



STATE PUBLIC WORKS BOARD
January 20, 2023

FINAL MINUTES

PRESENT:

Ms. Gayle Miller, Deputy Director, Department of Finance
Ms. Jennifer Osborn, Chief Deputy Director, Department of General Services
Mr. Juan Fernandez, Director of Public Finance, State Treasurer
Ms. Malia Cohen, State Controller

CALL TO ORDER AND ROLL CALL:

Ms. Miller, Chairperson of the Board, called the meeting to order at 2:05 pm
Ms. Kat Lee, Secretary of the Board, called the roll. A quorum was established.

BOND ITEMS:

The first order of business was to consider 3 bond items.

- Bond Item 1: If approved, Bond Item 1 would adopt an amended resolution authorizing actions to be taken to provide for interim financing, authorize the sale of lease revenue bonds, and other related actions for the construction of the New Modesto Courthouse in Stanislaus County for the Judicial Council of California.

Ms. Sally Lukenbill, Executive Director of the Public Works Board, stated that the project would construct a new, approximately 27-courtroom courthouse, with one unfinished courtroom, and approximately 309,000 square feet in the City of Modesto. The project would consolidate court operations from six existing court facilities and will relieve the current space shortfall, increase security, and replace inadequate and obsolete facilities in Stanislaus County.

Bonds for the project would be issued in an amount not to exceed \$309.8 million.

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. Osborn and seconded by Ms. Cohen to adopt the amended resolution. The motion passed unanimously through a 4-0 roll-call vote (Ms. Miller, Ms. Osborn, Ms. Cohen, and Mr. Fernandez, all voting aye).

- Bond Item 2: If approved, Bond Item 2 would adopt a resolution authorizing actions to be taken to provide for interim financing, authorize the sale of lease revenue bonds, and other related actions for the Adult Local Criminal Justice Facilities Project in Napa County for the Board of State and Community Corrections.

Ms. Lukenbill stated that the project scope for SB 844 funding included the design and construction of approximately 50 rated beds and an approximately 30-bed medical/mental health unit along with programming space, kitchen, laundry, central control, in-person visiting, intake, sallyport, and an administrative building.

Bonds for the project would be issued in an amount not to exceed \$20 million.

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. Fernandez to adopt the resolution. The motion passed unanimously through a 4-0 roll-call vote (Ms. Miller, Ms. Osborn, Ms. Cohen, and Mr. Fernandez, all voting aye).

- Bond Item 3: If approved, Bond Item 3 would adopt a resolution authorizing actions to be taken to provide for interim financing, authorize the sale of lease revenue bonds, and other related actions for the Adult Local Criminal Justice Facilities Project in Napa County for the Board of State and Community Corrections.

Ms. Lukenbill stated that the project scope for SB 863 funding included the design and construction of approximately 260 rated beds within eight medium/maximum security housing units. Each housing unit contained approximately 30 beds. Each housing unit pod would have a day room, interview room, an exam room, and an outdoor recreation yard.

Bonds for the project would be issued in an amount not to exceed \$2.8 million.

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 Mr. Fernandez and seconded by Ms. Osborn to adopt the resolution. The motion passed unanimously through a 4-0 roll-call vote (Ms. Miller, Ms. Osborn, Ms. Cohen, and Mr. Fernandez, all voting aye).

Ms. Miller thanked and excused Ms. Cohen and Mr. Fernandez.

MINUTES:

The next order of business was to approve the minutes from the November 18, 2022 Board meeting.

Ms. Lukenbill stated that staff had prepared and reviewed the minutes from the November 18, 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. Osborn to approve the minutes. The motion passed unanimously through a 2-0 roll-call vote (Ms. Miller and Ms. Osborn both voting aye).

CONSENT ITEMS:

The next order of business was to consider the Consent Calendar, which consisted of two items, however, Item 2 was pulled and would not be a part of the vote that day.

- Consent Item 1: If approved, the requested action would adopt a resolution to approve the form of agreements to terminate agreements, recognize the termination of agreements related to the construction and financing of the project, and authorize other actions related to the termination of the agreements for the Jail Project in Monterey County for the Department of Corrections and Rehabilitation.

Staff recommended approval of 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. Osborn to approve Consent Item 1. The motion passed unanimously through a 2-0 roll-call vote (Ms. Miller and Ms. Osborn both voting aye).

ACTION ITEMS:

The next order of business was to consider three action items.

- Action item 1: If approved, the action would adopt an amended Resolution of Necessity authorizing the use of eminent domain by the High Speed Rail Authority to acquire the property or interests in property for the High Speed Train System.

Ms. Lukenbill stated that on May 8, 2020, the Board adopted Resolution of Necessity 2020-0026, authorizing the use of eminent domain to acquire the Mina Orchard property in Kings County. Subsequent to adoption, the legal description was revised to incorporate the division of one utility easement into two separate easements, precipitating the need for an amended RON.

On January 4, 2023, Notices of Intent to adopt a First Amended Resolution of Necessity were mailed by Board staff to the owners of the property. The notices were sent in accordance with Code of Civil Procedure section 1245.235.

Staff recommended adoption of the amended Resolution of Necessity authorizing the use of eminent domain by the High Speed Rail Authority to acquire the property or interests in property for the High Speed Train System.

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

A motion was made by Ms. Miller and seconded by Ms. Osborn to adopt the amended Resolution of Necessity. The motion passed unanimously through a 2-0 roll-call vote (Ms. Miller and Ms. Osborn both voting aye).

- Action item 2: If approved, the action would adopt a resolution to rescind a Resolution of Necessity authorizing the use of eminent domain by the High Speed Rail Authority to acquire property or interests in property for the High Speed Train System.

Ms. Lukenbill stated that on March 11, 2022, the Board adopted the Resolution of Necessity authorizing the use of eminent domain to acquire the Clark property. Since then, the High Speed Rail Authority had confirmed a change in vesting that would require the RON be requested for a different owner, Security Land and Loan Company, which would be heard in the next Action Item.

Staff recommended adoption of the resolution to rescind a Resolution of Necessity authorizing the use of eminent domain by the High Speed Rail Authority to acquire the property or interests in property for the High Speed Train System.

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

A motion was made by Ms. Osborn and seconded by Ms. Miller to adopt the resolution to rescind a Resolution of Necessity. The motion passed unanimously through a 2-0 roll-call vote (Ms. Miller and Ms. Osborn both voting aye).

- Action item 3: If approved, the action would adopt twelve 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 #1, the AHBH/TOWA Property in Fresno County, was pulled from the agenda and would not be part of the vote that day.

The Authority notified the Board's staff that for Properties 2 through 9, between August 2022 and September 2022, the respective property owners were provided with a first written offer to purchase the subject property, 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.

For Properties 10 through 13, formal offers to purchase the Property were not mailed due to an inability to locate the owners of record or confirm the identity or any appropriate heirs, descendants, or devisees.

On January 4, 2023, Notices of Intent to adopt a Resolution of Necessity were mailed by Board staff to the owners of Properties 2 through 9. The Notices of Intent for Properties 10 through 13 were posted at the property boundary. These notices were sent in accordance with Code of Civil Procedure section 1245.235. The members' briefing packages contained the Resolutions of Necessity and surveyor maps for each of the properties.

Ms. Lukenbill noted that the package also included objection letters and requests to appear from representatives of property #3, the Fanucchi Property in Fresno County, and property #4, the Jensen Property in Fresno County, as well as High Speed Rail's response to these objections.

At the time, 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 Fanucchi and Jensen properties separately from the ten Resolutions of Necessity which did not receive objections. As a result, the ten unopposed Resolutions of Necessity (Properties 2, and 5 through 13) will be presented first, with a separate vote.

Joe Carroll, serving as counsel to the Board on Eminent Domain items, presented the ten unopposed Resolutions of Necessity.

Ms. Miller asked for confirmation on the information presented by Mr. Carroll due to some connectivity issues.

Mr. Carroll addressed Ms. Miller's question and confirmed her statement that the ten Resolutions of Necessity that were before the Board had been reviewed to ensure there is prima facie evidence that the factors set forth in Code of Civil Procedure Section 1245.230 were present.

Mr. Carroll stated that it was counsel's opinion that for the ten unopposed Resolutions of Necessity, prima facie evidence for these factors were present such that the Board may adopt the Resolutions of Necessity, and if the Board agreed and determined these factors were present, the Board may move to adopt the Resolutions of Necessity.

Staff recommended adoption of the ten unopposed Resolutions of Necessity (properties 2, 5 through 13).

Ms. Miller asked if there were any questions from the Board, the property owners, or their counsel, or from the public. There were none.

A motion was made by Ms. Miller and seconded by Ms. Osborn to adopt the ten Resolutions of Necessity. The motion passed unanimously through a 2-0 roll-call vote (Ms. Miller and Ms. Osborn both voting aye).

Mr. Carroll presented the opposed Resolutions of Necessity for property #3, the Fanucchi Property in Fresno County and noted that the property owners and their counsel had made no response but did submit an objection. In a letter sent to the Board, counsel to the property owner objected to the acquisition on the basis that the proposed take would not result in the greatest public good or least private injury compared to reasonable alternatives.

Mr. Carroll stated that the Resolution of Necessity, owner's objection, and High Speed Rail's response had been reviewed, and it was counsel's opinion that High Speed Rail's written responses adequately addressed the objections made on behalf of the property owner. In addition, prima facie evidence that the factors set forth in Code of Civil Procedure Section 1245.230 were present, and if the Board agreed and determined these factors were present, the Board may move to adopt the Resolution of Necessity.

Staff recommended adoption of the opposed Resolution of Necessity for property #3, the Fanucchi property.

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

A motion was made by Ms. Miller and seconded by Ms. Osborn to adopt the opposed Resolution of Necessity for property #3. The motion passed unanimously through a 2-0 roll-call vote (Ms. Miller and Ms. Osborn both voting aye).

Mr. Carroll presented the second opposed Resolution of Necessity for property #4, the Jensen property in Fresno County. In a letter sent to the Board, John Jensen, on behalf of his father Carl Jensen objected to the acquisition.

Mr. Carroll stated that the Resolution of Necessity, owner's objections, and High Speed Rail's response had been reviewed, and it was counsel's opinion that High Speed Rail's written responses adequately addressed the objections made on behalf of the property owner. In addition, prima facie evidence that the factors set forth in Code of Civil Procedure Section 1245.230 were present, and if the Board agreed and determined the factors were present, the Board may move to adopt the Resolutions of Necessity.

Mr. John Jensen, states that there is no public interest in acquiring his private land.

Allison Post Harris, Attorney with the High Speed Rail Authority, addressed Mr. Jensen's concern and explained that the Fresno Irrigation District (FID) facilities interfered with the High Speed Rail's project, so the facilities were relocated to accommodate the High Speed Rail System and were given replacement easements.

Ms. Post Harris noted that the High Speed Rail Authority considered many options, but determined Mr. Jensen's property was the most efficient and would have the least impact on agricultural land.

Mr. Robert Campbell, a High Speed Rail Authority engineer, confirmed that High Speed Rail looked at different configurations and came to a conclusion and agreement with FID that Mr. Jensen's property would have the least agricultural impact.

Mr. Jensen asked what other options were.

Mr. Campbell explained that the other options were hammerhead options, a cul-de-sac, or one single entrance vs two separate access points. The other options would've affected several properties and would've had a significantly larger agricultural impact.

A motion was made by Ms. Miller and seconded by Ms. Osborn to adopt the opposed Resolution of Necessity for property #4. The motion passed unanimously through a 2-0 roll-call vote (Ms. Miller and Ms. Osborn both voting aye).

OTHER BUSINESS:

NONE

REPORTABLES:

Ms. Lukenbill presented the reportable items for the period of October 4, 2022, through January 9, 2023 and stated that the reportable items were included in the staff analysis and in the member's briefing packets.

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 and the location of the meeting would 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.