

(REVISED) NOTICE OF SPECIAL MEETING

**PLEASANT HILL BART STATION
LEASING AUTHORITY**

1:00 PM on June 20, 2022

Persons who wish to address the board during public comment or with respect to an item on the agenda may comment in person or may call in during the meeting by dialing **888-278-0254** followed by the access code 198675#. A caller should indicate they wish to speak on an agenda item, by pushing "#2" on their phone. Access via Zoom is also available using the following link: <https://cccouny-us.zoom.us/j/86466710380?pwd=NHZnSzRIUkxDUHQ1bHNFWXZLVFNpdz09> Those participating via Zoom should indicate they wish to speak on an agenda item by using the “raise your hand” feature in the Zoom app. To provide contact information, please contact the Authority Secretary at maureen.toms@dcd.cccounty.us or 925-655-2895.

1. Call to Order and Roll Call
 - a. Action on Resolution 32 - Resolution Authorizing Teleconference Meetings (AB 361, Government Code § 54953(e)) for the Pleasant Hill BART Station Leasing Authority (“Authority”).
2. Action on Resolution 30 - Resolution designating Chair of the Pleasant Hill BART Station Leasing Authority.
3. Public Comment on Items in Notice

The Board shall provide the public with an opportunity to address the Board on any item described in the notice of special meeting before or during consideration of such item. Persons who wish to address the Board with respect to an item that is on the agenda will be limited to three minutes.

4. Accept the Record of the Meeting of April 19, 2021
5. Action on Resolution 31 - Resolution adopting a budget July 1, 2022 – June 30, 2025 for the Pleasant Hill BART Station Leasing Authority.
6. Adjourn



PLEASANT HILL BART LEASING AUTHORITY

• Contra Costa County
• San Francisco Bay Area Rapid Transit District
30 Muir Road
Martinez, CA 94553
Telephone: (925) 655-2895

Fax: (925) 674-7251

TO: Pleasant Hill BART Station Leasing Authority Governing Board

FROM: Maureen Toms, Co-Executive Director

DATE: June 20, 2022

SUBJECT: Agenda Item 1a –Authorizing Teleconference Meetings (AB 361, Government Code § 54953(e))

Action on Resolution 32 - Resolution Authorizing Teleconference Meetings (AB 361, Government Code § 54953(e)) for the Pleasant Hill BART Station Leasing Authority (“Authority”).

RECOMMENDATION

Consider the following actions related to the authorization of teleconference meetings consistent with AB 361, Government Code § 54953(e):

- i. ADOPT Resolution 32 to authorize the Pleasant Hill BART Station Leasing Authority to conduct teleconference meetings under Government Code section 54953(e) and make related findings;
- ii. DETERMINE that the bodies will hold virtual meetings for the next 30 days or until the next regularly scheduled meeting; and
- iii. DIRECT the Secretary to take actions as needed to implement the intent and return this matter to the Pleasant Hill BART Station Leasing Authority within 30 days or at the next scheduled meeting if the Board meets less frequently for reconsideration.

DISCUSSION

When the COVID-19 pandemic began, Governor Newsom issued an executive order that allowed local agencies to meet remotely without complying with the strict teleconferencing requirements of the Brown Act. Executive Order N-29-20 suspended the Brown Act’s non-emergency teleconferencing rules, including the requirements that each teleconference location must be physically accessible to the public and that the public must be given an opportunity to comment at each teleconference location. The Pleasant Hill BART Station Leasing Authority has been meeting virtually since their April 2021, as authorized by Executive Order N-29-20 and subsequent orders. This authority expired September 30, 2021.

Assembly Bill 361 amended the teleconferencing provisions of the Brown Act, Government Code section 54953. Effective October 1, 2021, subsection (e) of Government Code section 54953 authorizes a local agency to use special teleconferencing rules when the legislative body of the local agency holds a meeting during a state of emergency declared by the state, and either (a) state or local officials have imposed or

THE PLEASANT HILL BART STATION LEASING AUTHORITY

Adopted this Order on June 20, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution No. 32

SUBJECT: Action on Resolution 32 - Resolution Authorizing Teleconference Meetings (AB 361, Government Code § 54953(e)) for the Pleasant Hill BART Station Leasing Authority (“Authority”).

Recitals

- A. On March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Gov. Code § 8550 et seq.
- B. On March 10, 2020, the Board of Supervisors found that due to the introduction of COVID-19 in the County, conditions of disaster or extreme peril to the safety of persons and property had arisen, commencing on March 3, 2020. Based on these conditions, pursuant to Government Code section 8630, the Board adopted Resolution No. 2020/92, proclaiming the existence of a local emergency throughout the County.
- C. On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the Brown Act), provided certain requirements were met and followed.
- D. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which clarified the suspension of the teleconferencing rules set forth in the Brown Act and further provided that those provisions would remain suspended through September 30, 2021.

- E. On September 16, 2021, Governor Newsom signed Assembly Bill 361, which provides that under Government Code section 54953(e), a legislative body subject to the Brown Act may continue to meet using teleconferencing without complying with the non-emergency teleconferencing rules in Government Code section 54953(b)(3) if a proclaimed state of emergency exists and state or local officials have imposed or recommended measures to promote social distancing.
- F. On September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings that include recommended measures to promote social distancing.
- G. Among the Health Officer's recommendations: (1) on-line meetings (teleconferencing meetings) are strongly recommended as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19; (2) if a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended when possible to give those at higher risk of and/or higher concern about COVID-19 an alternative to participating in person; (3) a written safety protocol should be developed and followed, and it is recommended that the protocol require social distancing – i.e., six feet of separation between attendees – and face masking of all attendees; (4) seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times.
- H. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Pleasant Hill BART Station Leasing Authority intends to invoke the provisions of Assembly Bill 361 related to holding meetings by teleconference.

NOW, THEREFORE, the Pleasant Hill BART Station Leasing Authority resolves as follows:

1. The Pleasant Hill BART Station Leasing Authority finds that: the state of emergency proclaimed by Governor Newsom on March 4, 2020, is currently in effect; the Contra Costa County Health Officer has strongly recommended that public meetings be held by teleconferencing as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19; and meeting in person would present imminent risks to the health or safety of attendees.
2. As authorized by Assembly Bill 361, the Pleasant Hill BART Station Leasing Authority will use teleconferencing for its meetings in accordance with the provisions of Government Code section 54953(e).
3. The Secretary is authorized and directed to take all actions necessary to implement the intent and purpose of this resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act.

PASSED AND ADOPTED on June 20, 2022, by the following vote:

CERTIFICATE OF SECRETARY

I certify that I am the duly appointed and acting Secretary of the Pleasant Hill BART Station Leasing Authority, and that the above resolution was approved by the Board of Directors of the Authority on June 20, 2022.

Executed on June 20, 2022.

Maureen Toms, Secretary

recommended measures to promote social distancing, or (b) the legislative body is meeting to determine, or has determined, that meeting in person would present imminent risks to the health or safety of meeting attendees.

The following rules apply to teleconferencing meetings held under Government Code section 54953(e):

- The Board must provide notice of the meeting and post an agenda as required by the Brown Act, but the agenda does not need to list each teleconference location or be physically posted at each teleconference location.
- The agenda must state how members of the public can access the meeting and provide public comment.
- The agenda must include an option for all persons to attend via a call-in or internet-based service option.
- The legislative body must conduct the meeting in a manner that protects the constitutional and statutory rights of the public.
- If there is a disruption in the public broadcast of the call-in or internet-based meeting service, the legislative body must stop and take no further action on agenda items until public access is restored.
- The Board may not require public comments to be submitted in advance of the meeting and must allow virtual comments to be submitted in real time.
- The legislative body must allow a reasonable amount of time per agenda item to permit members of the public to comment, including time to register or otherwise be recognized for the purposes of comment.
- If the legislative body provides a timed period for all public comment on an item, it may not close that period before the time has elapsed.
- The legislative body must reconsider the circumstances of the state of emergency and the findings in support of emergency teleconference meetings every 30 days or every time it meets.
- AB 361 sunsets on January 1, 2024.

A resolution authorizing teleconferencing under Government Code section 54953(e) is attached. It would determine that the state has declared a state of emergency related to COVID-19 and find that social distancing recommendations are in place and that there is an imminent risk of harm to the public, staff, and officials if live meetings are conducted. If adopted, the resolution would authorize the Conservancy to hold teleconference meetings consistent with the above rules.

If the Pleasant Hill BART Station Leasing Authority wishes to continue teleconferencing under Government Code section 54953(e), every 30 days after adopting the resolution or every time it meets if less frequently than 30 days, the Pleasant Hill BART Station Leasing Authority must reconsider the circumstances of the state of emergency and that one of the following circumstances exists: the emergency continues to directly impact the ability of members to safely meet in person, or state or local officials continue to impose or recommend measures to promote social distancing. If the state-declared emergency no longer exists, or if the Pleasant Hill BART Station Leasing Authority does not make these findings by majority vote, then the Pleasant Hill BART Station Leasing Authority will no longer be exempt from the Brown Act's non-emergency teleconferencing rules.

Attachments

Attachment A -- Resolution 32



PLEASANT HILL BART LEASING AUTHORITY

* Contra Costa County

* San Francisco Bay Area Rapid Transit District

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TO: Pleasant Hill BART Station Leasing Authority Governing Board

FROM: Maureen Toms, Co-Executive Director

DATE: June 20, 2022

SUBJECT: Agenda Item 2 – Designating Chair

Action on Resolution 30 - Resolution designating Chair of the Pleasant Hill BART Station Leasing Authority (“Authority”).

The Joint Exercise of Powers Agreement governing the Authority requires the Chair of the Authority to rotate among the members of the Authority Board of Directors. The Directors have established a practice of alternating the position between a representative of the County Board of Supervisors and a representative of the BART Board. The Chair since February 19, 2019 has been Board Member Allen. The purpose of Resolution 30 is to appoint County Supervisor Andersen as Chair for a period of not less than one year.

Attachments

Attachment A - Resolution 30

THE PLEASANT HILL BART STATION LEASING AUTHORITY

Adopted this Order on June 20, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution No.: 30

SUBJECT: Designating the Chair of the Pleasant Hill BART Station Leasing Authority (the "Authority") and establishing the term of the Chair.

The First Amended and Restated Joint Exercise of Powers Agreement for the Pleasant Hill BART Station Leasing Authority dated December 4, 2012, as amended (the "Agreement") governs the activities and structure of the Authority.

Section 3.11 of the Agreement provides that the chair of the Board of Directors of the Authority (the "Board") is rotated from time to time among the directors of the Board as determined by the Board. The Board desires to appoint Candace Andersen, as the Chair for a term commencing on June 20, 2022, and continuing for at least one year.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby appoints Candace Andersen Chair of the Board for at least one year.

CERTIFICATE OF SECRETARY

I certify that I am the duly appointed and acting Secretary of the Pleasant Hill BART Station Leasing Authority, and that the above resolution was approved by the Board of Directors of the Authority on June 20, 2022.

Executed on June 20, 2022.

Maureen Toms, Secretary

RECORD OF MEETING FOR SPECIAL MEETING
PLEASANT HILL BART STATION LEASING AUTHORITY

April 19, 2021 @ 1:00 PM

1. Call to Order and Roll Call– The meeting was called to order by Chair Allen. Board members Allen, Anderson, Foley, and Mitchoff were present. Staff in attendance included Sean Brooks (BART), John Rennel (BART), Maureen Toms (CCC), Joe Kirchofer (AvalonBay) and Anna Baruch (AvalonBay)
2. Accept the Record of the Meeting of February 19, 2019. The Record of Meeting was approved. (M/S Anderson/Mitchoff, 4-0-0)
3. Public Comment on Items in Notice- No Public Comments
4. Action on Resolution 29 - Resolution approving the Second Amendment to License Agreement, dated April 19, 2021, between the Pleasant Hill Bart Station Leasing Authority, a joint powers agency, and Avalon Oak Road, L.P., a Delaware limited liability company, related to parking on Block D. *CEQA: Second Addendum to Mitigated Negative Declaration, Adopted August 18, 2015. No further CEQA analysis required per CEQA Guidelines Section 15162.*
Resolution 29, Approving the Second Amendment to the License Agreement. Clarifying comments included: the term expired April 2023. There are 150 spaces and the monthly cost is \$105-\$120 per month (M/S Mitchoff/Anderson, 4-0-0)
5. Adjourn



PLEASANT HILL BART LEASING AUTHORITY

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TO: Pleasant Hill BART Station Leasing Authority Governing Board

FROM: Maureen Toms, Co-Executive Director

DATE: June 20, 2022

SUBJECT: Agenda Item 5 –Adopting the Administrative Budget

Action on Resolution 31 - Resolution Adopting an Administrative Budget for the Pleasant Hill BART Station Leasing Authority (“Authority”).

Section 4.1 of the First Amendment to the First Amended and Restated Joint Exercise of Powers Agreement for the Authority, dated September 13, 2016 (“Agreement”) requires the Board of Directors of the Authority to adopt a budget that covers the Budget Period. The “Budget Period” means a one-year, two-year or three-year period, as determined by the Board. Staff recommends the Board adopt a three-year administrative budget for the Fiscal Years 22-23, 23-24, and 24-25.

Section 4.8 of the Agreement allows a portion of annual rental income to be retained by the Authority for administrative purposes. Until the First Amended and Restated Joint Exercise of Powers Agreement for the Authority was adopted, the Authority was entitled to retain two percent of lease revenues. During Fiscal Years 11/12, 12/13, 13/14, 14/15 and 15/16 the retention amount has been less than the administrative expenses, resulting in a significant cumulative difference. This historical trend, of expenses exceeding the permitted administrative retention amount, is expected to improve since the Agreement allows for a retention of three percent of lease revenues for administrative expenses beginning in Fiscal Year 2016/17. It should be noted that the budget line “Expenses Over Allowance” show a negative number when the expenses are less than the allowance.

Attachments

Attachment A – Budget

Attachment B - Resolution 31

Pleasant Hill BART Station Leasing Authority
 Administrative Budget (ORG 7864)

Attachment A

		Actual	Actual	Actual	Actual ⁽¹⁾	Actual	Projected	Projected	Projected	Projected							
County Staff Time	Notes	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	
County Staff	Toms, Lackey, Accounting, etc.	\$ 3,756	\$ 11,380	\$ 14,267	\$ 16,005	\$ 16,005	\$ 17,005	\$ 9,823	\$ 11,389	\$ 22,173	\$ 16,343	\$ 18,796	\$ 14,000	\$ 14,000	\$ 14,000	\$ 14,000	
County Counsel						\$ 1,500	\$ 1,500	\$ 8,660	\$ 2,500	\$ 989	\$ 547	\$ 4,637	\$ 1,000	\$ 2,000	\$ 2,000	\$ 2,000	
General Office	Fed Ex, postage, etc.				\$ 47	\$ 98	\$ 100	\$ 100	\$ 56	\$ 104	\$ -	\$ 44	\$ 100	\$ 100	\$ 100	\$ 100	
Consulting Expenses																	
Misc. Consultant			\$ 5,609									\$ 80	\$ 1,000	\$ 3,000	\$ 3,000	\$ 3,000	
Goldfarb & Lipman			\$ 7,682	\$ 10,266	\$ 9,041	\$ 3,000	\$ 3,000	\$ 1,000	\$ 512	\$ 1,265	\$ 8,005	\$ 9,474	\$ 300	\$ 3,000	\$ 3,000	\$ 3,000	
Audit - done with County process							\$ 900							\$ 1,000	\$ 1,000	\$ 1,000	
TOTAL		\$ 3,756	\$ 24,672	\$ 24,533	\$ 25,093	\$ 20,603	\$ 22,505	\$ 19,583	\$ 14,457	\$ 24,531	\$ 24,895	\$ 33,031	\$ 16,400	\$ 23,100	\$ 23,100	\$ 23,100	

Administrative Allowance ⁽²⁾⁽³⁾ :	\$ 6,532	\$ 13,068	\$ 9,800	\$ 14,337	\$ 14,337	\$ 14,337	\$ 23,633	\$ 25,291	\$ 25,291	\$ 25,291	\$ 25,291	\$ 25,291	\$ 25,164	\$ 25,291	\$ 25,291	\$ 25,291
Expenses over Allowance ⁽⁴⁾ :	\$(2,776)	\$ 11,604	\$ 14,733	\$ 10,756	\$ 6,266	\$ 8,168	\$(4,050)	\$(10,834)	\$(760)	\$(396)	\$ 7,740	\$(8,764)	\$(2,191)	\$(2,191)	\$(2,191)	\$(2,191)
Cumulative Expenses over Allowancesce:	\$(2,464)	\$ 9,140	\$ 23,873	\$ 34,628	\$ 40,894	\$ 49,062	\$ 45,012	\$ 34,178	\$ 33,418	\$ 33,022	\$ 40,763	\$ 31,999	\$ 29,809	\$ 27,618	\$ 25,427	

(1) Staff charged only \$3,007 to JPA Administration due to shortfall in Administrative Allowance.
 (2) Administrative Allowance equals 4% of lease payments during first two years after completion, then 2% of lease payments thereafter.
 FY 2011/12 amount is cumulative from FY 2004/05
 (3) Administrative Allowance equals 3% of lease payments beginning in Fiscal Year 2016/17
 (4) Expenses OVER allowance. A negative number means the expenses came in BELOW the allowance.

THE PLEASANT HILL BART STATION LEASING AUTHORITY

Adopted this Order on June 20, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution No. 31

SUBJECT: Adopting the July 1, 2022 – June 30, 2025 Administrative Budget (the "Administrative Budget") for the Pleasant Hill BART Station Leasing Authority (the "Authority").

Authorizing the Co-Executive Directors to take such actions and enter into such contracts as are necessary to implement and administer the activities contemplated in the Administrative Budget.

The First Amended and Restated Joint Exercise of Powers Agreement for the Pleasant Hill BART Station Leasing Authority dated December 4, 2012, as amended (the "Agreement") governs the activities and structure of the Authority.

Section 4.1 of the Agreement requires the Board of Directors of the Authority (the "Board") to adopt a budget for the Authority. The Administrative Budget is on file at the office of the Authority. The Administrative Budget is also described in and attached to the Staff Report that accompanies this Resolution.

The Administrative Budget includes funds for administrative, legal and consulting fees that the Authority anticipates it will occur over the next three years.

To the extent the Authority incurs costs in connection with any predevelopment or development activities, the Authority intends to seek reimbursement from project developers for such costs.

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the Administrative Budget.

BE IT FURTHER RESOLVED, that the Board authorizes the Co-Executive Directors to execute and cause the Authority to enter into such contracts and take such other actions as may be necessary to implement the activities contemplated in the Administrative Budget, including but not limited to legal services agreements and consultant agreements so long as such contracts are in a form approved counsel to the Authority or, in the case of Authority legal services contracts, by Contra Costa County Counsel.

CERTIFICATE OF SECRETARY

I certify that I am the duly appointed and acting Secretary of the Pleasant Hill BART Station Leasing Authority, and that the above resolution was approved by the Board of Directors of the Authority on June 20, 2022.

Executed on June 20, 2022.

Maureen Toms, Secretary