



STATE PUBLIC WORKS BOARD
February 11, 2022

APPROVED MINUTES**PRESENT:**

Ms. Gayle Miller, Chief Deputy Director, Department of Finance
Ms. Ana Lasso, Director, Department of General Services
Mr. Mike Keever, Chief Deputy Director, Department of Transportation
Mr. Blake Fowler, Director of Public Finance, State Treasurer
Mr. David Oppenheim, Deputy Controller, State Controller

CALL TO ORDER AND ROLL CALL:

Ms. Gayle Miller, Chairperson of the Board, called the meeting to order at 10:05 a.m.
Ms. Kat Lee, Secretary of the Board, called the roll. A quorum was established.

Sally Lukenbill, Executive Director of the State Public Works Board, noted that Adrian Tapia Sr. and Adrian Tapia Jr., the owners for property #10 in Action Item 1, the Tapia property, were present with her.

Ms. Lukenbill noted that she would turn her camera over to The Tapia's when it was their turn to speak.

BOND ITEMS:

The first order of business was to consider one Bond Item.

Ms. Lukenbill noted that Bond Item 2 was pulled from the Agenda and would not be a part of the vote that day.

- Bond Item 1: If approved, Bond Item 2 would adopt an amended resolution authorizing actions to be taken to provide for interim financing, authorize the sale of lease revenue bonds, approve the form of and authorize the amendment of a Project Delivery Agreement, and other related actions for the construction of the Renovation and Addition to Willows Courthouse project in Glenn County, for the Judicial Council of California.

Staff recommended adoption of the amended resolution.

Ms. Miller asked if there were any questions or comments from the Board, or from the public. There were none.

A motion was made by Ms. Lasso and seconded by Mr. Fowler to adopt the amended resolution. The motion passed unanimously through a 5-0 roll-call vote (Ms. Miller, Ms. Lasso, Mr. Keever, Mr. Fowler, and Mr. Oppenheim all voting aye).

Ms. Miller thanked and excused Mr. Fowler and Mr. Oppenheim.

MINUTES:

The next order of business was to approve the minutes from the January 14, 2022 Board meeting.

Ms. Lukenbill stated that staff had prepared and reviewed the minutes from the January 14, 2022 Board meeting and recommended approval of the meeting minutes.

Ms. Miller asked if there were any questions or comments from the Board, or from the public. There were none.

A motion was made by Ms. Miller and seconded by Ms. Lasso to approve the meeting minutes. The motion passed unanimously through a 2-0 roll-call vote (Ms. Miller and Ms. Lasso both voting aye, and Mr. Keever abstained).

CONSENT ITEMS:

The next order of business was to consider the Consent Calendar which consisted of one item.

- Consent Item 1: If approved, the request would approve an augmentation in the amount of \$60,000 General Fund for the preliminary plans phase of the Security Checkpoint Enhancements project in Sacramento County for the Office of Emergency Services.

Ms. Lukenbill noted that the Consent Item required 20-day notices to the Joint Legislative Budget Committees and the fiscal committees in each house. The 20-day review period for the notices had expired with no adverse comment.

Staff recommended approval of the Consent Item 1.

Ms. Miller asked if there were any questions or comments from the Board, or from the public. There were none.

A motion was made by Ms. Miller and seconded by Ms. Lasso. The motion passed unanimously through a 3-0 roll-call vote (Ms. Miller, Ms. Lasso, and Mr. Keever all voting aye).

ACTION ITEMS:

The next order of business was to consider one action item.

- Action item 1: If approved, the request would adopt eleven Resolutions of Necessity (RONs) authorizing the use of eminent domain by the High Speed Rail Authority, to acquire properties or interests in properties for the High Speed Train System.

Ms. Lukenbill noted that property #9, the Schuh Farms Property, had been pulled from the agenda and would not be part of the vote that day.

Ms. Lukenbill stated that the Authority notified the Board's staff that for Properties 1, 2, 5, 6, 10, and 12, between April 2021 and October 2021, the respective property owners were provided with a first written offer to purchase the subject properties, as required by Government Code section 7267.2. The Authority had informed the Board's staff that negotiations to acquire the properties are continuing; however, to keep the project moving forward, the adoption of RONs to authorize the use of eminent domain was required at this time. For Properties 3, 4, 7, 8, and 11, a formal offer to purchase the Property was not provided to the property owners due to the inability to locate the owner of record or any descendants.

On January 25, 2022, Notices of Intent to adopt a RON were mailed by Board staff to the owners of Properties 1, 2, 5, 6, 10, and 12. The Notice of Intent for Properties 3, 4, 7, 8 and 11 were posted at the respective property boundaries. These notices were sent in accordance with Code of Civil Procedure section 1245.235.

Ms. Lukenbill noted that the members' briefing packages contained the RONs and surveyor maps for each of the properties and an objection letter from representatives of property #1, the Calaveras Materials property in Fresno County, as well as High Speed Rail's response to the objection.

Karen Lockhart, serving as counsel to the Board on Eminent Domain items, presented the RONs and started with the 10 unopposed RONs.

Ms. Lockhart stated that the 10 unopposed RONs had been reviewed to ensure there is prima facie evidence that the factors set forth in Code of Civil Procedure Section 1245.230 are present.

She explained that it was counsel's opinion that there was prima facie evidence that the factors set forth in Code of Civil Procedures section 1245.230 were present. It was counsel's opinion that for the 10 unopposed RONs, prima facie evidence for these factors is present such that the Board may adopt the RON, and if the Board agreed and determined that the factors were present, the Board may move to adopt the RONs.

Staff recommended adoption of the 10 unopposed RONs authorizing the use of eminent domain to acquire properties or interests in properties for High Speed Rail.

Ms. Miller asked if there were any questions or comments from the Board, or from the public.

Adrian Tapia Jr., owner of the Tapia property, expressed concern about the construction on his property, specifically the fencing. Mr. Tapia Jr. also expressed his concern about the offer that was made to him for his property, saying he felt that it was unfair.

Ms. Miller explained to Mr. Tapia that the Board does not have the authority to determine the compensation amount and that he would need to work with the High Speed Rail Authority to negotiate and determine the appropriate amount.

Ms. Lockhart agreed that the matter before the Board today is related to adopting the Resolution of Necessity and that just compensation issues are not determined by the Board.

Mr. Tapia Jr. further expressed that he was concerned about the safety of his family in relation to the compensation amount, and that the fencing location attracts many homeless people which causes damage to his property.

Ms. Miller addressed Mr. Tapia Jr.'s concerns and explained that the decision being made that day was not about the current state of Mr. Tapia Jr.'s property and asked for clarification about what Mr. Tapia Jr. was trying to ensure that day.

Mr. Rowan, Deputy Director of Real Property for the High Speed Rail Authority, said that he would be happy to meet with the owners of the Tapia property after the meeting to discuss their concerns.

Ms. Lukenbill stated she would facilitate the meeting between the Tapia property owners and Mr. Rowan.

Ms. Miller thanked Mr. Tapia Jr. for his participation and bringing the issue to the Board's attention.

Ms. Miller asked if there were any questions or comments from the Board, or from the public. There were none.

Ms. Lasso commented that the Board's goal is to make sure that our community is heard and they have a seamless handoff.

A motion was made by Ms. Miller to move approval of the unopposed Resolutions of Necessity for properties 2 through 8 and 10 through 12, and was seconded by Ms. Lasso. The motion passed unanimously through a 3-0 roll-call vote (Ms. Miller, Ms. Lasso, and Mr. Keever all voting aye).

Next Ms. Lockhart presented the opposed Resolution of Necessity.

Ms. Lockhart stated that the opposed Resolution of Necessity was for the Calaveras Materials property in Fresno County. In a letter sent to the Board, counsel for the property owner raised the following objections:

- 1) The Authority's proposed project is not planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- 2) The hearing on the proposed resolution of necessity is inappropriate because the agency is already irrevocably committed to adopting the Resolution of Necessity

- 3) The Authority failed to extend a legitimate pre-condemnation offer pursuant to Government Code section 7267.2.

He explained that the objections made by the property owner's counsel as well as the Authority's written responses had been reviewed, and it was counsel's opinion that the Authority addressed all objections presented. In addition, there was prima facie evidence that the factors set forth in Code of Civil Procedures section 1245.230 were present. It was counsel's opinion that for the Resolution of Necessity for the property, prima facie evidence for these factors is present such that the Board may adopt the Resolutions of Necessity, and if the Board agreed and determined that the factors were present, the Board may move to adopt the RON.

Staff recommended approval for the adoption of the RON.

Ms. Miller asked if there were any comments or questions from the Board, or from the public.

Mr. Keever requested clarification on what constitutes an offer of just compensation.

Ms. Lockhart addressed Mr. Keever's question and explained that the property that was set to be acquired by the High Speed Rail Authority was valued by an expert appraiser, and the appraiser was qualified to render opinion as to what just compensation was, and that just compensation amount meets the requirements of Civil Code of Procedure.

A motion was made by Ms. Miller to move approval of the opposed Resolution of Necessity and seconded by Mr. Keever. The motion passed unanimously through a 3-0 roll-call vote (Ms. Miller, Ms. Lasso, and Mr. Keever all voting aye).

GENERAL PUBLIC COMMENT:

NONE

REPORTABLES:

Ms. Lukenbill presented the reportable items for the period January 4, 2022 through January 31, 2022.

Ms. Miller asked if there were any questions or comments from the Board, or from the public. There were none.

NEXT MEETING:

Ms. Miller stated that the next Board meeting was scheduled for Friday, March 11, 2022 at 10am, through a zoom meeting link that will be posted on the Board's website.

Ms. Miller asked if there were any other questions or comments from the Board, or from the public. There were none.

The meeting was concluded.