez/Montano) to approve the appointment of Martin Schuler to serve on the 2016 Measure B Citizens' Oversight Committee in the Education Administration Professional position, effective April 12, 2021.

6.10. General Liability & Workers' Compensation Reports with Payments & Settlements for Second Quarter of Fiscal Year 2021

M/S/C (Chavez/Montano) to receive the Second Quarter Fiscal Year 2021 Incidents and Claims Report.

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6.11. Section 218 - Step 4

M/S/C (Chavez/Montano) to adopt **Resolution Nos. 2021.04.08** and **2021.04.09**, in the forms attached hereto, as to each of the VTA/ATU Pension Plan Coverage Group and the CalPERS Pension Plan Coverage Group (as defined herein) that:

- (1) authorize the execution and submittal to the State Social Security Administrator an "Application and Agreement" to continue the process for an agreement under Section 218 of the Social Security Act for each Coverage Group as specified therein;
- (2) authorize and direct Evelyn Tran, General Counsel and Interim General Manager/CEO, to execute the Application and Agreement for such coverage; and
- (3) vest the authority to act in furtherance of the Application and Agreement in the position of General Manager/CEO, whether interim or permanent.

6.12. 2016 MB Innovative Transit Service Models Potential Supplemental CFP

M/S/C (Chavez/Montano) to approve retaining the balance of \$186,187 in the 2016 Measure B Innovative Transit Service Models Competitive Grant Program to augment the next call for projects in late 2022 or early 2023.

6.13. Workshop Meeting Minutes of February 19, 2021

M/S/C (Chavez/Montano) to approve the Workshop Meeting Minutes of February 19, 2021.

6.14. Regular Meeting Minutes of March 4, 2021

M/S/C (Chavez/Montano) to approve the Regular Meeting Minutes of March 4, 2021.

6.15. Special Meeting Minutes of March 22, 2021

M/S/C (Chavez/Montano) to approve the Special Meeting Minutes of March 22, 2021.

6.16. Unapproved Minutes for 4/1/21 BOD

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

RESULT:	APPROVED – Agenda Items #6.1-6.16
MOVER:	Cindy Chavez, Member
SECONDER:	Carmen Montano, Member
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jones, Liccardo, Montano, Paul, Peralez, Simitian
NOES:	None
ABSENT:	Jimenez

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.”

Public Comment

Mr. Lebrun commented on BART funding.

Mr. Beekman expressed concern about Bigbelly technology.

The Board had a brief discussion about the project schedule.

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

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7.2. 2016 Measure B Principles

Kathleen Kelly, Interim Chief Financial Officer, provided a presentation entitled “2016 Measure B: 10-year Program & Biennial Budget Principles.”

Public Comment

Ms. Young noted written public comment was received from the Silicon Valley Leadership Group (SVLG) and was posted on the Agenda portal as part of the packet.

Jason Baker, SVLG, expressed support for the principles.

Mr. Beekman commented on BART.

The Board had a robust discussion on the following: 1) federal funding for BART Phase II; 2) ratios and caps; and 3) litigation risks.

Board Member Jimenez joined the teleconference
and video meeting at 7:32 p.m.

M/S/C (Liccardo/Constantine) to: 1) Approve the 2016 Measure B 10-year Program and Biennial Budget Principles; and 2) Direct staff to apply the Principles and develop funding allocations for the Formula-based program categories for the 2016 Measure B FY 2022 and FY 2023 Biennial Budget. Further, the Board approved the amended principles as follows:

- a) Comply with the language of the ballot measure (including any amendments approved pursuant to the ballot language).
- b) Invest in all nine program categories throughout the 10-year period, as long as funding remains available in the program category, with the understanding that there may not be allocations in all categories annually.
- c) Apply ballot-established ratios to Formula-based programs on an annual basis.
- d) Apply Board-approved project readiness selection criteria to Need/Capacity-based programs for projects to be included in the 10-year Program and Biennial Budget and apply specific project prioritization processes for each program consistent with the 25% cap of Program Tax Revenues on the BART Phase II program category and the ratios applicable to each category.
- e) Use financing tools, subject to approval by the VTA Board of Directors, to make funding available when projects are ready, subject to available financing capacity.
- f) Explicitly and transparently consider opportunities from external funders subject to constraints of other principles.

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

ADMINISTRATION AND FINANCE (A&F) COMMITTEE

7.3. Transit-Oriented Development (TOD) Program Review, Business Plan Background

Mr. Golem and Jessie O'Malley-Solis, TOD Manager, provided a presentation entitled "TOD Program Review."

Public Comment

Mr. Lebrun commented on the following: 1) few people drive to light rail station; 2) expressed concern that VTA took over Tamien Caltrain station parking lot; and 3) Diridon station.

Mr. Bradley inquired about market rates.

Mr. Beekman commented on housing.

Sid Kotapati, Interested Citizen, expressed support for the Transit Oriented Development (TOD) program.

The Board discussed the following: 1) TOD run by other transit agencies; and 2) affordable housing.

Board Member Jimenez left the teleconference
and video meeting at 8:25 p.m.

On order of Chairperson Hendricks and there being no objection, the Board reviewed Transit-Oriented Development (TOD) Program, Business Plan Background.

CONGESTION MANAGEMENT PROGRAM & PLANNING (CMPP) COMMITTEE
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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 Report

Ms. Tran provided a report on the following: 1) front door boarding and fare collection resumed April 1, 2021; 2) Operator Protective Barriers; 3) COVID-19 vaccination update; 4) Taking a Stand Against Hate; 5) Small & Disadvantaged Business Depot quarterly newsletter; 6) 2020 Annual Report; and 7) BART Silicon Valley Extension earned the Envision Platinum Award.

Board Member Carrasco left the teleconference
and video meeting at 9:34 p.m.

8.1.A. Transit Ridership Trends Report

Mr. Tyree provided a presentation entitled “Ridership and Pass-Up Trends.”

8.1.B. Government Affairs Report

Ms. Tran noted that the Government Affairs report was included in the online agenda packet.

Ms. Tran noted that the ridership and safety data was posted on the Agenda portal.

Public Comment

Mr. Lebrun commented on surplus Coronavirus Aid, Relief, and Economic Security (CARES) Act funding.

Joty Dhaliwal, People’s Transit Alliance, urged VTA to not prioritize saving CARES Act money over public safety.

Mr. Bradley commented on security on buses, light rail, and transit centers.

Nathan, People’s Transit Alliance, expressed support to run more buses to avoid overcrowding on buses.

John Courtney, Amalgamated Transit Union (ATU) Local 265, urged VTA to keep social distancing at 6 feet.

Monica Mallon, Interested Citizen, made the following comments: 1) pass ups will increase until business open; and 2) CARES Act money.

Anne, ATU Local 265, commented on the following: 1) expressed concerned about safety; and 2) encouraged VTA to petition Metropolitan Transportation Commission (MTC) to release the next round of CARES Act funding.

Jeri Bromley, ATU Local 265, made the following comments: 1) reinvest in drivers; and 2) encouraged an increase in service but not at the expense of social distancing protocols.

8.2. Chairperson’s Report

Chairperson Hendricks provided an update on the Section 218 agreement election results and next steps. He thanked the VTA team and the Board for their efforts and support.

8.2.A. Board Governance Enhancement Process Status Update

Jim Lawson, Chief of External Affairs, provided a presentation entitled “VTA Board Governance Enhancement Process Update.”

Chairperson Hendricks provided background information on the VTA Board governance.

Public Comment

Mr. Beekman commented on the following: 1) governance issues; and 2) financial challenges.

Mr. Lebrun expressed support for a change in Board governance.

The Board discussed Assembly Bill (AB) 1091.

8.3. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

Board Member Montano would like to discuss soundwalls in Milpitas with VTA staff.

8.4. Announcements

There were no Announcements.

9. CLOSED SESSION

9.1. Recessed to Closed Session at 10:07 p.m.

**A. Conference with Real Property Negotiators
[Government Code Section 54956.8]**

Property: Cerone Division Yard, 3990 Zanker Road, San Jose, CA 95134, a portion of the undeveloped land, also referred to as a portion of Assessor Parcel Numbers 09704020 and 09704037.

Agency Negotiators: Ron Golem, Director, Real Estate & Transit-Oriented Development; Jessie O’Malley Solis, TOD Program Manager
Negotiating Parties: David Binswanger, Senior Executive Vice President; Brandon Wang, Executive Vice President, Lincoln Property Company

Under Negotiation: Terms and condition of Lease Option Agreement

B. Conference with Real Property Negotiators
[Government Code Section 54956.8]

Property: Curtner Light Rail Station, 2348 Canoas Garden Avenue, San Jose, CA 95118, portions of the parking lot, also referred to as a portion of Assessor Parcel Numbers 455-19-137, -138, -140, -143, -147, and -148.

Agency Negotiators: Ron Golem, Director, Real Estate & Transit-Oriented Development; Jessie O'Malley Solis, TOD Program Manager

Negotiating Parties: Ted McMahon, Chief Investment Officer, Bayview Development Group; Matt Conti, Vice President, Bayview Development Group; Franck Lombard, President, Civil & Building North America, Inc.

Under Negotiation: Terms and condition of Lease Option Agreement

C. 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)

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

Graham, Jami Lee v. Santa Clara Valley Transportation Authority, et al. Santa Clara County Superior Court Case No. 18-CV-330221

E. (Removed from the Agenda)

Public Employment
[Pursuant to Government Code Section 54957]

Title of position to be filled:
General Manager

Board Members Liccardo and Montano left the teleconference
and video meeting at 11:09 p.m.

9.2. Reconvened to Open Session at 11:10 p.m.

9.3. Closed Session Report

A. Conference with Real Property Negotiators
[Government Code Section 54956.8]

Property: Cerone Division Yard, 3990 Zanker Road, San Jose, CA 95134, a portion of the undeveloped land, also referred to as a portion of Assessor Parcel Numbers 09704020 and 09704037.

Agency Negotiators: Ron Golem, Director, Real Estate & Transit-Oriented Development; Jessie O'Malley Solis, TOD Program Manager
Negotiating Parties: David Binswanger, Senior Executive Vice President; Brandon Wang, Executive Vice President, Lincoln Property Company

Under Negotiation: Terms and condition of Lease Option Agreement

Carlos Orellana, Deputy General Counsel, noted no reportable action was taken during Closed Session.

B. Conference with Real Property Negotiators
[Government Code Section 54956.8]

Property: Curtner Light Rail Station, 2348 Canoas Garden Avenue, San Jose, CA 95118, portions of the parking lot, also referred to as a portion of Assessor Parcel Numbers 455-19-137, -138, -140, -143, -147, and -148.

Agency Negotiators: Ron Golem, Director, Real Estate & Transit-Oriented Development; Jessie O'Malley Solis, TOD Program Manager

Negotiating Parties: Ted McMahon, Chief Investment Officer, Bayview Development Group; Matt Conti, Vice President, Bayview Development Group; Franck Lombard, President, Civil & Building North America, Inc.

Under Negotiation: Terms and condition of Lease Option Agreement

Mr. Orellana noted no reportable action was taken during Closed Session.

C. 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)

Mr. Orellana noted no reportable action was taken during Closed Session.

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

Graham, Jami Lee v. Santa Clara Valley Transportation Authority, et al.
Santa Clara County Superior Court Case No. 18-CV-330221

Mr. Orellana noted no reportable action was taken during Closed Session.

10. ADJOURNMENT

On order of Chairperson Hendricks and there being no objection, the meeting was adjourned at 11:12 p.m.

Respectfully submitted,

Thalia Young, Board Assistant
VTA Office of the Board Secretary