



SOUTH HAYWARD BART STATION ACCESS AUTHORITY

SPECIAL MEETING

777 B Street, Hayward, CA 94541

Room 4A

September 10, 2014

4:00 PM

AGENDA

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Approval of Agenda**
5. **Public Comment** - *This section provides an opportunity to address the Access Authority on items listed on the agenda, as well as other items of interest. The Board welcomes comment and requests that speakers present their remarks within established time limits. (Individual comments are set at a 3-minute time limit; comments on behalf of a group are set at a 5-minute time limit.) As the Board is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.*
6. **Approval of Meeting Minutes** (of March 5, 2014)
7. **Report from Co-Executive Directors Fran David and Jeff Ordway**
8. **New Business:** Consider a Proposed Resolution Authorizing (1) the Board to retain Goldfarb & Lipman LLP, as legal counsel; and (2) to Pay Goldfarb & Lipman, LLP, for Legal Services Previously Rendered
9. **New Business:** Review the implementation of the Action Plan
 - a. Review the reduction of on-street parking spaces reserved for BART patrons (on Mission Blvd. and at the west end of Tennyson Rd) (no action required);
 - b. Receive a report regarding BART's planned modification of reserved parking (no action required);
 - c. Review increasing daily parking charges from \$1.00 to \$1.50 (no action required).
10. **New Business:** Receive a report regarding BART's progress in the study of retrofitting off-street lighting with energy-efficient lighting – No action required.
11. **New Business:** Receive a report regarding BART's implementation of parking charges at the downtown Hayward BART station and receive a report regarding the City's study of Downtown parking, including near the BART station (no action required).
12. **Project Status:** Receive report from Developers as to status of residential Project
13. **Authority Reports, Referrals and Future Agenda Items**
 - a. Consider setting Regular meetings on the 2nd Wednesday in March & September.
14. **Adjournment**



SOUTH HAYWARD BART STATION ACCESS AUTHORITY

SPECIAL MEETING

777 B Street, Hayward, CA 94541

Room 2A

March 5, 2014

4:00 PM

MINUTES

1. **Call to Order** – The meeting was called to order by Chair Thomas Blalock at 4:10PM
2. **Pledge of Allegiance** – Board Member Al Mendall led the Pledge of Allegiance
3. **Roll Call**

JPA Board members present: Thomas Blalock (Chair), Francisco Zermeño (Vice Chair), John McPartland, Al Mendall.
JPA Alternate Board members present: Barbara Halliday, Rebecca Saltzman
JPA Board members absent: none
City of Hayward staff present: Fran David, Kelly McAdoo, David Rizk, Denise Blohm, Jennifer Cohen
City of Hayward consultant: John DeClercq
BART staff present: Jeff Ordway, Bruno Peguese
JPA legal counsel present: Heather Gould (Goldfarb & Lipman)
Project representatives: Joe Montana and Tony Bosowski (JMJ Development), Andrea Osgood (Eden Housing)
Member(s) of the public: Visitor Lara Dore
4. **Approval of Agenda** – there were no changes to the Agenda
5. **Public Comment** – no members of the public appeared to comment
6. **Approval of Meeting Minutes** – the minutes of the June 14, 2013 meeting were approved as submitted by consensus.
7. **Report from Co-Executive Directors Fran David and Jeff Ordway** – standing item, no report given
8. **New Business:** Review Implementation of Action Plan

Jeff Ordway gave a brief overview of the history of the adoption of parking charges at the South Hayward Station and BART system-wide, which resulted in policies that were not totally aligned and which need alignment – which was one of the purposes of today's meeting.

Kelly McAdoo reminded the group that several minor changes are needed in the designation of certain on-street parking spaces and that making these changes was also one of the purposes of today's meeting.

The JPA Milestones were briefly reviewed, reminding all that the Action Plan had been implemented on April 29, 2013, nearly one year ago. It was noted that the planned six-month review JPA Board meeting had been postponed to this date due to labor negotiations at both the City and BART last fall and due to start-up glitches gathering data.

Revenue was reported to be averaging \$22,000-\$24,000 per month, except in July (due to the BART strike) and November (BART strike) / December (due to holidays). More than \$190,000 has been collected through January, 2014.

Ridership generated from the South Hayward Station, as compared to the supply of parking, has varied from 69% to 84% over the past 24 months and the occupancy of the parking areas has averaged approximately 70.2% since the implementation of parking charges (excluding the BART strike month). It was recalled that the Nelson\Nygaard study found that the parking lots were greater than 98% occupied, which led to the question, "why has occupancy declined by approximately 28%?" The ridership at the South Hayward stations appears to be not significantly changed, only the number of parkers. BART staff advised that ridership on the system overall has been flat for the past year and agreed to study ridership information at the Union City and Downtown Hayward Stations over the same 24 month period to determine if BART patrons have changed their patterns and are now using other stations.

The Residential Parking Permit (RPP) Program is well underway. 295 households of a total of 663 addresses (45%) have applied for permits. 468 visitor permits have been issued. 564 resident permits have been issued. That's an average of 3.5 permits per participating address. There have been no complaints about the program (other than the need to redesignate 3 areas of spaces, as more fully described in #10 below) nor have many citations been issued for violations of parking in the residentially-zoned areas.

9. **New Business:** Recommend Modification of JPA Action Plan (by the BART Board and the City Council) for Reconciliation of Future Parking Charge Increases Policy for the South Hayward Station with the BART System-wide Policy

The JPA Board received the recommendation from the Nelson\Nygaard Parking and Access Study at its meeting on December 5, 2012 and agreed to recommend the parking charges recommended in that report to the City Council and BART Board. The BART Board was studying parking charges for the entire system at about the same time and on February 28, 2013, adopted a policy which included parking charges system-wide. At the BART Board's March 14, 2013 meeting, it considered the recommendations of the JPA Board to adopt parking charges at the South Hayward Station and agreed to do so, requesting that the JPA Board address the fact that the parking charges system-wide and for the South Hayward Station (SHB) needed to be reconciled. Such reconciliation is the purpose of this agenda item.

The differences are noted in the attached chart presented at the JPA meeting.

Further, it was recommended that future modifications of parking charges and metrics for parking charge changes enacted by the BART Board of Directors be automatically incorporated in the Authority's paid parking program. Suggestions were discussed about advising the JPA Board members prior to any BART Board action and/or providing for JPA approval of any proposed action prior to BART Board's action. The consensus was that any action should be subject to ratification or rejection by the JPA Board for application at the South Hayward Station.

A question was raised about rates at the Downtown Hayward Station. The JPA Board does not have jurisdiction over the Downtown Station.

A question was raised as to whether or not a community outreach meeting would be necessary for the Board to adopt such recommendations. City staff reported that there have been no issues raised by surrounding residents and that such pricing issues were not a concern of the residents who attended the two community meeting prior to the implementation of parking charges. It was recommended to staff that a community meeting should be scheduled in the fall to (a) give the residents an update and (b) discern if there are any issues that are not now being addressed, but the pricing reconciliation does not need to wait for such a meeting.

A motion was made (M/S/C - Zermeño/McPartland/unanimous) that:

The Board of Directors of the South Hayward BART Station Access Authority hereby recommends a modification to the JPA Action Plan (to be approved by the BART Board and the City Council) that:

- a. The Authority's parking charges and metrics for parking charge changes conform to those adopted by the BART Board of Directors on February 28, 2013, except for the minimum daily parking charge which shall be not less than \$1/day, and
- b. Future modifications of parking charges and metrics for parking charge changes enacted by the BART Board of Directors be automatically incorporated in the Authority's paid parking program, subject to ratification or rejection by the JPA Board.
- c. The JPA Board shall continue to be responsible to set rates within the parameters of these guidelines.

10. **New Business:** Review Proposed Changes to On-Street Parking.

As was explained / discussed at the June 14 meeting, there are 3 areas of parking that need to be modified:

- a. On the south side of the west end of Tennyson, 8 parking spaces mapped for BART patrons were located in front of residences. These spaces will be redesignated as residential and become subject to the Residential Parking Permit Program.
- b. Of the 18 spaces along the north side of the west end of Tennyson mapped as a school Drop-Off zone, not more than 8 spaces are needed for such use. Ten spaces will be redesignated as BART-only parking.
- c. At the Paraiso Lounge on Mission Blvd, where parking is designated for BART patrons only, 3 or more spaces will be redesignated as reserved for BART patrons Monday-Friday, 4am-3:00pm, and, therefore available in the evenings for patrons of the restaurant.

Changes in these three areas will occur once amendments to the City's traffic regulations are adopted by the City Council (which is scheduled to occur next month).

11. **Project Status:**

Joe Montana gave an update of the residential project, reporting that the market-rate developer had signed a letter of intent from a purchaser that provides for due diligence through May 5 and then a close of escrow within 2 weeks thereafter. He provided a recent history of the offers from potential buyers during the recent months.

Board Members expressed their frustration that the Project has been stalled for so many months, and that the City is at risk for the HCD Prop 1-C funds that have been disbursed to the developer.

The developers explained that they have been working diligently but that the site has been difficult to attract equity investors, that the lack of development in the area has provided no indication of the strength of the market in the area, that rephasing the project off the main BART lot and the City's loss of redevelopment funding are some of the reasons that construction has not yet commenced.

Eden Housing expressed the urgency of getting construction underway as their back-end funding is predicated on contemporaneous construction of the two portions of the Project (market-rate and

affordable). The concept of allowing Eden to commence construction prior to the market-rate housing was discussed, but the group was reminded that the City's OPA (Owners Participation Agreement), approved by the City Council, requires contemporaneous commencement and that any change in the OPA would require further City Council action.

12. **Authority Reports, Referrals and Future Agenda Items**

Future Agenda Items

The reserved parking on the lot needs discussion. There are currently 35 monthly reserved spaces assigned to patrons and there is a waiting list of more than 300. The system-wide BART policy allows that staff may increase reserved parking to a maximum of 25% of the spaces at a station. Staff is considering recommending that the reserved spaces be increased by 30-35 spaces, which would provide for a total of approximately 70 reserved spaces (5% of the spaces in the Authority). Director Blalock suggested that staff examine a variety of options to increase the reserved spaces over time to the maximum permitted.

It was mentioned that if some of the on-street parking spaces are never being used, then the occupancy percentage of the available parking is not a realistic or true count. Perhaps some of the rarely used, distant, spaces should not be considered in the calculation of occupancy, or, if those spaces were to be deleted from the Authority, then occupancy tracking might be a more true reflection of what is happening at the station.

It was noted that the majority of expenses in operating the BART lot is lighting. Staff was encouraged to study solar or LED lighting to reduce operating costs.

The question was raised about the timing of a walkway over Tennyson. In response, it was noted that the excess revenue in the Authority is intended for access improvements and that the walk-over is on the list for consideration. However, it would be very expensive and may not be realistically considered for many years.

Next Steps:

April 2014: take the parking rates policy recommendations to the BART Board and take the on-street redesignation of spaces the City Council

June/July – schedule a JPA Board meeting to discuss and make recommendations about (a) reconciling the JPA parking policy to the system-wide policy with respect to reserved parking and (b) reduce the number of parking spaces in the Authority (spaces not being used) so that occupancy is a more realistically measured.

September – schedule a JPA Board meeting to review occupancy and consider a rate increase if occupancy indicates the need.

Fall - schedule a community meeting to (a) provide an update about the program and (b) find out if there are issues not currently being addressed.

13. **Adjournment** – the meeting was adjourned at 5:15pm to a subsequent meeting date & time.

Reconciliation

Topic	2/28/13 BART Board Action	3/14/13 BART Board Action for South Hayward	Proposed South Hayward
Daily Parking Fee	\$1.00	\$1.00	\$1.00
Increase Fee \$0.50 per day if occupancy is greater than	95%	98%	95%
No change in fee		Between 90% and 98%	
Reduce fee if occupancy is less than	95%	90% [Minimum fee not less than \$1/day]	95% [Minimum fee not less than \$1/day]
Maximum Daily Fee	\$3.00	\$5.00	\$3.00
Single Day Reserve Fee	Daily Fee + \$3.00	Daily Fee + \$2.00	Daily Fee + \$3.00
Monthly Reserve Fee	(Daily Fee + \$2.00) x 21	(Daily Fee + \$1.00) x 21	(Daily Fee + \$2.00) x 21
Long-Term Reserve	\$5.00/Day or Daily + \$4.00 (greater of)	None	\$5.00/Day or Daily + \$4.00 (greater of)
Future Changes			Adhere to BART Policy Changes on above



SOUTH HAYWARD BART STATION ACCESS AUTHORITY

DATE: September 10, 2014

TO: South Hayward BART Station Access Authority Board

FROM: Fran David, City Manager

SUBJECT: Proposed Resolution Authorizing (1) the Board to retain Goldfarb & Lipman LLP, as legal counsel; and (2) to Pay Goldfarb & Lipman, LLP, for Legal Services Previously Rendered

RECOMMENDATION

That the JPA Board adopts the attached resolution:

- Authorizing the Joint Powers Authority Board's ("JPA Board") to retain Goldfarb & Lipman, LLP, as legal counsel.
- Authorizing payment of \$6,826.00 to Goldfarb & Lipman, LLP, for legal services previously provided.

SUMMARY

The JPA board is authorized to retain legal counsel, per the JPA agreement Sec.2.6(f). The board could solicit proposals from qualified attorneys or law firms, but such option is not recommended at this time because Goldfarb & Lipman has had extensive involvement with the South Hayward BART transit-oriented development project. Goldfarb & Lipman has already provided legal services to the JPA, and a new attorney or law firm would need to review all previous JPA activities – thus duplicating services already provided. Goldfarb & Lipman is a highly-regarded firm in the Bay Area, knowledgeable regarding complex public-private development projects.

The attached proposed resolution would authorize execution of an agreement for legal services with Goldfarb & Lipman, LLP. The scope of work includes: 1) advising the Authority on its powers and required procedures; 2) attending Authority meetings as general counsel to the Authority and providing guidance and advice, as requested by staff and Board members at meetings; 3) updating and revising the Authority's joint powers agreement and bylaws from time to time, as necessary and requested by Authority Board members and staff; and 4) performing various legal services to the Authority as directed. The proposed agreement with Goldfarb & Lipman is attached to the resolution as EXHIBIT A. The resolution would also authorize the payment of \$6,826.00 in invoices submitted by Goldfarb & Lipman for legal services already provided to the JPA. These prior invoices included all of the legal work to establish the joint powers agreement and the parking district. Staff does not anticipate that the expenses going

forward will be as extensive and will likely only include limited work during the two times a year that the JPA Board will be having regular meetings.

Also contained in the resolution is a \$7,000.00 retainer agreement for Goldfarb & Lipman to provide the JPA Board legal services for the next fiscal year (July 1, 2014 till June 30, 2015). The legal services provided will be consistent with the scope presented above.

Attachments:

1. Proposed resolution authorizing legal services agreement between the JPA and Goldfarb & Lipman, LLP
2. Proposed agreement with Goldfarb & Lipman, LLP (Exhibit A to the resolution)

SOUTH HAYWARD BART STATION
ACCESS AUTHORITY

RESOLUTION NO. _____

Introduced By Director _____

A RESOLUTION OF THE BOARD OF THE SOUTH HAYWARD BART
STATION ACCESS AUTHORITY APPROVING AND AUTHORIZING THE
JPA TO RETAIN LEGAL COUNSEL AND TO PAY GOLDFARB & LIPMAN,
LLP FOR LEGAL SERVICES PREVIOUSLY RENDERED

BE IT RESOLVED, that the South Hayward BART Station Access Authority JPA Board
does hereby retain the Goldfarb & Lipman, LLP, law firm to provide ordinary and routine legal
services, as set forth in attached Exhibit A; and

BE IT FURTHER RESOLVED, that the JPA Board hereby authorizes the payment of
\$6,826.00 to Goldfarb & Lipman, LLP, for legal services previously rendered; and

BE IT FURTHER RESOLVED, that the JPA Board hereby authorizes a \$7,000.00
retainer agreement with Goldfarb & Lipman, LLP, for legal services to be provided from July 1,
2014 till June 30, 2015; and

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon its
adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: DIRECTORS:

NOES: DIRECTORS:

ABSTAIN: DIRECTORS:

ABSENT: DIRECTORS:

ATTEST: _____
Secretary of the JPA Board

APPROVED AS TO FORM:

M David Kroot
Lynn Hutchins
Karen M. Tiedemann
Thomas H. Webber
Dianne Jackson McLean
Michelle D. Brewer
Jennifer K. Bell
Robert C. Mills
Isabel L. Brown
James T. Diamond, Jr.
Margaret F. Jung
Heather J. Gould
Juliet E. Cox
William F. DiCamillo
Amy DeVaudreuil
Barbara E. Kautz
Erica Williams Orcharton
Luis A. Rodriguez
Xochitl Carrion
Rafael Yaquian
Celia W. Lee
Vincent L. Brown
Hana A. Hardy
Caroline Nasella
Eric S. Phillips
Elizabeth Klueck

August 13, 2014

Jeff Ordway
Frances David
Co-Executive Directors
South Hayward BART Access Authority
777 B Street, 4th Floor
Hayward, CA 94541

Re: South Hayward BART Station Access Authority Special Counsel Services

Dear Mr. Ordway and Ms. David:

Goldfarb & Lipman LLP would be pleased to continue to provide legal services to the South Hayward BART Access Authority (the "Authority") in connection with the Authority's meetings and activities. This letter outlines the general scope of our legal services and our written fee agreement.

Previously, as requested initially by City of Hayward and BART staff, we have assisted in the creation of the Authority as a joint powers authority by preparing a joint powers agreement and bylaws. We subsequently assisted in preparing an amended and restated joint powers agreement and amended and restated bylaws, as requested by Authority staff. We have also assisted the Authority in the conduct of its meetings, and provided review and correction of meeting minutes.

Our future work will include: (i) advising the Authority on its powers and required procedures; (ii) attending Authority meetings as general counsel to the Authority and provide guidance and advice, as requested by staff and Board members at meetings; (iii) update and revise the Authority's joint powers agreement and bylaws from time to time, as necessary and as requested by Authority board members and staff; and (iv) perform various legal services to the Authority as directed by Authority staff.

Heather Gould and Rafael Yaquian will have the principal responsibility for these services. We will charge for our time as set forth in the attached rate schedule. For your information, a copy of our standard billing policies is enclosed.

If the arrangement described above is satisfactory and approved by the Authority Board, then please sign each of the two originals of this engagement letter in the space provided below. Please return one of the signed originals to me, and keep the other signed original for the Authority's files.

San Francisco
415 788-6336
Los Angeles
213 627-6336
San Diego
619 239-6336
Goldfarb & Lipman LLP

Jeff Ordway
Frances David
August 13, 2014
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Thank you for selecting Goldfarb & Lipman as legal counsel.

Sincerely,



HEATHER GOULD

Accepted: South Hayward BART Access Authority

By: _____
Francis David, Co-Executive Director

By: _____
Jeff Ordway, Co-Executive Director

Enclosures:

Billing Rate Schedule
Billing Policies and Procedures

BILLING RATE SCHEDULE

Partners	\$250-260
Associates	\$160-245
Senior Law Clerks	\$140
Law Clerks	\$125
Project Coordinators	\$125

GOLDFARB & LIPMAN LLP

BILLING POLICIES AND PROCEDURES

Dear Client:

Experience has shown that the attorney-client relationship works best when there is a mutual understanding about fees and payment terms. Accordingly, this letter is intended to briefly explain our billing policies and procedures. We encourage you to discuss with us any questions you may have concerning these policies and procedures.

To determine the value of our services, we ask each of our lawyers and legal assistants to maintain time records for each client and matter. The time records are reviewed monthly by the responsible billing attorney. Our present billing rates for services rendered for partners, associates, and for paralegals is attached. Our hourly rates are adjusted from time-to-time (generally once a year) and may change during the course of our engagement.

It is our policy to serve you with the most effective support systems available. Therefore, in addition to our fees for legal services, we also charge for messenger, reproduction, facsimile, and other costs and expenses incurred on your behalf.

Our billing statements are due and payable upon receipt. Clients whose statements are not paid within 30 days of the statement date will be assessed a late charge on the unpaid balance at the rate of one-and-a-half percent per month.

We carry professional liability insurance above the limits required by law.

In closing, let us assure you that it has always been and will continue to be our goal to provide legal services to you on the most cost-efficient basis possible. If you have any questions or comments regarding our billing policy, please feel free to contact us. Thank you for your continued cooperation.

Very truly yours,

GOLDFARB & LIPMAN LLP