



STATE PUBLIC WORKS BOARD  
March 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 10:01 am  
Ms. Kat Lee, Secretary of the Board, called the roll. A quorum was established.

**BOND ITEMS:**

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

- Bond Item 1: If approved, Bond Item 1 would approve the form of, and authorize the release of, the updated Official Statement related to the settlement of the 2022 Series A and B, lease revenue refunding bonds, and approve and authorize other related actions in connection with the bonds, and effectuate the purpose of the resolution.

Ms. Lukenbill stated that on March 12, 2021, the Board adopted a resolution authorizing the sale of the 2022 Series A and B lease revenue refunding bonds and other related actions in connection with the issuance, sale, and delivery of the bonds. The 2022 Series A and B lease revenue refunding bonds were sold in Spring 2021 and structured as "forward delivery" refunding bonds which allowed the bonds to be priced in Spring 2021 and issued this Spring 2022. As part of the sale, the Board was required to prepare and release an updated Official Statement prior to receiving payment for the bonds. This action would, among other things, approve the form of and authorize the release of the updated Official Statement. The par amount of the bonds is \$695 million and the transaction generated gross savings of \$200 million and net present value savings of \$164 million, or 19 percent of the par value of the bonds.

Staff recommended adoption of the 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. Miller and seconded by Mr. Fowler to adopt the 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 noted that Bond Item 2 had been pulled from the agenda and would not be part of the vote.

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

**MINUTES:**

The next order of business was to approve the minutes from the February 11, 2022 Board meeting.

Ms. Lukenbill stated that staff had prepared and reviewed the minutes from the February 11, 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 3-0 roll-call vote (Ms. Miller, Ms. Lasso, and Mr. Keever all voting aye).**

**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 the Guaranteed Maximum Price and allow the Design-Build phase to proceed for the Sacramento Region: Gregory Bateson Building Renovation project in Sacramento County for the Department of General Services. The project was being delivered under the Progressive Design-Build method, which was a fairly new delivery method for state projects.

Ms. Lukenbill introduced experts at DGS, Mike Meredith and Jason Kenney, to describe this method and its benefits.

Jason Kenney, Deputy Director for Real Estate for DGS, explained that progressive design-build is the latest iteration of alternative project delivery methods. The industry created alternative delivery methods with the intent to make construction delivery better by addressing the flaws of the design-bid-build delivery method.

Mr. Kenney explained the benefits of progressive design-build and noted that this project is one of the first pilot projects utilizing this alternative delivery method.

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 Mr. Keever 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 nine Resolutions of Necessity 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 number 8, the Parallamo Property in Fresno County has been pulled and would not be part of the vote that day.

Ms. Lukenbill stated that the Authority notified the Board's staff that between September 2021 and November 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 property were continuing; however, to keep the project on schedule, the adoption of Resolutions of Necessity to authorize the use of eminent domain was required at the time.

On February 22, 2022, Notices of Intent to adopt a RON were mailed by Board staff to the property. The notices were sent in accordance with Code of Civil Procedure section 1245.235.

Ms. Lukenbill noted that the members' briefing packages contained the Resolutions of Necessity and surveyor maps for each of the nine properties (#1 through 7, 9 and 10, an objection letter from representatives of property #1, the 7-Eleven property in Fresno County, as well as High Speed Rail's response to this objection.

Board counsel had reviewed the objections raised in the letter, and based on that review, staff felt comfortable recommending that the Board move forward with the adoption of the Resolution of Necessity for the property. However, staff recommended the Board consider the 7-Eleven property separately from the 8 Resolutions of Necessity which did not receive objections. As a result, the 8 unopposed Resolutions of Necessity (Properties 2-7, 9, and 10) was presented first, with a separate vote.

Joe Carroll, serving as counsel to the Board on Eminent Domain items, presented the RONs and started with the 8 unopposed RONs.

Mr. Carroll stated that the 8 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.

He 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 8 unopposed RONs, prima facie evidence for the factors

was 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 8 unopposed Resolutions of Necessity 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 from the public, or from the Board. There were none.

**A motion was made by Ms. Miller to move approval of the 8 unopposed Resolutions of Necessity, 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 Mr. Carroll presented the opposed Resolution of Necessity.

Mr. Carroll stated that the opposed Resolution of Necessity was for the 7-Eleven property in Fresno County. In a letter sent to the Board, counsel for the property owner raised a number of objections, including:

- 1) Any hearing on the Resolution of Necessity pursuant to the Notice of Intent before Monday, March 21, 2022 was improper, and any Resolution of Necessity adopted at any hearing before March 21, 2022 was invalid.
- 2) The Notice of Intent to Adopt a Resolution of Necessity was legally deficient and any Resolution of Necessity that was adopted based on the Notice was invalid.
- 3) Concerns that the property was not needed for the project, and that the project was not planned and located in a manner most consistent with the greatest public good and the least private injury.

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.

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

Staff recommended approval for the adoption of the RON.

Douglas Gravelle asked Ms. Lukenbill if the March 7 letter was part of the administrative record.

Ms. Lukenbill addressed Mr. Gravelle's question and confirmed staff had the letter.

Ms. Gravelle recommended that the Board defer the RON to address the issues raised.

Mr. Carroll stated that regarding providing appropriate notice, the property owners were provided a reasonable notice period of 11 days, and the RON was sufficient and valid.

Kendall Bonebrake, Assistant Chief Counsel for the High Speed Rail Authority, concurred with Mr. Carroll's statements, that she had reviewed the RON and that it was hers and the High Speed Rail's opinion that the content was fully compliant with the Code of Civil Procedure and notice was provided within a reasonable timeframe.

Mr. Keever asked Mr. Carroll if the property owner's concerns noted in the objection letter related to business disruption is a matter that needs to be considered by the Board, or if it is a compensation issue that the property owner can continue to work with the Authority to address.

Mr. Carroll believed it was a compensation issue.

Ms. Miller clarified that the property owner's issues can continue to be raised and discussed with the Authority.

Mr. Gravelle added that he agreed that compensation is an issue that can continue to be addressed with the Authority. However, it is his opinion that the Authority does not provide adequate protections to minimize business disruption in the RON.

Mr. Carroll stated that the proposed project is planned and located in a manner that would provide the greatest public good with the least private injury summarizes all of the analysis and review of the property.

Ms. Bonebrake offered her legal assistance if concerns were not being addressed moving forward.

Ms. Miller asked if there were any other comments or questions. There were none.

**A motion was made by Ms. Lasso 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 February 1, 2022 through March 28, 2022 and said he would be happy to answer any questions.

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 Wednesday, March 30, 2022 at 2 pm, 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.