

**TRANSBAY JOINT POWERS AUTHORITY  
BOARD OF DIRECTORS**

**MINUTES**

Thursday, March 12, 2009  
1 Dr. Carlton B. Goodlett Place, Room 416  
San Francisco, CA

REGULAR MEETING  
9:30 a.m.

**BOARD OF DIRECTORS**

Nathaniel Ford, Chair  
Elsa Ortiz, Vice Chair  
Mark Church  
Michael Cohen  
Chris Daly  
Bijan Sartipi

Executive Director  
Maria Ayerdi-Kaplan

Secretary  
Nila Gonzales

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San Francisco, California 94105  
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9:30 – REGULAR MEETING

## ORDER OF BUSINESS

### 1. Call to Order

Chairman Ford called the meeting to order at 9:30 am

### 2. Roll Call

Secretary Gonzales announced that Director Lloyd would be sitting in for Director Church, the newly appointed JPB representative. Director Anziano sat in for Director Sartipi.

Present: Tony Anziano (absent at roll call, arrived during item 5)

Michael Cohen

Chris Daly

Art Lloyd

Elsa Ortiz

Nathaniel Ford

Absent: Mark Church

Bijan Sartipi

### 3. Communications

None.

### 4. Board of Director's New and Old Business

None.

### 5. Executive Director's Report

- Program Architectural Update
- Caltrain Downtown Extension (DTX) Overview and Update
- Caltrain Downtown Extension (DTX) Ridership Update
- Transit Center Rail Program Update
- Funding Update

Executive Director (ED) Ayerdi-Kaplan presented an overview of a number of activities. She announced an appropriation was secured by Speaker Pelosi and Senator Boxer. The Transbay Transit Center (TTC) program is 1 of only 13 projects nationwide selected to receive funding from the Federal Railroad Administration's Rail Line Relocation and Improvement Program. She extended appreciation to the congressional delegation for their continued support and leadership. ED Ayerdi-Kaplan also reported on the coordination with various City Departments, regional agencies and funding partners. She further provided an update on the construction of the Temporary Terminal which was well underway.

Mark Shoemaker, Pelli Clarke Pelli Architects, presented the Program Architectural Update. He reported that they are in Schematic Design (SD) and it is at 95% completion. SD is to be completed by April 3, 2009 and then they will go into Design Development which is to be completed by October 28, 2009.

Bradford Townsend, DTX Program Manager, presented the DTX update. He reported the Preliminary Engineering (PE) design is at 40% completion and the completion of PE is on schedule for the 2<sup>nd</sup> Quarter of 2010. He also confirmed coordination with operators and stakeholders, including Caltrain and California High Speed Rail Authority (CHSRA), has been consistent throughout the process and would continue. Additionally, to ensure compatibility, a design concept validation for HSR was conducted and then reviewed by an outside unbiased entity, DB International. Mr. Townsend further reported that the current Transit Center design is consistent with CHSRA objectives and criteria.

Ron West, Cambridge Systematics, presented the Ridership update. He stated that Caltrain ridership increased when the TTC was added to the compared scenarios. He reported over 26,500 daily HSR riders expected at TTC in 2030 based on the CHSRA's report released within the last 2-3 months. Mr. West concluded that the DTX to TTC has many benefits, such as: high ridership, bringing 31,500 daily Caltrain riders to the TTC and removing over 8,000 daily autos; accessibility, linking workers to Downtown SF with over 300,000 jobs expected in 2030 within a ½ mile of the TTC; substantial travel time savings; and greenhouse gas reduction.

Emilio Cruz, TJPA Program Management Team, presented the Program Status schedule. He reported the TTC design supports the Caltrain ridership projections reported by Cambridge Systematics and CHSRA projections in their EIS/EIR. Additionally, the TTC meets all the programmatic needs of Caltrain and CHSRA identified through January 30, 2009. He stated that on January 30, 2009, the CHSRA informed the TJPA of new program requirements and, at that point, Staff began evaluating how those changes could be technically addressed. Staff determined the cost to accommodate CHSRA's new requirements by building a 3-level rather than a 2-level train box totals \$894 million, approximately \$500 million more than originally estimated, and increases the total program cost by \$1 billion. The program cost would be even greater if the box is not built in Phase 1. Mr. Cruz further stated that once Staff reached a technical solution they evaluated CHSRA's new requests as they related to ridership projections. He stated the TTC, as it is designed and approved today, can support 6 HSR trains/hour on 4 platforms including CHSRA's other new requests of increased dwell times and platforms. Additionally, increased demand could be addressed by keeping with their original environmental dwell times which could allow for more trains per hour. Mr. Cruz stated the current rail design capacity exceeds all 2030 ridership projections for Caltrain/CHSRA; \$390 million is required to construct the current train box in Phase 1. The new CHSRA operational requirements have been recently presented but without justification, and although Staff has identified a technical solution, it is not cost effective because the justification has not been provided. He advised of next steps, requesting that the Board provide direction to the design team by the end of May on whether or not to include the 2-level or 3-level train box in Phase 1 construction, and Staff will continue to work with CHSRA to cost effectively optimize operations at TTC and continue to pursue funding to build the train box in Phase 1.

Chairman Ford questioned whether CHSRA's new requirements matched what was in their EIR/EIS. Mr. Cruz confirmed it did not and it is a 300% increase which has not been validated.

Vice Chairwoman Ortiz expressed concerns regarding potential delays in construction of Phase 1 and questioned what the consequences would be if this additional funding was not obtained for this new scenario in Phase 1. Mr. Cruz confirmed the program, as currently planned, can proceed now on schedule because full funding is in place; it is the request to build the box as part of Phase 1 that requires additional funding and a decision by May 2009.

Chairman Ford asked who were CHSRA's consultants because he wanted to understand who was behind their numbers and how they reached these numbers. Mr. Cruz confirmed Parsons Brinkerhoff is the program management consultant and that the CHSRA's ridership projections have not changed; it is the new operations plan that is not consistent with their ridership numbers. He confirmed CHSRA transmitted a revised draft business plan on March 11, 2009 and it is being reviewed; however, Staff has not received the details of CHSRA's operations plan which is required if their operational requests are to be validated.

Director Cohen inquired on what Staff proposed from a processing perspective between now and May for the Board to make a decision. Mr. Cruz advised Staff will continue to work with CHSRA and then be able to present a more informed presentation to the Board if TJPA is allowed to analyze their new operations plan which CHSRA has not yet made available.

Director Daly requested clarification in terms of the critical time for decision making. He asked if the Board would need to make a decision to affirmably go forward with the current program or decide on a 2 or 3 level train box by May whether or not the money was secured. Mr. Cruz confirmed that a decision has to be made. Director Daly expressed his frustration with the new unjustified requirements and statements by CHSRA and Caltrain. He stated TJPA has done its due diligence and Transbay is an important enough project to receive the \$390 million needed for the train box.

Chairman Ford stated with the \$10 billion HSR bond recently passed by voters and the \$8 billion in HSR funds in the federal stimulus package, the MTC, CHSRA, Caltrain, TJPA and other stakeholders need to have a unified front to put forth a good proposal to keep this project up and running. Director Cohen concurred that, as a region, we have to be on one page.

Director Lloyd commented that additional riders can be expected from other areas such as the San Joaquin Valley but he felt 12 trains per hour was still optimistic.

Nancy Whelan, TJPA Financial Consultant, presented the funding update.

Public comment:

Ken Scheidig, AC Transit Counsel, submitted correspondence and spoke to the Board about the letter. Mr. Scheidig reminded the Board of the terms of the agreement between AC Transit and TJPA, including the commitments and requirements made by AC Transit for the project. He expressed their concern about moving the train box from Phase 2 to Phase 1 and noted it may impact the agreement.

AC Transit is concerned about possible project delays due to the train box issue and does not want to move out of the existing terminal into the Temporary Terminal and then be stuck there for a longer period of time than the five years that is agreed to in the agreement. He requested the Board take into consideration the commitments made to AC Transit as well as the financial commitments AC Transit has made to the project. He expressed their support of this intermodal system but stated their concern is legitimate.

Norman Rolfe, SF Tomorrow and TJPA CAC, expressed his concern over the CHSRA figures. He felt CHSRA needed to produce the details of how they arrived at these figures and questioned what their motives were. He stated people have tried to wreck the Transbay project in the past and the Chair of the CHSRA is one of them. He said the money for the train box must be found. He further stated he felt the Chair of the CHSRA is a problem and has a reputation for being a bully and a wrecker. He suggested somebody lobby Governor Schwarzenegger to fire Kopp and that would solve a lot of the problems.

Jane Morrison, Democratic Party and TJPA CAC, extended her appreciation of the attention to the train aspect of the terminal. She felt the public needed to know that the press is not reporting correctly when stating it is a bus terminal only; it is a multi-modal station. She reminded that the voters passed a measure for the purpose of having Caltrain downtown; it cannot be a bus only terminal. She expressed appreciation to AC Transit but stated the train aspect cannot be delayed. She stated the ballot measure says the trains will go to Transbay at 1<sup>st</sup> and Mission and Mr. Kopp has forgotten to concentrate on the specifics in the ballot measure that says the high-speed rail will go to Transbay at 1<sup>st</sup> and Mission. She felt the Press needed to point this out and not just take people's opinion.

Gerald Cauthen, Civil Engineer and resident of Oakland, stated that some media accounts have portrayed this as representing an obligation on the TJPA's part to somehow accommodate this new situation without ever looking at the history behind it. He suggested the first charge ought to be to work with the CHSRA to make sure that their forthcoming high-speed-rail terminal meets world high-speed terminal standards, which it does not, if what they have now proposed stands. He commented on the Tokyo HSR system and explained its extremities in terms of population and gas prices in comparison to TTC yet they are the only station in the world doing 12 trains per hour. He further stated that no private operator, which is what would run HSR, is going to waste \$50 million on trains sitting in the station for 30-40 minutes instead of producing revenue.

Chairman Ford stated there were more than enough individuals present that could do the simple math of what capacity is necessary for the terminal to support Caltrain and HSR and any projections of ridership based on the CHSRA's EIR. He further stated the CHSRA's operational plan needed to be made available and suggested the Board make a formal request to see that operational plan. He suggested that after reviewing they can make a decision, as a unified region or, more so, State, to be unified and receive funding from the \$8 billion in HSR stimulus funds. Director Lloyd seconded Chairman Ford's motion to formally request the operational plan from the CHSRA. Chairman Ford requested ED Ayerdi-Kaplan draft a formal request to the CHSRA for their operational plan as soon as possible, preferably prior to next week's meeting convened by MTC. ED Ayerdi-Kaplan confirmed a letter would be drafted for Chairman Ford's signature.

## 6. Public Comment

None.

THE FOLLOWING MATTERS BEFORE THE TRANSBAY JOINT POWERS AUTHORITY ARE RECOMMENDED FOR ACTION AS STATED BY THE EXECUTIVE DIRECTOR OR THE CHAIR.

### REGULAR CALENDAR

7. Authorizing the award of the Contract No. 08-04-CMGC-000, Construction Manager/General Contractor Services for the Construction of the Transbay Transit Center Building and Related Structures, to the joint venture of Webcor Builders and Obayashi Corporation, as the qualified and responsible bidder submitting the lowest responsive bid, for a contract sum not to exceed \$600,000,000.

ED Ayerdi-Kaplan presented the item and introduced Jes Pedersen of the Webcor/Obayashi joint venture. Mr. Pedersen stated they were honored to be considered and were confident they have the talents for the project including the experience and specifics about the area.

Vice Chair Ortiz questioned whether there were any DBE, local or small business goals in this contract.

Sara Gigliotti, Contracts Compliance Manager, reminded that as a federally funded program we follow a program that does not place goals on any of the contracts and that our DBE program is approved by the Board annually. An advisory percentage of 17% has been placed on this contract and Webcor/Obayashi has stated that they have much higher achievement levels on projects around the country. Ms. Gigliotti stated she was confident they would meet that advisory percentage.

Chairman Ford questioned if Webcor/Obayashi was making a formal commitment to the 17%. Ms. Gigliotti stated in the current race neutral program, goals are not binding. Chairman Ford agreed the goals were not binding on race but questioned if goals were binding on small business. Ms. Gigliotti replied that the program does not address small business and that Staff could look into adding it into the program. Ms. Gigliotti stated this contract has a 17% advisory percentage which is not enforceable but she was confident they would more than meet that advisory percentage.

Jes Pedersen stated the rules of the commitment of the 17% DBE goal is based on state mandates set by Caltrans and all of the requirements will be followed. He further stated there are other local and regional goals they should look at as a contractor on how to better bring those entities into the program to further bolster up the program and provide more benefits for those that are currently not within that program.

No public comment.

On motion to approve:

AYES – Cohen, Daly

NOES – Ortiz, Ford

ABSENT – Lloyd

Item 7 was not approved with this initial vote. Vice Chair Ortiz and Chairman Ford stated they had serious concerns regarding the lack of specificity or commitment to the small and local businesses and requested to see more detail in terms of requirements to the small business participation.

ED Ayerdi-Kaplan, Staff and Counsel suggested strategies that would allow the Board to move forward with the contract now and come back to the Board with more specificity and at the next meeting have an amendment to the contract regarding small business participation.

Director Cohen suggested the Board rescind their initial vote and consider the item with an amendment that said they would approve the contract assuming Webcor/Obayashi agreed to this provision of inclusion of a small business component, and assuming the change is made at the next meeting.

Jess Pedersen stated they do not have a problem with the modification as long as it is understood to be over the term of the contract as it states right now and that there is flexibility because they cannot do it on every single trade package but as an overall goal that would be their intent.

Director Daly suggested the Board make a motion to approve the Webcor/Obayashi contract contingent upon inclusion of a small business contracting requirement within the contract.

Andrew Schwartz, TJPA Counsel, suggested the contract is approved today to allow the work to start on the contract and the contractor to incur costs; without an approval of the contract that would not be possible. He suggested an amendment to the resolution that provides that the parties come back to this Board at the next meeting with an amendment to the contract to address these small business goals that the Board seeks.

Sheryl Bregman, Deputy City Attorney, stated the resolution currently reads to award the whole contract but only incremental portions of the contract would be authorized to begin. She recommended taking Andrew's suggestion that the award be made with a recommendation that an amendment be brought back to the Board at the next meeting.

Chairman Ford directed Staff to return next month with an amendment to the contract that will include a small business enterprise component and that the contractor would be expected to comply with the amendment in the contract.

Director Cohen made a motion to rescind the initial vote of Item 7; his motion was seconded by Vice Chair Ortiz. All were in favor and none opposed rescinding the initial vote.

Item 7 was presented for action as amended, with an additional resolved clause in the Resolution stating it is further resolved, that the TJPA Staff and Webcor/Obayashi will return to the Board at the April 2009 meeting to recommend a proposed amendment to the contract, adding a small business enterprise component to the contract.

#### RESOLUTION 09-004

On motion to approve:

ADOPTED: AYES – Cohen, Daly, Ortiz and Ford

ABSENT - Lloyd

8. Authorizing the Executive Director to execute a Memorandum of Agreement with the California High Speed Rail Authority regarding the design of the Transbay Transit Center and the Caltrain Downtown Extension.

ED Ayerdi-Kaplan presented the item.

Public comment:

Norman Rolfe, SF Tomorrow and TJPA CAC member, suggested that the CHSRA be given a deadline to provide the back up for all their assumptions as it relates to the design and, to prevent any delays, the TJPA should continue as planned if the CHSRA misses the deadline set.

RESOLUTION 09-005

On motion to approve:

ADOPTED: AYES – Cohen, Daly, Ortiz and Ford

ABSENT - Lloyd

9. Authorizing the Executive Director to execute Amendment No. 1 to the Financial Consulting Services agreement with Nancy Whelan Consulting to extend the term for an additional two years and increase the maximum compensation by the option price of \$1,602,812 for a total maximum compensation of \$3,402,812.

No public comment.

RESOLUTION 09-006

On motion to approve:

ADOPTED: AYES – Cohen, Daly, Ortiz and Ford

ABSENT - Lloyd

10. Approving the recommended applicants to the Transbay Joint Powers Authority Citizens Advisory Committee.

No public comment.

RESOLUTION 09-007

On motion to approve:

ADOPTED: AYES – Cohen, Daly, Ortiz and Ford

ABSENT - Lloyd

11. Approving the Minutes of the January 8, 2009 meeting.

No public comment.

On motion to approve:

ADOPTED: AYES – Cohen, Daly, Ortiz and Ford

ABSENT – Lloyd

The minutes were approved.

RECESS MEETING AND CONVENE CLOSED SESSION

Secretary Gonzales announced that the Board received written comment related to item 3.1 under the closed session calendar and Jim Reuben and/or Bob Tandler wished to address the Board on that item.

Bob Tandler referred to the letter transmitted to the Board the day prior which requests assistance with an easement over land that the TJPA will eventually own that is south of their property.

There was no other member of the public who indicated that they would like to comment on the items scheduled for discussion in closed session.

CLOSED SESSION

1. Call to Order

Chairman Ford called the closed session to order at 12:20 pm

## 2. Roll Call

Present: Tony Anziano  
Michael Cohen  
Chris Daly  
Elsa Ortiz  
Nathaniel Ford

Absent: Mark Church  
Art Lloyd  
Bijan Sartipi

## 3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code section 54956.8)

(3.1) Property: western 36 feet of 57 Tehama Street

TJPA Negotiators: Maria Ayerdi-Kaplan, Executive Director, and Andrew W. Schwartz and Deborah L. Keeth, Shute, Mihaly & Weinberger LLP, outside counsel

Negotiating parties: TJPA; Fritzi Realty

Under negotiation: Price and terms of payment for TJPA's purchase of western 36 feet of 57 Tehama Street

### RESOLUTION 09-008

On motion to approve:

ADOPTED: AYES – Cohen, Daly, Ortiz and Ford

(3.2) Property: 75 Natoma Street and 546 Howard Street

TJPA Negotiators: Maria Ayerdi-Kaplan, Executive Director, and Andrew W. Schwartz and Deborah L. Keeth, Shute, Mihaly & Weinberger LLP, outside counsel

Negotiating parties: TJPA; KSW Properties; U.S. Parking Inc.; AMPCO System Parking

Under negotiation: Price and terms of payment for TJPA's purchase of 75 Natoma Street and 546 Howard Street

### RESOLUTION 09-009

On motion to approve:

ADOPTED: AYES – Cohen, Daly, Ortiz and Ford

4. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code section 54956.8); and  
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Gov. Code section  
54956.9)

(4.1) Property: 580 Howard Street #500

TJPA Negotiators: Maria Ayerdi-Kaplan, Executive Director, and Andrew W. Schwartz and  
Winter King, Shute, Mihaly & Weinberger LLP, outside counsel

Negotiating parties: TJPA; Tim Mott

Under negotiation: Price and terms of payment for TJPA's purchase of 580 Howard Street #500

(4.2) Property: 85 Natoma Street #5

TJPA Negotiators: Maria Ayerdi-Kaplan, Executive Director, and Andrew W. Schwartz and  
Winter King, Shute, Mihaly & Weinberger LLP, outside counsel

Negotiating parties: TJPA; Terri Brown

Under negotiation: Price and terms of payment for TJPA's purchase of 85 Natoma Street #5

ADJOURN CLOSED SESSION AND RECONVENE REGULAR MEETING – The Closed Session  
was adjourned at 12:30 pm.

12. Announcement of Closed Session.

Deborah Keeth, TJPA Counsel, announced that the Board met in closed session for a conference with  
their real property negotiators and regarding Item 3.1, the Board unanimously approved to authorize the  
ED to execute a purchase and sale agreement with Fritz Realty to purchase the western 36 feet of 57  
Tehama Street in the amount of \$2,093,500; and, regarding Item 3.2, the Board unanimously approved  
to authorize the ED to execute a purchase and sale agreement with KSW Properties to purchase 75  
Natoma Street and 546 Howard Street in the amount of \$5,075,000; and, regarding Items 4.1 and 4.2,  
there was no action to report.

ADJOURN - Chairman Ford adjourned the meeting at 12:35pm

A tape of the meeting is on file in the office of the Secretary to the Transbay Joint Powers Authority Board  
of Directors.

Nila Gonzales  
Board Secretary

The Ethics Commission of the City and County of San Francisco has asked us to remind individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin. Code Sections 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street, Suite 801, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 554-8757 and web site: [sfgov.org/ethics](http://sfgov.org/ethics).