

BOARD OF DIRECTORS MEETING

Thursday, September 5, 2019

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 O'Neill at 5:39 p.m. in the Board of Supervisors' Chambers, County Government Center, 70 West Hedding Street, San José, California.

1.1. ROLL CALL

Attendee Name	Title	Status
Marie Blankley	Alternate Board Member	Absent
Larry Carr	Board Member	Present
Magdalena Carrasco	Board Member	Present
Cindy Chavez	Vice Chairperson	Present
David Cortese	Board Member	Present
Dev Davis	Alternate Board Member	Present
Lan Diep	Board Member	Absent
Susan Ellenberg	Alternate Board Member	Absent
Adrian Fine	Alternate Board Member	Absent
Glenn Hendricks	Alternate Board Member	Present
Chappie Jones	Board Member	Absent
Sam Liccardo	Board Member	Present
John McAlister	Board Member	Present
Howard Miller	Alternate Board Member	Present
Teresa O'Neill	Chairperson	Present
Raul Peralez	Board Member	Absent
Rob Rennie	Board Member	Present
Rich Tran	Board Member	Present
Jeannie Bruins	Ex-Officio Member	Present

* Alternates do not serve unless participating as a Member.

A quorum was present.

1.2. Pledge of Allegiance

The Pledge of Allegiance commenced.

1.3. Orders of the Day

Vice Chairperson Chavez requested to move **Agenda Item #7.1**, ATU Labor Contract Agreement, to the Consent Agenda from the Regular Agenda.

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

RESULT:	ACCEPTED – Agenda Item #1.3
MOVER:	Sam Liccardo, Board Member
SECONDER:	Dev Davis, Alternate Board Member
AYES:	Carr, Carrasco, Chavez, Davis, Hendricks, Liccardo, McAlister, O'Neill, Rennie
NOES:	None
ABSENT:	Cortese, Jones, Peralez

2. AWARDS AND COMMENDATION

2.1. Retirement Commendations

The Board recognized Alfred Lozano, Coach Operator, for 29 years of distinguished public service with VTA.

The following retirees were unable to attend, but were recognized for their distinguished public service with VTA: 1) Sheri Barnes, Office & Timekeeping Technician, for 38 years of service; 2) Deborah Lyvette Burnett, Coach Operator, for 31 years of service; 3) Genario Cabuag, Coach Operator, for 31 years of service; 4) Sukhminder Dhaliwal, Service Worker, for 31 years of service; 5) Anthony Gray, Coach Operator, for 32 years of service; and 6) Robert Ortiz, Service Worker, for 36 years of service.

Board Member Tran arrived at 5:42 p.m. Alternate Board Member Hendricks relinquished his seat to Board Member Tran.

2.2. Board Resolution of Appreciation

The Board recognized the following outgoing VTA Citizens Advisory Committee and 2000 Measure A Citizens Watchdog Committee Members (CAC/CWC) for their exemplary service to VTA and the community: 1) Stephen Blaylock; 2) Chris C. Elias; 3) William Hadaya; and 4) Connie Rogers.

Ray Hashimoto was unable to attend but was recognized for his exemplary service to VTA and the community.

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

M/S/C (Liccardo/Davis) to adopt **Resolution of Commendation No. 2019.09.30** expressing VTA's appreciation for five outgoing VTA Citizens Advisory Committee and 2000 Measure A Citizens Watchdog Committee members for their service and contribution to VTA and the community: Stephen Blaylock; Chris C. Elias; William Hadaya; Ray Hashimoto; and Connie Rogers.

RESULT:	ADOPTED – Agenda Item #2.2
MOVER:	Sam Liccardo, Board Member
SECONDER:	Dev Davis, Alternate Board Member
AYES:	Carr, Carrasco, Chavez, Davis, Liccardo, McAlister, O'Neill, Rennie, Tran
NOES:	None
ABSENT:	Cortese, Jones, Peralez

3. PUBLIC COMMENT

The following members of the public commented on the need for better bus service and expressed support for a Board workshop to discuss reallocating 2016 Measure B funds:

- Scott Mace, Interested Citizen;
- Hoai-An Truong, Interested Citizen;
- Monica Mallon, Interested Citizen;
- Basil Saleh, Interested Citizen;
- Tessa Woodmansee, Interested Citizen;
- Brian Ruiz, Interested Citizen;
- Marshall Woodmansee, Interested Citizen;
- Andrew Boone, Interested Citizen;
- Genevieve Kolar, Interested Citizen;
- Tanya Khaledi, Interested Citizen;
- Mimi Spreadbury, Interested Citizen;
- Neil McClintick, Interested Citizen; and
- Eugene Bradley, Interested Citizen.

Britni Crocker, Interested Citizen, commented on buses not arriving as scheduled.

Board Member Cortese arrived and took his seat at 5:52 p.m.

James Wightman, Interested Citizen, commented on the following: 1) BART service to the South Bay; and 2) inquired about the October 2019 transit changes.

James Kuszmoul, Interested Citizen, commented on increasing bus service outside of commute hours.

Thom Mayer, Interested Citizen, commented on the speed of light rail.

Kyle Graham, Interested Citizen, commented on removing a bus stop in the Willow Glen neighborhood.

Roland Lebrun, Interested Citizen, commented on the following: 1) traffic light priority in downtown San José; and 2) Google maps.

Judy Purrington, Interested Citizen, commented on the following: 1) decreased bus service; and 2) first/last mile issues.

Rob Means, Interested Citizen, commented on starting Personal Rapid Transit in Milpitas.

Liana Crabtree, Interested Citizen, expressed concern about buses not arriving.

Sergio Lopez, Interested Citizen, commented on bus service in the West Valley.

4. PUBLIC HEARINGS

There were no Public Hearings.

5. COMMITTEE REPORTS

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

Martin Schulter, Citizens Advisory Committee (CAC) Chairperson, provided a report on the items discussed at the August 7, 2019, CAC meeting.

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

Alternate Board Member Hendricks, Policy Advisory Committee (PAC) Chairperson, provided a report on the items discussed at the August 8, 2019, PAC meeting.

5.3. Standing Committee Chairpersons' Report

The following Board Members provided Standing Committee reports on the items discussed at their respective meetings:

Chairperson Carr	Administration and Finance (A&F) Committee meeting on August 15, 2019
Chairperson Liccardo	Capital Program Committee (CPC) Committee meeting on August 22, 2019
Vice Chairperson Chavez	Safety, Security and Transit Planning and Operations (SSTPO) Committee meeting on August 16, 2019
Chairperson O'Neill	Governance and Audit (G&A) Committee meeting on September 5, 2019

5.4. Policy Advisory Board Chairpersons' Report

Alternate Board Member Davis, Vice Chairperson for the Diridon Station Joint Policy Advisory Board (JPAB), provided a report on the items discussed at the August 30, 2019, Diridon Station JPAB meeting.

Public Comment

Mr. Lebrun made the following comments: 1) expressed concern that the Diridon Station JPAB agenda did not indicate that Google was presenting; 2) expressed concern that the presentations were not posted until September 3, 2019; and 3) requested that the meetings be held at San José City Hall.

6. CONSENT AGENDA

Public Comment

Mr. Lebrun referenced **Agenda Item #6.6**, Property Required for Eastridge to BART Regional Connector: Capitol Expressway Light Rail Projects (EBRC) Acquisition, and requested transactions be included on agendas for transparency.

Asn Ndiaye, Interested Citizen, referenced **Agenda Item #7.1**, ATU Labor Contract Agreement, expressing gratitude an agreement was met.

Evelynn Tran, General Counsel, noted a Declaration of Non-interest for **Agenda Item #6.4**, Non-Revenue (NRV) Fleet Maintenance Contract, on behalf of Vice Chairperson Chavez and Board Member Cortese who receive a paycheck from the County of Santa Clara and a per diem from VTA. Under Government Code Section 1091.5(a)9, Vice Chairperson Chavez and Board Member Cortese have a non-interest and do not have to recuse themselves from the vote.

Board Member McAlister commented on the following: 1) fiduciary responsibility; and 2) emphasized the importance of considering other technologies as part of the light rail study.

6.1. Board of Directors Regular Meeting Minutes of August 1, 2019

M/S/C (**Davis/Chavez**) to approve the Board of Directors Regular Meeting Minutes of August 1, 2019.

6.2. Board of Directors Special Meeting Minutes of August 9, 2019

M/S/C (**Davis/Chavez**) to approve the Board of Directors Special Meeting Minutes of August 9, 2019.

6.3. Board of Directors Special Meeting Minutes of August 15, 2019

M/S/C (Davis/Chavez) to approve the Board of Directors Special Meeting Minutes of August 15, 2019.

6.4. Non-Revenue Vehicle (NRV) Fleet Maintenance Contract

M/S/C (Davis/Chavez) to authorize the General Manager to execute an agreement up to \$3,300,000 with the County of Santa Clara (County) for maintenance, repair, and fueling services for VTA's Non-Revenue Vehicle (NRV) fleet. The term of the agreement is for seven years.

6.5. Utility Relocation Agreements with Pacific Gas and Electric, San Jose Water Company, AT&T, Crown Castle and Comcast

M/S/C (Davis/Chavez) on a vote of 9 ayes, 1 no, 0 abstention to authorize the General Manager's spending authority and to execute relocation agreements with utility owners: Pacific Gas and Electric (PG&E), San Jose Water Company (SJWC), AT&T, Crown Castle and Comcast, whose facilities are impacted by the Capitol Expressway Light Rail - Eastridge to BART Regional Connector (EBRC) project. The spending authority requested herein for utility relocation efforts including prior Board actions is \$19.3 Million. Board Member McAlister opposed.

6.6. Property Required for Eastridge to BART Regional Connector: Capitol Expressway Light Rail Projects (EBRC) Acquisition

M/S/C (Davis/Chavez) on a vote of 9 ayes, 1 no, 0 abstention to authorize the General Manager to:

1. Execute all documents required for the Santa Clara Valley Transportation Authority's (VTA) acquisition (or possession and use) of the requisite right-of-way for the Eastridge to BART Regional Connector: Capitol Expressway Light Rail Project (EBRC) ("Project"), where:
 - (a) the purchase price equals the statutory offer of just compensation established for the property and the purchase price exceeds the authority of the General Manager under Section 5-3 of the Administrative Code; or
 - (b) the purchase price exceeds the authority of the General Manager and is within 15% above the statutory offer of just compensation established for the property.
2. Execute all documents necessary to convey or assign easement rights or fee title, as applicable, to
 - (a) utility providers for replacement rights, along with requisite access rights, related to utility relocations; and
 - (b) public agencies for the operation and maintenance of public infrastructure. Board Member McAlister opposed.

6.7. Transit Operations Insurance Renewal Report for FY 2019-2020

M/S/C (Davis/Chavez) to receive the Transit Operations Insurance Renewal Report for FY 2019-2020.

7.1. ATU Labor Contract Agreement

M/S/C (Davis/Chavez) to authorize the General Manager to approve and formally adopt a successor labor agreement negotiated between the Santa Clara Valley Transportation Authority (VTA) and Amalgamated Transit Union (ATU), Local 265.

RESULT:	APPROVED – Agenda Items #6.1-6.4, 6.7, 7.1
MOVER:	Dev Davis, Alternate Board Member
SECONDER:	Cindy Chavez, Vice Chairperson
AYES:	Carr, Carrasco, Chavez, Cortese, Davis, Liccardo, McAlister, O'Neill, Rennie, Tran
NOES:	None
ABSENT:	Jones, Peralez

RESULT:	APPROVED – Agenda Items #6.5-6.6
MOVER:	Dev Davis, Alternate Board Member
SECONDER:	Cindy Chavez, Vice Chairperson
AYES:	Carr, Carrasco, Chavez, Cortese, Davis, Liccardo, O'Neill, Rennie, Tran
NOES:	McAlister
ABSENT:	Jones, Peralez

7. REGULAR AGENDA

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

Approve and formally adopt a successor labor agreement negotiated between the Santa Clara Valley Transportation (VTA) and Amalgamated Transit Union (ATU), Local 265.

7.2 VTA's BART Silicon Valley Program Budget Update

Dennis Ratcliffe, Deputy Director, SVRT/BART Capital Program, provided a presentation entitled "VTA's BART Silicon Valley Program: Program Budget Update "

Board Members McAlister and Rennie left their seats at 6:50 p.m.
Board Members McAlister and Rennie returned to their seats at 7:05 p.m.

Members of the Board discussed the following: 1) project close out; and 2) project costs.

Public Comment

Mr. Boone expressed he does not support BART extension to Santa Clara.

Mr. Lebrun made the following comments: 1) the level of transparency and clarity on how money is being spent on the BART Phase I extension; and 2) expressed concern with the amount spent for professional services.

On Order of Chairperson O'Neill and there being no objection, the Board of Directors received an update on VTA's BART Silicon Valley Program Budget.

7.3 Vasona Corridor Light Rail Extension and Corridor Improvements Study

Jason Kim, Sr. Transportation Planner, provided a presentation entitled "Vasona Conceptual Engineering Update."

Board Member Tran left his seat at 7:15 p.m.
Board Member Tran returned to his seat at 7:23 p.m.

Members of the Board discussed adding one station at West San Carlos without the full extension.

Public Comment

Kevin Kittila, Interested Citizen, made the following comments: 1) expressed support for putting the project on hold; and 2) halt the BART to San José Project until the money is available.

Mr. Lebrun commented on the following: 1) expressed concern that light rail is being discussed and not new technology; and 2) inquired about the study cost.

M/S/C (Davis/Chavez) to approve placing the Vasona Light Rail Extension and Corridor Improvements program on hold, discontinuing further project development activities and corresponding expenditures until operating needs warrant reopening the project.

RESULT:	APPROVED – Agenda Item #7.3
MOVER:	Dev Davis, Alternate Board Member
SECONDER:	Cindy Chavez, Vice Chairperson
AYES:	Carr, Carrasco, Chavez, Cortese, Davis, Liccardo, McAlister, O'Neill, Rennie, Tran
NOES:	None
ABSENT:	Jones, Peralez

7.4 Final Draft Response to the 2018-2019 Civil Grand Jury Report

Jim Lawson, Chief External Affairs Officer, provided an overview of the staff report, noting the change made by the Governance & Audit Committee.

Public Comment

Mr. Boone commented on the following: 1) Board composition; and 2) climate emergency.

M/S/C (Cortese/Chavez) to approve VTA's response to the 2018-2019 Santa Clara County Civil Grand Jury Report.

RESULT:	APPROVED – Agenda Item #7.4
MOVER:	David Cortese, Board Member
SECONDER:	Cindy Chavez, Vice Chairperson
AYES:	Carr, Carrasco, Chavez, Cortese, Davis, Liccardo, McAlister, O'Neill, Rennie, Tran
NOES:	None
ABSENT:	Jones, Peralez

8. OTHER ITEMS

8.1. General Manager Report

Nuria I. Fernandez, General Manager/CEO, provided a report, highlighting the following: 1) Expedited Program Delivery allocation for Phase II; 2) visit from John Costa, ATU International President, to see the Joint Workforce Investment program; and 3) Silicon Valley Pride parade.

8.1.A. Faster Bay Area Update

Scott Haywood, Interim Deputy Director of Planning and Programming, Carl Guardino, CEO Silicon Valley Leadership Group, and Jason Baker, Silicon Valley Leadership Group, provided a presentation entitled "FASTER Bay Area."

Vice Chairperson Chavez left her seat at 7:46 p.m.
Vice Chairperson Chavez returned to her seat at 7:51 p.m.

Members of the Board discussed the following: 1) involving elected officials in the nine Bay Area counties in the process; 2) return to source; 3) seamless experience for residents of the Bay Area; 4) creating corridors and improving the existing ones; and 5) public outreach.

Board Member Cortese left his seat at 8:25 p.m.
Board Member Cortese returned to his seat at 8:37 p.m.

Public Comment

Mr. Kittila opposed a new sales tax measure.

Mr. Boone opposed Faster Bay Area and highway expansion..

Mr. Lebrun suggested creating a bucket of money for each county and commented on double tracking between Santa Clara and Alviso.

Omar Chatty, Interested Citizen, expressed support for highway improvements and expressed concern on deaths along the Caltrain corridor.

Kathryn Hedges, Interested Citizen, expressed concern about highway improvements which will keep people in their cars.

Mr. Lopez commented on building equity into the ballot measure.

On Order of Chairperson O'Neill and there being no objection, the Board of Directors received an update on Faster Bay Area.

8.1.B. Rail Safety Month

Angelique Gaeta, Chief of System Safety & Security, provided a presentation entitled "Rail Safety Month Campaign."

Vice Chairperson Chavez left the meeting at 9:02 p.m.

Board Member Carrasco left the meeting at 9:05 p.m.

Ex-Officio Board Member Bruins left the meeting at 9:13 p.m.

Public Comment

Mr. Lebrun noted that the maximum light rail train speed is 50 miles per hour.

On Order of Chairperson O'Neill and there being no objection, the Board of Directors received information on Rail Safety Month.

8.1.C. Government Affairs Update

Ms. Fernandez noted that the Government Affairs Update was in the Board Members' reading folders and on the public table.

- **Van Scoyoc Associates Report**

Steve Palmer, Van Scoyoc Associates, provided a presentation, entitled "Federal Advocacy Update."

Alternate Board Member Davis left her seat at 9:19 p.m.

Public Comment

Mr. Chatty inquired about money for specific projects.

Alternate Board Member Davis returned to her seat at 9:26 p.m.

Board Member Rennie left his seat at 9:26 p.m.

Board Member Cortese left the meeting at 9:27 p.m., the quorum was lost, and a Committee of the Whole was declared.

On Order of Chairperson O'Neill and there being no objection, the Board of Directors received the Government Affairs Report and an update from Van Scoyoc Associates.

8.1.D. Silicon Valley Rapid Transit (SVRT) Program Update

Ron Golem, Director of Real Estate & Joint Development, and Jill Gibson, Consultant and BART Phase II Planning & Program Manager, provided a presentation entitled “VTA’s BART Silicon Valley Phase II Extension Project: TOCs Strategy Study.”

Public Comment

Ms. Hedges noted that affordable housing needs to be for people at all income levels needing access to transit.

On Order of Chairperson O'Neill and there being no objection, the Board of Directors received the Silicon Valley Rapid Transit (SVRT) Program Update.

8.2. Chairperson’s Report

Chairperson O'Neill provided a report, highlighting the following: 1) Viva Calle San José on September 22, 2019; and 2) Clean Air Day on October 2, 2019.

- **Ad Hoc Board Enhancement Committee Chair Report**

Chairperson McAlister provided a report on the items discussed at the August 23, 2019 Committee meeting.

8.3. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

There were no Items of Concern and Referral to Administration.

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

8.4.A. VTA Standing Committees

- Capital Program Committee - The August 22, 2019, Minutes were accepted as contained in the Agenda Packet.
- Governance and Audit (G&A) Committee - There was no report.
- Congestion Management Program & Planning (CMPP) Committee - There was no report.

- Administration & Finance (A&F) Committee - The August 15, 2019, Minutes were accepted as contained on the dais.
- Safety, Security, and Transit Planning & Operations (SSTP&O) Committee - The August 15, 2019, Minutes were accepted as contained in the Agenda Packet.

8.4.B. VTA Advisory Committees

- Technical Advisory Committee (TAC) - The August 7, 2019, Cancellation Notice was accepted as contained in the Agenda Packet.
- Citizens Advisory Committee (CAC) and 2000 Measure A Citizens Watchdog Committee (CWC) - The August 7, 2019, Minutes were accepted as contained in the Agenda Packet.
- Bicycle and Pedestrian Advisory Committee (BPAC) - The August 7, 2019, Cancellation Notice was accepted as contained in the Agenda Packet.
- Committee for Transportation Mobility and Accessibility (CTMA) - There was no report.
- Policy Advisory Committee (PAC) - The August 8, 2019, Minutes were accepted as contained in the Agenda Packet.

8.4.C. VTA Policy Advisory Boards (PAB)

- Eastridge to BART Regional Connector PAB (formerly Downtown East Valley PAB) - There was no report.
- State Route 85 Corridor PAB - There was no report.
- Diridon Station Joint Policy Advisory Board - There was no report.

8.4.D. Joint and Regional Commissions

- Caltrain Peninsula Corridor Joint Powers Board - The September 5, 2019, Summary Notes were accepted as contained in the Reading Folder.
- Capitol Corridor Joint Powers Authority - There was no report.
- Dumbarton Rail Corridor Policy Committee - There was no report.
- Metropolitan Transportation Commission (MTC) - There was no report.

- Sunol Smart Carpool Lane Joint Powers Authority - There was no report.
- Sunol SR 152 Mobility Partnership - There was no report.

8.5. Announcements

There were no Announcements.

9. CLOSED SESSION

Ms. Tran noted that **Agenda Item #9.1.A**, Conference with Legal Counsel- Anticipated Litigation, related to the claim of Skansa-Shimmick-Herzog, a joint venture.

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

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

Significant Exposure to Litigation

- B.** Conference with Legal Counsel - Anticipated Litigation
[Government Code Section 54956.9(d)(4)]

Determination whether to initiate litigation
No. of Potential Cases: 4

- C.** Conference with Legal Counsel - Anticipated Litigation
[Government Code Section 54956.9(d)(4)]

Determination whether to initiate litigation
No. of Potential Cases: 2

9.2. Reconvened to Open Session 10:55 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

Ms. Tran noted no reportable action was taken during closed session.

B. Conference with Legal Counsel - Anticipated Litigation
[Government Code Section 54956.9(d)(4)]

Determination whether to initiate litigation
No. of Potential Cases: 4

Ms. Tran noted no reportable action was taken during closed session.

C. Conference with Legal Counsel - Anticipated Litigation
[Government Code Section 54956.9(d)(4)]

Determination whether to initiate litigation
No. of Potential Cases: 2

Ms. Tran noted in regard to **Agenda Item #9.1.C**, Conference with Legal Counsel – Anticipated Litigation, on a vote of 7 ayes and 0 noes, the Board authorized the General Counsel to initiate and to intervene in a civil action. The identity of the action, the defendants, or other particulars, shall be disclosed to any person upon inquiry, once the actions are formally commenced, unless to do so would jeopardize service of process on the adverse party.

10. ADJOURNMENT

On order of Chairperson O'Neill and there being no objection, the meeting was adjourned at 10:55 p.m.

Respectfully submitted,

Thalia Young, Board Assistant
VTA Office of the Board Secretary