

BOARD OF DIRECTORS MEETING

Thursday, February 3, 2022

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 Jones at 5:30 p.m. via video and teleconference.

1.1. OATH OF OFFICE

Chairperson Jones welcomed new Board Member Sudhanshu "Suds" Jain from the City of Santa Clara, representing North East Cities Group - 5.

Elaine Baltao, VTA Board Secretary, administered the Oath of Office to the newly appointed Board Member.

1.2. ROLL CALL

Chairperson Jones noted that the Santa Clara County City Group - 6 made a change to their appointees to the Board. Supervisor Otto Lee will now be one of the Regular Members, and an Alternate Member for this group has not yet been determined.

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

* Alternates do not serve unless participating as a Member.

A quorum was present.

1.3. Orders of the Day

There were no Orders of the Day.

2. AWARDS AND COMMENDATION

2.1. Retirement Commendations

The Board of Directors recognized Maurice Beard, Bus Technical Training Supervisor, for 30 years of service.

Board Member Liccardo joined the
video and teleconference at 5:36 p.m.

The following VTA retirees were unable to attend the meeting and were recognized: Hector Alvarado, Coach Operator, for 31 years of service; Greg Bushner, Light Rail Maintenance Instructor for 31 years of service; Robert Hannibal, Coach Operator, for 35 years of service; and Glenn Haugen, Upholstery Shop Foreperson, for 26 years of service.

3. PUBLIC COMMENT

Thalia Young, Board Assistant, noted that written public comment was received and has been posted on the Agenda Portal.

The following Amalgamated Transit Union (ATU) Local 265 Members and Interested Citizens expressed opposition to VTA's vaccine mandate:

- John Courtney
- Karena Anguiano
- Sarena
- Anne Marie
- Eric Chavez
- Wade Kemp
- Rosita Izquierdo-Rosa
- Art
- Tizoc Salinas
- Raj Singh
- Janell Rubbo
- Blair Beekman
- Marta
- Titus Aye
- Agustin
- Ave Ahio

- Antone
- Linda Macias
- Alex
- Shona
- Marcus
- Jesse
- Liz

Harry Neil, Interested Citizen, urged the Board to consider light rail along Stevens Creek Boulevard.

Kiko Man, ATU 265, encouraged VTA to enforce all parts of the mandate, especially the sanitation and cleaning of facilities.

4. PUBLIC HEARINGS

There were no public hearings.

5. REPORTS

5.1. Committee Reports

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

A written Citizens Advisory Committee (CAC) will be posted on the Agenda Portal.

5.1.b. Policy Advisory Committee (PAC) Chairperson's Report

Policy Advisory Committee (PAC) Chairperson Moore provided a brief report on the PAC meeting of January 13, 2022.

5.1.c. Standing Committee Chairpersons' Report

Chairperson Jones noted that the Standing Committee Chairpersons' reports were available in the online agenda packet.

5.1.d. Policy Advisory Board Chairpersons' Report

Chairperson Jones noted there were no Policy Advisory Board Chairpersons' reports.

Public Comment

Joe Kunzler, Interested Citizen, made the following comments:
1) congratulated PAC Chairperson Moore on being re-elected for 2022; and
2) expressed support for vaccine mandate.

Mr. Beekman commented on the following: 1) CAC and PAC membership;
and 2) expressed support for a name change for the Junipero Serra trail.

5.2. General Manager Report

Carolyn M. Gonot, General Manager/CEO, provided a report, highlighting the following: 1) COVID-19 Vaccination Policy; 2) COVID-19 Response; 3) grants received from the California Energy Commission and California Strategic Growth Council; 4) light rail track maintenance work scheduled for February 2022; and 5) Express Lanes Phase 3 Opening on February 10, 2022.

5.2.a Government Affairs Update

Ms. Gonot noted that the Government Affairs written report was provided to the Board and can be found in the online agenda packet, along with the ridership and safety and security statistics.

Public Comment

Mr. Courtney expressed concern that vaccine mandate was fast tracked above other issues.

Ms. Anne Marie commented that sanitation at facilities needs improvement.

Eugene Bradley, Interested Citizen, commented on safety onboard buses and light rails and at stations.

Mr. Beekman made the following comments: 1) assaults are down; and 2) vaccine mandate flexibility.

Milo, ATU Local 265, commented on the vaccine mandate and cleaning schedules.

John Pospishek, Vice President ATU Local 265, expressed support for choice with the COVID-19 vaccine.

Mr. Man commented that sanitization is not being enforced.

The following ATU Local 265 Members and Interested Citizens expressed opposition to the VTA vaccine mandate:

- Jacqueline Izquierdo
- Frank
- Mary Juarez
- James Buckley.

Ms. Anguiano expressed concern that employees were not asked for input on the vaccine mandate.

Ms. Rubbo commented on violence against operators including an incident she was involved in and expressed concern about the lack of response.

Ms. Izquierdo-Rosa encouraged VTA to do the following: 1) allocate money for sanitization; and 2) open employee gyms to promote health and well-being.

Mr. Neil made the following comments: 1) encouraged VTA to keep up on sanitization; and 2) vaccines are needed to attend school.

Board Members made the following requests: 1) closed session item to discuss the vaccine mandate; 2) sick time during COVID, including supplemental sick mandate from California Governor Newsom; 3) information on denied industrial injury claims; and 4) following up with operators after violent incidents.

5.3. Chairperson's Report

Chairperson Jones provided a brief report, highlighting the following: 1) Black History Month; and 2) VTA Forward Plan.

Public Comment

Mr. Beekman spoke about Rosa Parks.

Ms. Anne Marie commented on sanitation practices.

6. CONSENT AGENDA

Board Member Hendricks referenced **Agenda Item #6.12**, Regular Meeting Minutes of January 6, 2022, noting that Chairperson Jones called the meeting to order.

Board Members Chavez and Liccardo recused themselves from **Agenda Item #6.2**, US 101/SR 25 Interchange Improvement Phase 1 - Contract Amendment #3, and **Agenda Item #6.4**, ICF International - Contract Amendment (VTA Contract S13070) VTA's BART Silicon Valley Extension - Phase II Environmental Planning Services.

Board Member Jain noted his abstention from **Agenda Item #6.12**, Regular Meeting Minutes of January 6, 2022.

Public Comment

The following referenced **Agenda Item #6.1**, Extension of Contract S17112 - Workers' Compensation Third-Party Administration Services and Contract S171113 - Workers' Compensation Managed Care Services, noted dissatisfaction with TriStar and expressed concern about extending the contract with TriStar.

- John Courtney
- Daniel Field, Interested Citizen
- Tammy Dhanota, SEIU Local 521

Mr. Beekman referenced **Agenda Item #6.13**, Unapproved Minutes/Summary Reports from VTA Committees, Joint Powers Boards (JPB), and Regional Commissions, and commented on high-speed rail.

Board Members Chavez and Peralez requested deferral of **Agenda Item #6.1** and refer it back to the Administration and Finance Committee. Further, Board Member Chavez suggested working with bargaining unions for contracts that have impacts to employees.

ADMINISTRATION AND FINANCE (A&F) COMMITTEE

6.1. (Deferred)

M/S/C (Peralez/Lee) to defer Agenda Item #6.1.

Authorize the General Manager to extend Contract S17112 with TriStar Risk Management for Workers' Compensation Third-Party Administration Services, and Contract S17113 with EK Health for Workers' Compensation Managed Care Services, by two (2) years with a new expiration date of June 30, 2024. The amount for the extension of Contract S17112 will not exceed \$2,554,343, resulting in a total contract price of \$7,814,443, and the amount of the extension of Contract S17113 will not exceed \$632,700, resulting in a total contract price of \$2,032,700.

6.2. US 101/SR 25 Interchange Improvement Phase 1 - Contract Amendment #3

M/S/C (Peralez/Lee) on a vote of 10 ayes to 0 noes to 2 recusals to authorize the General Manager to execute Contract Amendment 3 with Kimley-Horn and Associates, Inc. for additional work to perform Final Design and Right-of-Way (ROW) services for the US 101/SR 25 Interchange Improvement Project - Phase 1 in the amount of \$1,300,870 for a new total contract amount of \$7,144,936, and to use the new total contract amount of \$7,144,936 to calculate the General Manager's amendment authority under Administrative Code Section 9.2(h) for the project. Board Members Chavez and Liccardo recused.

6.3. Letter of No Prejudice (LONP) for the Eastridge to BART Regional Connector (EBRC) Project and Implementing Agency Resolution

M/S/C (Peralez/Lee) to adopt an Implementing Agency **Resolution No. 2022.02.03** and authorize the General Manager to execute and submit a Letter of No Prejudice (LONP) request to the Metropolitan Transportation Commission (MTC) for Regional Measure 3 (RM3) funds in the amount of \$130 million for the construction phase of the Eastridge to BART Regional Connector (EBRC) project.

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

6.4. ICF International - Contract Amendment (VTA Contract S13070) VTA's BART Silicon Valley Extension - Phase II Environmental Planning Services

M/S/C (Perez/Lee) on a vote of 10 ayes to 0 noes to 2 recusals to authorize the General Manager/CEO to execute a contract amendment with ICF International (S13070) for an amount up to \$3,000,000 to continue providing environmental planning, archaeological testing, and related support services to remain in compliance with environmental clearance requirements as VTA's BART Silicon Valley Phase II Extension Project (BSVII Project) progresses through final design and into construction. Board Members Chavez and Liccardo recused.

**CONGESTION MANAGEMENT PROGRAM & PLANNING (CMPP)
COMMITTEE**

6.5. Add Project to FY 2021/2022 TDA3 Project Priorities

M/S/C (Perez/Lee) to adopt **Resolution No. 2022.02.04** for the FY 2021/22 Countywide Transportation Development Act (TDA) approving \$1,015,022 for Cupertino's Junipero Serra Trail East Segment project.

6.6. 2021 TFCA Project Status Report

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

6.7. Vehicle Registration Fee (VRF) Annual Report

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

**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

6.8. Appointment to the 2016 Measure B Citizens' Oversight Committee

M/S/C (Perez/Lee) to approve the appointment of Emily Lo to serve on the 2016 Measure B Citizens' Oversight Committee in the Municipal/Public Finance Professional representative position to serve in place of the never filled Retired Judge position, per the recommendation of the Evaluation Subcommittee.

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6.9. Revised Declaration for Vasona Surplus Property

M/S/C (Perez/Lee) to adopt **Resolution No. 2022.02.05** declaring that, pursuant to the requirements of California Surplus Lands Act, approximately 6,871 square feet of Santa Clara Valley Transportation Authority (VTA) property is exempt surplus property under the Surplus Lands Act.

6.10. Revised 2022 Appointment to the Congestion Management Program & Planning Committee

M/S/C (Perez/Lee) to approve revised appointments to the Congestion Management Program and Planning (CMPP) Committee for 2022.

6.11. Subsequent Resolution to Continue Remote Board and Committee Meetings

M/S/C (Perez/Lee) to adopt a **Resolution No. 2022.02.06** authorizing the Santa Clara Valley Transportation Authority (VTA) Board of Directors and all standing, advisory, policy, oversight, steering, and inter-agency committees and subcommittees of the Board to continue to meet by remote teleconference, subject to the requirements of Assembly Bill 361 (Rivas).

6.12. Regular Meeting Minutes of January 6, 2022

M/S/C (Perez/Lee) on a vote of 11 ayes to 0 noes to 1 abstention to approve the Regular Meeting Minutes of January 6, 2022. Board Member Jain abstained.

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

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

RESULT:	DEFERRED - Agenda Item #6.1
MOVER:	Raul Perez, Board Member
SECONDER:	Otto Lee, Board Member
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jain, Jimenez, Jones, Lee, Liccardo, Paul, Perez
NOES:	None

RESULT:	APPROVED - Agenda Items #6.2, 6.4
MOVER:	Raul Perez, Board Member
SECONDER:	Otto Lee, Board Member
AYES:	Burt, Carrasco, Constantine, Hendricks, Jain, Jimenez, Jones, Lee, Paul, Perez
NOES:	None
RECUSALS:	Chavez, Liccardo

RESULT:	APPROVED - Agenda Items #6.3, 6.5-6.11, 6.13
MOVER:	Raul Perez, Board Member
SECONDER:	Otto Lee, Board Member
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jain, Jimenez, Jones, Lee, Liccardo, Paul, Perez
NOES:	None

RESULT:	APPROVED - Agenda Item #6.12
MOVER:	Raul Perez, Board Member
SECONDER:	Otto Lee, Board Member
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jimenez, Jones, Lee, Liccardo, Paul, Perez
NOES:	None
ABSTAIN:	Jain

7. REGULAR AGENDA

ADMINISTRATION AND FINANCE (A&F) COMMITTEE

7.1. TOD Policy on Labor Peace

Ron Golem, Director of Real Estate and Transit-Oriented Development; and Jessie O'Malley-Solis, Manager, Transit-Oriented Development, provided an overview of the staff report.

Public Comment

Mr. Courtney commented on engaging the unions and not just the building owners.

Mr. Beekman commented on the proposed labor peace policy.

The Board and staff discussed updating the language to bring items back to the Board contract execution to verify that all standards have been met and to ensure that VTA's proprietary interests are not negatively affected.

M/S/C (Chavez/Constantine), as amended, to adopt a Labor Peace Agreement (LPA) Policy, as set forth in Attachment A, for Hospitality Operations on VTA Transit-Oriented Development (TOD) sites as an addition to the existing VTA Transit-Oriented Development Policy (TOD) dated November 22, 2019. Amendment includes policy language changes that includes verification and protection of VTA’s proprietary interests.

RESULT:	ADOPTED as amended - Agenda Item #7.1
MOVER:	Cindy Chavez, Board Member
SECONDER:	Rich Constantine, Vice Chairperson
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jain, Jimenez, Jones, Lee, Liccardo, Paul, Perez
NOES:	None

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

7.2. Updated 2022 Public Transportation Agency Safety Plan

Susan Lucero, Safety Manager, provided a presentation entitled “Public Transportation Agenda Safety Plan (PTASP).”

Public Comment

Mr. Beekman commented on public safety.

Ms. Anne Marie inquired if ATU was included as part of the safety committee discussions.

A brief discussion ensued about the development and review process for the PTASP.

Board Member Chavez recommended looking at how the workforce and bargaining units are engaged as VTA goes through the climate and culture change process.

M/S/C (Hendricks/Constantine) to approve the updated Santa Clara Valley Transportation Authority (VTA) Public Transportation Agency Safety Plan (PTASP). The PTASP documents VTA’s processes and activities related to the implementation of a Safety Management System (SMS), in compliance with federal and state regulations.

RESULT:	APPROVED- Agenda Item #7.2
MOVER:	Glenn Hendricks, Board Member
SECONDER:	Rich Constantine, Vice Chairperson
AYES:	Burt, Carrasco, Chavez, Constantine, Hendricks, Jain, Jimenez, Jones, Lee, Liccardo, Paul, Peralez
NOES:	None

GOVERNANCE AND AUDIT (G&A) COMMITTEE

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

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7.3. Caltrans District 4 Presentation

Dina El-Tawansy, Caltrans District IV Director, provided a presentation entitled “Caltrans Bay Area.”

Board Member Burt left the
video and teleconference meeting at 7:58 p.m.

Public Comment

Mr. Beekman commented on the planning process.

Members of the Board expressed concern that Santa Clara County does not receive sufficient resources for basic maintenance and litter clean up.

Members of the Board requested the following information: 1) how to coordinate with Caltrans for volunteer clean up; 2) customer service request system; 3) staff vacancies in District IV and efforts to fill those vacancies for litter clean up in Santa Clara County; 4) historic level of investments and fund allocation for litter clean up in Santa Clara County and how it compares to the other counties in District IV; and 5) assets that could help with clean up and litter prevention.

Members of the Board requested a report on how Santa Clara County can ensure equitable distribution of resources for maintenance.

On order of Chairperson Jones and there being no objection, the Board received a presentation from Dina El-Tawansy, Caltrans District IV Director.

7.4. Service Restoration Status

Jay Tyree, Service Planning & Scheduling Manager, provided a presentation entitled “Transit Service Update.”

Public Comment

Mr. Beekman commented that there were fewer assaults on drivers in 2021 and felony arrests are up.

Mr. Courtney expressed appreciation for this work and working with ATU to keep service going.

On order of Chairperson Jones and there being no objection, the Board received a report on pandemic-related service restoration.

7.5. 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.”

Board Member Perales commented on his letter about: 1) a comprehensive strategy to determine funding for BART Phase II public art; and 2) possibly establishing a public art policy which would include a goal percentage of funds.

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

7.6. SB 129 Joint Labor Management Committee Update

Haniet Bourshrockn, VTA Employee and SEIU Local 521, provided an update, highlighting the following: 1) contract for receiving the state money; 2) resiliency center open house; and 3) an update on the organizational culture and climate transportation request for proposal.

On order of Chairperson Jones and there being no objection, the Board received an update from SB 129 Joint Labor Management Committee.

7.7. Operator Safety

Angelique Gaeta, Chief of System Safety & Security, and Acting Captain Jose Cardoza, Santa Clara County Sheriff’s Office, provided a presentation entitled “Operator Safety.”

Board Member Burt returned to the
video and teleconference at 9:12 p.m.

Public Comment

Mr. Bradley made the following comments: 1) expressed concern about the absence of signage about the consequences for assaulting drivers; and 2) security on the system.

Mr. Courtney made the following comments: 1) perceived safety affects ridership; and 2) expressed concern that perpetrators are allowed to ride the system.

Members of the Board made the following requests: 1) staff respond to comments on signage related to consequences of violence against operators; 2) response to comments about policies to protect operators, including prosecuting perpetrators and not allowing them back on the system; 3) a presentation at the Safety, Security, and Transit Planning and Operations (SSTPO) Committee about VTA policies that protect employees; and 4) consider inviting someone from the District Attorney's office and the Sheriff's office to provide a presentation at SSTPO on law and law enforcement framework specific to violence against operators.

On order of Chairperson Jones and there being no objection, the Board received a presentation on operator safety.

8. OTHER ITEMS

8.1. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

Members of the Board requested the following: 1) information on Metropolitan Transit Commission (MTC) fare integration; and 2) VTA staff work with Alliance for Girls to make public transportation safe for girls and women including a report back to SSTPO.

8.2. Announcements

There were no Announcements.

8.3. Public Comment

There were no Public Comments.

9. CLOSED SESSION

9.1. Recessed to Closed Session at 9:31 p.m.

A. Conference with Legal Counsel - Anticipated Litigation [Government Code Section 54956.9(d)(2)]

Significant Exposure to Litigation: Multiple Cases related to May 26, 2021 incident

9.2. Reconvened to Open Session at 11:01 p.m.

9.3. Closed Session Report

A. Conference with Legal Counsel - Anticipated Litigation [Government Code Section 54956.9(d)(2)]

Significant Exposure to Litigation: Multiple Cases related to May 26, 2021 incident

Evelynn Tran, General Counsel, noted no reportable action was taken during Closed Session.

10. ADJOURNMENT

On order of Chairperson Jones and there being no objection, the meeting was adjourned at 11:01 p.m.

Respectfully submitted,

Thalia Young, Board Assistant
VTA Office of the Board Secretary